



**MEMORANDUM**

To: Galveston County Commissioners' Court  
From: Betsy Thomas, Grant Writer  
Court Date: November 10, 2025  
RE: Parks & Cultural Services – Senior Services  
FY 2026 HGAC Area Agency on Aging Senior Meal Grant  
Data Use Agreement

**BACKGROUND**

In 1976 Galveston County established the Senior Citizens Program to serve adults aged 60 and older. This program has been under Parks and Cultural Services since 2003. The Senior Program staff consists of highly qualified employees who provide congregate meals, transportation services, information and referral, education, fitness, and recreation at the centers. This program is supported by federal and state funds via the Older Americans Act, Title III programs, which are administered by the Texas Health and Human Services Commission and passed-through the Houston-Galveston Area Council (HGAC).

Galveston County Senior Centers directly affected by this application are located at the following locations:

- Wayne Johnson Community Center in La Marque
- Bayside Regional Community Center
- Dickinson Community Center
- City of Friendswood – Friendswood Senior Center
- City of League City – Hometown Heroes Park – Senior Program
- City of Texas City – Nessler Center Seniors Program

NOTE: The County also supports the congregate meal program at the Santa Fe Senior Center as well as the Bay Area Meals on Wheels and the Interfaith Ministries for Greater Houston home-delivered meal programs.

**SUMMARY**

The attached Data Use Agreement is a requirement for the FY 2026 grant award contract. Once it is reviewed and signed, it will be provided to HGAC to become a part of the FY 2026 agreement.



**FINANCIAL SUMMARY**

Grant Application	\$588,355.00
County Discretionary Match	\$8,017.00
County Mandatory Match	<u>\$60,000.00</u>
	\$656,37200

County Match is met through Parks and Cultural Services Mandatory Match as well as a portion of the salary and benefits for the Senior Citizens Department personnel.

**RECOMMENDATIONS**

Grants Administration requests the Court consider authorization for the County Judge to sign the FY 2026 Data Use Agreement for the HGAC Area Agency on Aging Senior Meals grant.

**ATTACHEMENTS FOR WET SIGNATURE**

- Data Usage Agreement

# Houston-Galveston Area Council

P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Galveston County Agreement

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## STANDARD GENERAL PROVISIONS

THIS CONTRACT AND AGREEMENT is entered into, by and between the Houston-Galveston Area Council hereinafter referred to as Houston-Galveston Area Council having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and Galveston County, hereinafter referred to as the Subrecipient, having its principal place of business at 722 Moody, Galveston, TX, 77550, Texas, United States. These entities may collectively referred to as "the Parties."

**PERFORMING PARTY:** Galveston County

**RECEIVING PARTY:** Houston-Galveston Area Council

WITNESSETH:

WHEREAS, Houston-Galveston Area Council hereby engages the Subrecipient to perform certain services or provide deliverable(s) as specified in accordance with the specifications of this Agreement,

WHEREAS, Subrecipient has agreed to perform such services or provide such deliverable(s) in accordance with the specifications of the Agreement;

WHEREAS, the total approved not to exceed value of this Agreement is \$337,522.

NOW, THEREFORE, Houston-Galveston Area Council and the Subrecipient do hereby agree as follows:

### **ARTICLE 1: LEGAL AUTHORITY**

The Subrecipient warrants Houston-Galveston Area Council that it possesses adequate legal authority to enter into this Agreement. The Subrecipient's governing body, is applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Subrecipient to the terms of this Agreement.

### **ARTICLE 2: APPLICABLE LAWS**

The Subrecipient agrees to conduct all activities under this Agreement in accordance with all applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Subrecipient shall furnish Houston-Galveston

Area Council with satisfactory proof of its compliance.

**ARTICLE 3: INDEPENDENT CONTRACTOR**

The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of Houston-Galveston Area Council or the Subrecipient. No provision of this Agreement or act of Houston-Galveston Area Council in performance of the Agreement shall be construed as making the Subrecipient the agent, servant, or employee of Houston-Galveston Area Council, the State of Texas, or the United States Government. Employees of the Subrecipient are subject to the exclusive control and supervision of the Subrecipient. The Subrecipient is solely responsible for their own employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

**ARTICLE 4: PARTY LIABILITY**

In consideration of full and satisfactory performance hereunder, Houston-Galveston Area Council will be liable to Subrecipient in an amount not to exceed the total contract value as detailed in the Budget attachment, and subject but not limited to the following limitations: 1) Houston-Galveston Area Council is not liable for expenditures made in violation of regulations, rules or policies promulgated under applicable local, state, or federal laws, 2) Except as specifically authorized by Houston-Galveston Area Council in writing, Houston-Galveston Area Council is liable only for requests for invoice payment made in compliance with the applicable cost principles and administrative requirements set forth in a properly executed attachment to this Agreement, 3) Houston-Galveston Area Council is not liable to Subrecipient for costs incurred or performance rendered before the beginning date or after termination of this Agreement, 4) Houston-Galveston Area Council is not liable for any costs incurred in the performance of this Agreement, which have not been billed to Houston-Galveston Area Council by the final billing deadline identified in the Scope of Work.

**ARTICLE 5: MANDATORY ATTACHMENTS**

The services to be performed or deliverable(s) to be provided by the Subrecipient are outlined in the attached Scope of Work (SOW) document, included with this Agreement. Any changes to the attached SOW document must be agreed to by the Parties via a written and fully executed amendment to this Agreement. In consideration of Houston-Galveston Area Council's compensation offer, further detailed in the Budget attachment to this Agreement, Subrecipient accepts and shall provide Houston-Galveston Area Council approved services in consideration, as specifically described in the Scope of Work, attached hereto and mutually incorporated herein. Subrecipient further agrees to implement the requirements of the Scope of Work according to the agreed upon Budget, as attached, and incorporated.

**ARTICLE 6: PERFORMANCE PERIOD**

The period of performance for this Agreement begins 01-Oct-2025 and ends 30-Sep-2026. All services and deliverables to be provided under this Agreement must be provided within this performance period, unless directly specified under a written amendment or extension provisioned under Article 15, which shall be fully executed by both parties to this Agreement.

**ARTICLE 7: PAYMENT OR FUNDING**

Any payment or funding claimed by Subrecipient shall be paid by Houston-Galveston Area Council only under the specific terms set forth in the Special Provisions, Scope of Work, and Budget. Subrecipient agrees that payments are predicated upon properly documented and verified proof of performance delivered, proper invoices that are submitted timely to Houston-Galveston Area Council, and costs incurred by the Subrecipient, in accordance with the terms outlined by the Special Provisions of this Agreement.

#### **ARTICLE 8: REPORTING REQUIREMENTS**

If the Subrecipient fails to submit to Houston-Galveston Area Council in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, Houston-Galveston Area Council may withhold payments otherwise due and owing the Subrecipient hereunder. Subrecipient's failure in reporting or performance may be considered cause for termination of this Agreement. If Houston-Galveston Area Council withholds such payments, it shall notify the Subrecipient of its decision. Payments withheld pursuant to this Article may be held by Houston-Galveston Area Council until such time as the delinquent obligations for which funds are withheld are fulfilled by the Subrecipient. The Subrecipient's failure to timely submit any report may also be considered cause for termination of this Agreement.

Any additional reporting requirements shall be set forth in the Special Provisions and SOW of this Agreement.

#### **ARTICLE 9: NON-FUNDING CLAUSE**

Any obligation of Houston-Galveston Area Council created by this Agreement is conditioned upon the availability of state or federal funds appropriated or allocated for the payment of such obligations. Houston-Galveston Area Council shall not be otherwise obligated or liable for any future payments due, or for any damages as a result of interruption of payment or termination.

#### **ARTICLE 10: INSURANCE**

Subrecipient certifies that it has either adequate coverage to meet claims or is self-insured for all claims. The limits of liability are set in part by the Texas Tort Claims Act §101.001. The Texas Labor Code §504, and the Texas Workers Compensation Act, outline limits of liability for worker's compensation and employer's liability. During the full term of the Agreement, Subrecipient must provide general liability and property insurance in amounts sufficient to cover contractual liability and protect program facilities including equipment. Subrecipient must ensure that any owned, leased, or non-owned automobiles used in performance of this agreement by Subrecipient's employees or agents are covered by sufficient automobile liability insurance. Subrecipient certifies that it either has Workers' Compensation insurance in the amount required by statute or is self-insured for workers' compensation coverage under statute. Subrecipient further represents that it is insured for general liability including bodily injury, death, and property damage. All insurance certificates, policies, and binders must be maintained by Subrecipient at its program site for review by Houston-Galveston Area Council at any time.

#### **ARTICLE 11: SUBCONTRACTS**

Except as may be set forth in the Special Provisions, the Subrecipient agrees not to subcontract, assign, transfer, convey, sublet, or otherwise dispose of this Agreement or any right, title,

obligation, or interest it may have therein to any third party without prior written approval of Houston-Galveston Area Council. The Subrecipient acknowledges that Houston-Galveston Area Council is not liable to any subcontractor or assignee of the Subrecipient. The Subrecipient shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Subrecipient. Subrecipient shall give all required notices and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, Houston-Galveston Area Council shall not be responsible for monitoring Subrecipient's compliance, or that of Subrecipient's subcontractors, with any laws or regulations.

#### **ARTICLE 12: AUDIT**

Notwithstanding any other audit requirement, Houston-Galveston Area Council reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Agreement. The audit may be performed by the Houston-Galveston Area Council local government audit staff, a certified public accountant firm, or other auditors designated by Houston-Galveston Area Council and will be conducted in accordance with applicable professional standards and practices. Subrecipient who spend \$1,000,000 or more of federal assistance under this contract or cumulatively under all federal contracts in a fiscal year are required to have an audit conducted annually in compliance with 2 CFR 200. Subrecipient agrees to submit all written reports of monitoring or audits to Houston-Galveston Area Council within thirty (30) days of issuance. Any reports that contain findings from an auditor must also include a corrective action plan from the Subrecipient in accordance with 2 CFR 200.511.

The Subrecipient understands and agrees that the Subrecipient shall be liable to the Houston-Galveston Area Council for anything disallowed as a result of audit, in which case future payments are predicated upon repayment as set forth in this Agreement.

#### **ARTICLE 13: EXAMINATION OF RECORDS**

The Subrecipient shall maintain complete and accurate records throughout the course of the work. This shall include all of the Subrecipient's costs and documentation of items which are chargeable to Houston-Galveston Area Council under this Agreement. Houston-Galveston Area Council, through its staff or designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy, and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by Houston-Galveston Area Council. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The records to be thus maintained and retained by the Subrecipient shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Subrecipient's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Subrecipient's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

The Subrecipient further agrees to include this language in all its subcontracts, pursuant to Article 10-Subcontracts. The Subrecipient agrees that Houston-Galveston Area Council and its duly authorized representatives shall have access to and the right to examine and copy any directly pertinent books, documents, papers, invoices, and records of such subcontractor involving transactions relating to the subcontract, until seven (7) years after final payment under the subcontract or until all audit findings have been resolved.

#### **ARTICLE 14: RETENTION OF RECORDS**

The Subrecipient shall maintain all records pertinent to this Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the date of final contract closeout. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

#### **ARTICLE 15: CHANGES AND AMENDMENTS**

- A. Any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in federal or state Law or by regulations, are automatically incorporated without written amendment to this Agreement, and shall become effective on the date designated by such law or by regulation.
- B. To ensure the legal and effective performance of this Agreement, both parties agree that Houston-Galveston Area Council may amend performance under this Agreement, during the contract period, by issuing policy directives to establish or clarify performance requirements under this Agreement. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such policy directives shall have the effect of qualifying the terms of this Agreement and shall be binding upon the Subrecipient as if written herein, provided however that such policy directives shall not alter the terms of this Agreement so as to relieve Houston-Galveston Area Council of any obligation specified in this Agreement to reimburse Subrecipient for costs properly incurred prior to the effective date of such policy directives.
- C. Except as specifically provided by subsections A and B of this Article, any other alterations, additions, or deletions to the terms of this Agreement shall be completed via a written amendment to this Agreement.

#### **ARTICLE 16: TERMINATION PROCEDURES**

The Subrecipient acknowledges that this Agreement may be terminated for Convenience or Default, as detailed further below.

- A. *Convenience*  
Houston-Galveston Area Council may terminate this Agreement at any time, in whole or in part, with or without cause, whenever Houston-Galveston Area Council determines that for any reason such termination is in the best interest of Houston-Galveston Area Council, by providing written notice by certified mail to the Subrecipient. Upon receipt of notice of termination, all services hereunder of the Subrecipient and its employees and subcontractors shall cease to the extent specified in the notice of termination.

The Subrecipient may cancel or terminate this Agreement upon submission of thirty (30) days written notice, presented to Houston-Galveston Area Council via certified mail. The Subrecipient may not give notice of cancellation after it has received notice of default from Houston-Galveston Area Council.

B. *Default*

Houston-Galveston Area Council may, by written notice of default to the Subrecipient, terminate the whole or any part of the Agreement, in any one of the following circumstances:

- (1) If the Subrecipient fails to perform the services herein specified within the time specified herein or any extension thereof; or
- (2) If the Subrecipient fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreements that completion of services herein specified within the Agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period often (10) days (or such longer period of time as may be authorized by Houston-Galveston Area Council in writing) after receiving written notice by certified mail of default from Houston-Galveston Area Council.

**ARTICLE 17: CONTRACT CLOSEOUT PROCEDURE**

At completion of the Scope of Work requirements, H-GAC will conduct the contract closeout process in order to establish the following: Determine if all deliverables were met; and that the work was completed and acceptable to H-GAC as per the Agreement, ensure project funds were expended as per the Agreement funding requirements, process the final payment to close out the project, and complete the project audit (if applicable). Subrecipient should securely store and protect all pertinent project data until the required document retention period is met as specified in these provisions.

**ARTICLE 18: FORCE MAJEURE**

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Galveston County shall make H-GAC aware in writing of a force majeure event that may affect performance or completion of the contract as soon as Galveston County becomes aware. Determination of force majeure shall rest solely with Houston-Galveston Area Council.

**ARTICLE 19: COPYRIGHTS**

Houston-Galveston Area Council, and any related state or federal awarding agency, reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state or federal government or Houston-Galveston Area Council purposes:

- A. The copyright of all maps, data, reports, research, or other work developed under this Agreement;

- B. Any copyrights or rights of use to copyrighted material which the Subrecipient purchases with funding under this Agreement. All such data and material shall be furnished to Houston-Galveston Area Council upon request.

#### **ARTICLE 20: OWNERSHIP OF MATERIALS**

Except as may be specified in the Special Provisions, all data, reports, research, etc., developed by the Subrecipient solely as a part of its work under this Agreement, shall become the property of the Houston-Galveston Area Council upon completion of this Agreement, or in the event of termination or cancellation hereof. All such data and material shall be furnished to Houston-Galveston Area Council at no charge and upon request. Subrecipient further agrees not to release information about results or deliverables connected to this Agreement to anyone outside of Houston-Galveston Area Council, without first obtaining written release authorization from Houston-Galveston Area Council.

#### **ARTICLE 21: POLITICAL ACTIVITY – BYRD ANTI-LOBBYING ACT**

Nothing related, connected to, or provided under this Agreement may be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with state or local legislators. The Subrecipient, if a recipient of Federal assistance exceeding 100,000 dollars through an Houston-Galveston Area Council subcontract, will comply with section 319, Public Law 101-121 (31 U.S.C. 1352).

#### **ARTICLE 22: SECTARIAN INVOLVEMENT PROHIBITED**

The Subrecipient shall ensure that no funds under this Agreement are used, either directly or indirectly, in the support of any religious or anti-religious activity, worship, or instruction.

#### **ARTICLE 23: CONFLICT OF INTEREST**

No officer, member or employee of the Subrecipient or Subrecipient's subcontractor, no member of the governing body of the Subrecipient, and no other public officials of the Subrecipient who exercise any functions or responsibilities in the review or Subrecipient approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

#### **ARTICLE 24: FEDERAL COMPLIANCE**

Subrecipient agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. Additionally, for work to be performed under the Agreement or subcontract thereof, including procurement of materials or leases of equipment, Subrecipient shall notify each potential subcontractor or supplier of the Subrecipient's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 codified at 42 U.S.C. §§2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disabilities and the Americans with Disabilities Act of

1990, as amended (42 U.S.C. §12101 et seq.); (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 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; (i) 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; (j) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1251), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CFR Part 15; (m) applicable provisions of the Davis Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), as set forth in Department of Labor Regulations at 20 CFR 5.5a; (n) the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

**ARTICLE 25: PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT (EFFECTIVE AUG. 13, 2020 AND AS AMENDED JANUARY 3, 2025)**

Pursuant to 2 CFR § 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. See Public Law 115-232 and 2 CFR § 200.471 for additional information. Respondent must comply with requirements for certifications. The provision at 48 C.F.R Section 52.204-26 requires that offerors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items. In addition, the No TikTok" on Government Devices Act (FAR 52.504-27) prohibits Contractors from having or utilizing software application known as

“TikTok” owned and operated by ByteDance Limited (ByteDance), a privately held company headquartered in Beijing, China on any information technology used in the performance of a government contract.

#### **ARTICLE 26: DOMESTIC PREFERENCE**

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, when using federal grant award funds Houston-Galveston Area Council should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Houston-Galveston Area Council must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for Purchase Orders using federal grant money, then it shall work with Houston-Galveston Area Council to provide all required certifications and other documentation needed to show compliance.

#### **ARTICLE 27: CRIMINAL PROVISIONS AND SANCTIONS**

The Subrecipient agrees to perform the Agreement in conformance with safeguards against fraud and abuse as set forth by the Houston-Galveston Area Council, the State of Texas, and the acts and regulations of any related state or federal agency. The Subrecipient agrees to promptly notify Houston-Galveston Area Council of any actual or suspected fraud, abuse, or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof. Subrecipient shall notify Houston-Galveston Area Council of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Subrecipient from Houston-Galveston Area Council, if any, shall be reported to local law enforcement agencies and Houston-Galveston Area Council within two (2) hours of discovery of any such act.

The Subrecipient further agrees to cooperate fully with Houston-Galveston Area Council, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation, and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Subrecipient shall notify Houston-Galveston Area Council of the threat of lawsuit or of any actual suit filed against the Subrecipient pertaining to this Agreement or which would adversely affect the Subrecipient’s ability to perform services under this Agreement.

#### **ARTICLE 28: INDEMNIFICATION AND RECOVERY**

To the extent permitted by law, Houston-Galveston Area Council shall indemnify and hold Subrecipient harmless against any and all claims, demands, damages, liabilities, and costs incurred by Subrecipient which directly or indirectly result from, or arise in connection with, any negligent act or omission of Houston-Galveston Area Council, its agents, or employees, pertaining to its activities and obligations under this Agreement.

To the extent permitted by law, Subrecipient shall indemnify and hold Houston-Galveston Area Council, its officers, agents, and employees harmless against any and all claims, demands, damages, liabilities, and costs (including reasonable attorney fees) which directly or indirectly

result from, or arise in connection with, any negligent act or omission of Subrecipient, its agents, or employees pertaining to its activities and obligations under this Agreement.

**ARTICLE 29: LIMITATION OF LIABILITY**

**H-GAC'S** LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. H-GAC SHALL NOT BE LIABLE TO THE PERFORMING PARTY OR ITS AFFILIATES FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS, OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, OR CONTRACT. In no event will Houston-Galveston Area Council be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits, or savings; or other incidental special or consequential damages to the full extent such use may be disclaimed by law during the period of this contract and its related procurements. If Subrecipient performs an act knowing or having reason to know that it is contrary to any law or regulation, the Subrecipient shall bear all claims, costs, losses, and damages caused by, arising out of, or resulting from that act.

**ARTICLE 30: UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (SAM) AND DEBARRED BIDDERS**

In accordance with 2 CFR Title 2, Subtitle A, Chapter I, Part 25 as it applies to a Federal awarding agency's grants, cooperative agreements, loans, and other types of Federal financial assistance as defined in 2 CFR 25.406. Contractor understands and as it relates to 2 CFR 25.205(a), a Federal awarding agency may not make a Federal award or financial modification to an existing Federal award to an applicant or recipient until the entity has complied with the requirements described in 2 CFR 25.200 to provide a valid unique entity identifier and maintain an active SAM registration ([www.SAM.gov](http://www.SAM.gov)) with current information (other than any requirement that is not applicable because the entity is exempted under § 25.110). 2 CFR 25.200(b) requires that registration in the SAM **prior to submitting an application or plan**; and maintain an active SAM registration with current information, including information on a recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable, at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency; and provide its unique entity identifier in each application or plan it submits to the Federal awarding agency. To remain registered in the SAM database after the initial registration, the applicant is required to review and update its information in the SAM database on an annual basis from the date of initial registration or subsequent updates to ensure it is current, accurate and complete. At the time a Federal awarding agency is ready to make a Federal award, if the intended recipient has not complied with an applicable requirement to provide a unique entity identifier or maintain an active SAM registration with current information, the Federal awarding agency: (1) May determine that the applicant is not qualified to receive a Federal award; and (2) May use that determination as a basis for making a Federal award to another applicant.

Subrecipient, including any of its officers or holders of controlling interest, is obligated to inform Houston-Galveston Area Council whether or not it is or has been on any debarred bidder's list maintained by the United States Government or the State of Texas. Should the Subrecipient be included on such a list during the performance of this project, it shall so inform Houston-Galveston Area Council within 10 business days of notification.

### **ARTICLE 31: SOLID WASTE DISPOSAL ACT**

In accordance with 2 CFR 200.323, the Houston-Galveston Area Council and the Contractor or Subrecipient must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Pursuant to the Federal Rule above, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the Contractor or Subrecipient certifies that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the Agreement will be at least the amount required by the applicable contract specifications or other contractual requirements.

### **ARTICLE 32: PREVENTION OF FRAUD, WASTE, AND ABUSE**

Subrecipient shall establish and implement reasonable internal procedures and management controls to prevent misuse of funds under this contract. Subrecipient agrees to report, in writing, to Houston-Galveston Area Council any knowledge of suspected fraud, program abuse, possible illegal expenditures, unlawful activity, and violations of federal policies and procedures within 24 hours of discovery. Except as provided by law or court order, the parties to this agreement will ensure the confidentiality of all incident reports. Neither Subrecipient nor Houston-Galveston Area Council will retaliate against any person filing an incident report. Any failure to comply with this Article will result in Houston-Galveston Area Council utilizing the Schedule of Remedies as defined in this agreement.

### **ARTICLE 33: TEXAS PUBLIC INFORMATION ACT**

Houston-Galveston Area Council and the Subrecipient understand and agree that Houston-Galveston Area Council is a governmental body for purposes of the Public Information Act, codified as Chapter 552 of the Texas Government Code and as such is required to release information in accordance with the Public Information Act (the "Act"). Houston-Galveston Area Council must rely on advice, decisions, and opinions of the Attorney General of the State of Texas relative to the disclosure of data or information. Submissions will be kept confidential in accordance with the Act and applicable law, and submissions are subject to inclusion into the public record after award. To the extent permitted by law, the Subrecipient may request in writing non-disclosure of any information that it considers to be confidential, proprietary, and/or trade secret in its submission. Such data shall accompany the submission, be readily separable from the response, and shall be CLEARLY MARKED "CONFIDENTIAL, PROPRIETARY and/or TRADE SECRET". Houston-Galveston Area Council will make reasonable efforts to provide the Subrecipient notice in accordance with the Act in the event Houston-Galveston Area Council receives a request for information under the Act for information that the Subrecipient has marked as indicated above.

### **ARTICLE 34: SPEND-DOWN POLICY**

Within thirty (30) days of Contract execution Contractor/Subrecipient shall provide H-GAC with a plan that identifies anticipated expenditures under the Contract for each quarter in which the Contract is in effect (the "Spend Down Plan"). The Spend Down Plan shall have sufficient detail to clearly show Contractor's/Subrecipient's plan for using the funds provided under the Contract and should note reasons for projected changes in the level of expenditures over the term of the Contract. The Contractor/Subrecipient shall update the Spend Down Plan at the end of each quarter during the term of the Contract or more frequently if circumstances have changed in a way that affects the Spend Down Plan or if requested by H-GAC.

The Contractor/Subrecipient shall monitor its expenditures under the Contract monthly and within 10 days of the end of each month, notify H-GAC if it expects expenditures under the Contract to be less than 75% of the expenditures shown for that quarterly period in the Spend Down Plan. In such event, Contractor/Subrecipient must provide H-GAC with a rebudgeting plan which fully explains how Contractor will be able to use all funds available under the Contract by the end of the Contract term or by a later Contract date, if extension of the Contract is permitted by the funding source and approved by H-GAC in its sole discretion.

H-GAC may approve the rebudgeting plan (with or without required changes) or reject the rebudgeting plan in its sole discretion. If H-GAC approves the rebudgeting plan, Contractor shall submit a revised Spend Down Plan incorporating the revised budget and proceed with work under the Contract and Spend Down Plan.

If Contractor/Subrecipient fails in any quarter to spend at least 75% of the expenditures specified in its Spend Down Plan and has not obtained H-GAC approval of a rebudgeting plan, H-GAC shall have the right to terminate the Contract for cause in accordance with the Contract termination procedures and reallocate the remaining funds to other allowable programs or recipients.

#### **ARTICLE 35: INFORMATION RESOURCES SECURITY POLICY**

Subrecipient shall maintain a written information security policy, which at minimum:

- (1) Ensures that all Subrecipient's employees and Subrecipient's subcontractor's employees shall complete a cybersecurity training program certified under section 2054.519 of the Texas Government Code. Such training must occur during the contract term and renewal period. Subrecipient shall provide Houston-Galveston Area Council with verification of required training upon completion or Houston-Galveston Area Council's request;
- (2) Provides regular training of all Subrecipient's employees and Subrecipient's subcontractor's employees on applicable and up to date security procedures and techniques;
- (3) Requires that Subrecipient and Subrecipient subcontractors maintain privacy policies that protect private data as prescribed by applicable state, local, federal privacy laws and regulations; and,
- (4) Requires that Subrecipient and Subrecipient's subcontractors utilize adequate safeguards to address any security vulnerabilities.

Upon request, Subrecipient shall provide Houston-Galveston Area Council with a copy of Subrecipient and Subrecipient's subcontractor's written information security policies.

#### **ARTICLE 36: ACCESS AND PROTECTIONS OF H-GAC INFORMATION RESOURCES, DATA, AND**

## **CREDENTIALS**

Subrecipient is responsible for, must protect, and shall provide adequate safeguards against any unauthorized use, modification, or disclosure of Houston-Galveston Area Council information resources, data, and credentials. Subrecipient and Subrecipient subcontractors shall stay up to date and aware of current, ongoing, and potential telecommunications security risks in Subrecipient and Subrecipient subcontractors given environment(s) and must always consider information sensitivity and transmission security issues when selecting a communications medium. Subrecipient and Subrecipient subcontractors are required to utilize up-to-date and adequate anti-virus or malware protection software for all systems and devices used to access Houston-Galveston Area Council information resources, data, and credentials. Subrecipient is responsible for any incident arising from improperly protected Houston-Galveston Area Council information resources, data, and credentials.

## **ARTICLE 37: SECURITY BREACH**

Subrecipient shall notify Houston-Galveston Area Council within 24 (twenty-four) hours of Subrecipient's discovery of a security incident, breach, or unauthorized use, modification, or disclosure of Houston-Galveston Area Council information resources, data, or credentials. Hereinafter, such an event will be referred to as a "security breach" in this section. Upon immediate discovery of security breach, Subrecipient will coordinate with Houston-Galveston Area Council to determine and implement an adequate and timely action plan to mitigate security breach and resolve any issues resulting from security breach. Subrecipient shall bear all associated costs for any security breach caused by the negligence or willful misconduct of the Subrecipient and Subrecipient's subcontractors.

## **ARTICLE 38: AUTORIZED REPRESENTATIVES**

Houston-Galveston Area Council will designate specific employees, authorized to discuss matters relating to this Agreement, or provide additional written guidance, clarification, or technical direction. "Technical direction" means information or specific instructions related to the operation of services and Scope of Work under this Agreement.

This whole Agreement as written supersedes any and all prior oral and written agreements between the parties relating to matters herein, and cannot be modified by any representative, without the executed written memorialization of consent of the parties.

## **ARTICLE 39: TITLES NOT RESTRICTIVE**

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

## **ARTICLE 40: JOINT WORK PRODUCT**

This Agreement is the joint work product of Houston-Galveston Area Council and the Subrecipient. This Agreement has been negotiated by Houston-Galveston Area Council and the Subrecipient and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

## **ARTICLE 41: SEVERABILITY**

Houston-Galveston Area Council and Subrecipient agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

**ARTICLE 42: DISPUTES**

All disputes concerning questions of fact or of law arising under this Agreement, which are not addressed within the Whole Agreement as defined pursuant to Article 4 hereof, shall be decided by the Executive Director of Houston-Galveston Area Council or his designee, who shall reduce his decision to writing and provide notice thereof to the Subrecipient. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, the Subrecipient requests a rehearing from the Executive Director of Houston-Galveston Area Council. In connection with any rehearing under this Article, the Subrecipient shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Subrecipient may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Subrecipient shall proceed diligently with the performance of the Agreement and in accordance with H GAC's final decision.

**ARTICLE 43: CHOICE OF LAW - VENUE**

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas.

**ARTICLE 44: ORDER OF PRIORITY**

In the case of any conflict between or within this Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions (if applicable), 3) Scope of Work, and 4) Other Attachments.

**ARTICLE 45: WHOLE AGREEMENT**

The General Provisions, Special Provisions, and Attachments, as provided herein, constitute the complete Agreement ("Agreement") between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

**SIGNATURES:**

Houston-Galveston Area Council and the Subrecipient have read, agreed, and executed the whole Agreement as of the date first written above, as accepted by:

**Galveston County**

Signature *Mark Henry*

Name Mark Henry

Title County Judge

Date 08-Dec-2025

**Houston-Galveston Area Council**

Signature   
gk\_esign\_i\_sign\_1\_gk

Name Chuck Wemple

Title Executive Director

Date 15-Dec-2025  
gk\_esign\_i\_date\_1\_gk

## SPECIAL PROVISIONS

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Incorporated by attachment, as part of the whole agreement, Houston-Galveston Area Council and the Galveston County do hereby agree to the following Special Provisions, as follows:

**ARTICLE 1: GOVERNING LAW, STANDARDS, AND REGULATIONS**

Galveston County shall render performance under this Agreement in accordance with:

- A. The Older Americans Act of 1965, as amended, and its regulations;
- B. HHS regulations on Administration of Grants;
- C. Title 2 Code of Federal Regulations (CFR) Part 200;
- D. 45 CFR 132 F;
- E. 45 CFR 91, and 1321, et seq.;
- F. Texas Grant Management Standards (TxGMS);
- G. Texas Administrative Code; and
- H. All applicable federal regulations, state rules, local ordinances, and any Houston-Galveston Area Council policies and rules.

Houston-Galveston Area Council may, upon request or at its own discretion, provide additional standards, guidelines or requirements, to aid Galveston County in rendering appropriate performance. Houston-Galveston Area Council's provision of this information shall in no way supersede the precedence of applicable laws and regulations.

In the event of a conflict between applicable laws and regulations in these Special Provisions and the terms and conditions of this contract, precedence will be given to the laws and regulations.

**ARTICLE 2: MANADATORY ATTACHMENTS**

In consideration of Houston-Galveston Area Council compensation offer hereinafter described, Galveston County accepts and shall provide Houston-Galveston Area Council approved services in consideration, as specifically described We need in the Scope of Work, attached hereto and mutually incorporated herein. Galveston County further agrees to implement the requirements of the Scope of Work according to the agreed upon Budget, as attached and incorporated.

**ARTICLE 3: PARTY LIABILITY**

In consideration of full and satisfactory performance hereunder, Houston-Galveston Area Council will be liable to Galveston County in an amount equal to the actual costs incurred by Galveston County in rendering such performance, subject, but not limited, to the following limitations: 1) Houston-Galveston Area Council is not liable for expenditures made in violation of regulations, rules or policies promulgated under applicable local, state, or federal laws, 2) Except as specifically authorized by Houston-Galveston Area Council in writing, Houston-Galveston Area Council is liable only for expenditures made in compliance with the applicable cost principles and administrative requirements set forth in a properly executed attachment to this Agreement, 3) Houston-Galveston Area Council is not liable to Galveston County for costs incurred or performance rendered before the beginning date or after termination of this Agreement, 4) Houston-Galveston Area Council is not liable for any costs incurred in the performance of this Agreement, which have not been billed to Houston-Galveston Area Council

within 30 days following termination of this Agreement.

#### **ARTICLE 4: PAYMENTS**

##### *Maximum Value*

Subject to the terms and exclusions outlined in this Agreement, and subject to the confirmation of eligibility under applicable state, local, and federal statutes; Houston-Galveston Area Council will reimburse Subrecipient for goods, services, or expenditures on the basis of allowable costs up to the maximum value of this Agreement, or \$337,522. Allowable costs must be certified by Subrecipient as correct and necessary; directly associated with performance of this Agreement provisioned under the Scope of Work or other mutually executed Attachment; and properly submitted at the rates prescribed by state or federal regulations.

Houston-Galveston Area Council will not be liable to Galveston County for costs incurred or performance rendered the terms and conditions of this Contract, including the terms governing Galveston County's promised performance and unit rates or reimbursement capitations specified.

Houston-Galveston Area Council will not be liable to Galveston County for any expenditures, which are not allowable costs under 2 CFR Part 200 and 45 CFR Part 75 or for which expenditures have not been made in accordance with the fiscal guidelines and requirements outlined by Houston-Galveston Area Council.

Houston-Galveston Area Council will not be liable to Galveston County for expenditures made in violation of regulations promulgated under the OAA or in violation of Houston-Galveston Area Council's rules, federal and state laws, or this Contract.

Houston-Galveston Area Council agrees to make payment to Galveston County in the amounts and under the provisions set forth in Galveston County budget and pursuant to the terms and conditions of this Contract. Galveston County agrees to accept such payments as full compensation for services performed under this Contract. All payments will be based on the performance information reported in the approved budget, reimbursement requests, and monthly reports.

Reimbursement occurs in one of two ways, depending on the Scope of Work: Unit Rate or Cost Reimbursement.

#### **UNIT RATE CONTRACT**

Houston-Galveston Area Council agrees to make payment to the Galveston County in the amounts and upon the terms and provisions set forth in the Scope of Work and Budget attached hereto and made a part of this agreement. This contract is based on a unit-rate reimbursement process which requires units of service, as defined in the Scope of Work, to be delivered and billed before payment is remitted to Galveston County. The unit rate identified for each service in this contract is the only reimbursement owed to Galveston County and shall be considered full compensation for services performed hereunder by all

parties to this contract.

Galveston County must report eligible units of service and actual allowable expenses to Houston-Galveston Area Council in the frequency and manner prescribed by Houston-Galveston Area Council, using the forms provided by Houston-Galveston Area Council.

The Galveston County agrees to deliver specific services on an "at-risk" basis. Adjustments will be considered only in instances where a service the Galveston County suffers operating losses due to events over which they have no control, or reasonably could not have anticipated. Galveston County. asserts that services performed under this contract are intended to provide humanitarian assistance to the elderly without a profit incentive. Should circumstances change in which the Galveston County experiences significant excess revenue over expenses due to unforeseen events, this contract may be renegotiated in whole or in part at Houston-Galveston Area Council's request in light of such circumstances. "At-risk" unit rates will not be adjusted to offset poor management planning. Any adjustment to an "at-risk" unit rate will be judged on its own merits.

Unit rates established by Houston-Galveston Area Council shall not exceed rates or rate limitations established by Texas Health and Human Services Commission in its rules and regulations.

#### COST REIMBURSEMENT CONTRACT

Houston-Galveston Area Council will pay the Galveston County on a reimbursable basis for services rendered. The CONTRACTOR agrees to delivery specific services on an "at-risk" basis; that is, H-GAC will make payment of actual expenses based on a pro-rata share that Title III funds represents of the TOTAL cash funds budgeted in the PLANS document for each specific service. Adjustments to the share of expenses that Title III funds of the Older Americans Act will pay will be considered only in instances where a service provider experiences significant operating losses due to events over which they have no control, or reasonably could not have anticipated OR in instances where a service provider experiences excess revenues over operational costs due to unanticipated and/or unbudgeted additional resources or reductions in expenses due to a change in cost allocation methodology. "At-risk" reimbursement will not be adjusted to offset poor management planning. Any adjustment to an "at-risk" reimbursement rate will be judged on its own merits.

It is the responsibility of the CONTRACTOR requesting an increase in the share of expenses that Title III of the Older Americans Act will pay to provide adequate documentation to assure H-GAC that the increase is warranted due to circumstances beyond their control. It is the responsibility of the H-GAC requesting a decrease in the share of expenses that Title III will pay to provide adequate documentation to assure that the decrease is warranted.

#### **ARTICLE 5: MATCH REQUIREMENTS, PROGRAM INCOME, AND CONTRIBUTIONS**

**MATCH:** The Texas Health and Human Services Commission requires that federal funds be matched with non-federal funds in accordance with the Older Americans Act, as amended. These match requirements shall be the responsibility of the Galveston County in accordance with Texas Health and Human Service Commission's Area Agency on Aging Policies and Procedures Manual [C-1000 Area Agency on Aging Administration | Texas Health and Human Services](#). All match contributions shall be expended for goods and services necessary for and specifically identifiable in the approved Budget attached. Match shall conform to the OAA regulations, 2 CFR Part 200 and HHSC rules regarding match requirements or as required in the request for proposals issued by the AAA.

**PROGRAM INCOME:** The definition of program income for the purpose of this agreement is specified in 2 CFR 200.80 as gross income earned that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. Expenditures of program income will be in accordance with the Texas Administrative Code (TAC) and all applicable HHSC rules. All program income and participant contributions collected and expended shall be documented and managed according to HHSC rules and regulations and AAA policies and procedures. These requirements are further imposed on all service vendors who provide service to participants in the programs served by this contract.

Program income collected by service providers must consist only of those funds specifically provided by or on behalf of a program participant and directly attributable to the service provided.

**VOLUNTARY CONTRIBUTIONS:** Galveston County shall provide a voluntary opportunity for each participant to contribute to the cost of the services while protecting the individual's privacy. Galveston County shall safeguard and account for the contributions, and use such contributions to expand and/or enhance program outcomes.

#### **ARTICLE 6: PERFORMANCE GOALS**

- A. **Program Performance:** Galveston County agrees to provide the services contained in the Scope of Services/Work attached as part of this agreement. Such performance includes assurance that Galveston County will serve the number of persons and units and substantially meet the performance goals and outcomes identified in the Galveston County's proposal to Houston-Galveston Area Council as if they were included herein in their entirety.
- B. **Fiscal Management:** Galveston County shall have appropriate leadership and management structure to enable it to operate efficiently and effectively. Galveston County shall also provide a financial system to maintain internal control, ensure proper management of federal and state funds, maximize non-federal and non-state resources and maintain solvency. Galveston County shall have accounting and internal control systems appropriate to the size of the organization. The accounting system should consist of source documents, a chart of accounts, journals, ledgers, and routine financial reports. The internal controls system shall safeguard contractor's assets, produce accurate accounting data, promote efficient operations and encourage adherence to prescribed accounting policies and

procedures. Effective internal controls shall involve a division of responsibility among different employees for a sequence of related functions, clear establishment of each employee's responsibilities and duties, and use of standards such as procurement policies, proofs, checks, electronic fund transfers, and other security measures.

- C. Data Systems: Galveston County shall be supported by data systems that provide adequate information for operational efficiency and decision making. The data system shall be able to provide program performance and financial information to reflect the operation and status of the organization in adequate detail to meet the needs under this contract. Galveston County agrees to use its best efforts to safeguard confidential information and to prevent unauthorized use, dissemination, or disclosure of protected information both during the term of this contract and thereafter. Galveston County shall require its agents and employees to sign non-disclosure agreements with provisions at least as stringent as those contained in this contract.

#### **ARTICLE 7: SANCTIONS OR REMEDIAL MEASURES**

- A. Performance Sanctions. Galveston County's failure to comply with any provision of this contract and attached Scope of Services, any applicable federal or state laws, regulations and rules, and any other applicable Houston-Galveston Area Council policies, issuances, and rules may subject Galveston County to sanctions and/or remedies imposed by Houston-Galveston Area Council.
- B. Financial Sanctions. Houston-Galveston Area Council retains the right to deduct the amount of any advance payment or previous overpayment made by Houston-Galveston Area Council, from any subsequent billing submitted by Galveston County for violations under this contract. Failure to comply with the Galveston County obligations or submit billings timely is valid justification for termination of this contract or disallowance of payment. Galveston County will be liable for and will repay to Houston-Galveston Area Council, on demand, any amounts which are not expended in compliance with this contract, or disallowed as a result of a resolution agreement. Galveston County will further be responsible for any audit exception or other payment deficiency covered by this contract and all subcontracts hereunder which is found to exist by monitoring or auditing by any party as authorized or required by Houston-Galveston Area Council. Galveston County will be liable for such funds and will repay such funds even if the improper expenditure, if any, was made by a subcontractor of Galveston County. All repayment made by the Galveston County shall be from non-federal funds. Galveston County's failure to pay within 30 days after demand may result in legal actions to recover such funds, sanctions as set forth in this section and/or additional cost including allowable interest.
- C. If the Galveston County fails to submit to Houston-Galveston Area Council in a timely and satisfactory manner any report required by this contract, or otherwise fails to satisfactorily render performances hereunder, Houston-Galveston Area Council may withhold payments otherwise due and owing to Galveston County. If Houston-Galveston Area Council withholds such payments, it will notify the Galveston County in writing of its

reasons for withholding payment. Payments withheld pursuant to this paragraph may be held by Houston-Galveston Area Council until such time as the delinquent obligations for which funds are withheld are fulfilled by the Galveston County.

- D. If the Galveston County neglected to follow procurement rules when buying inventory or equipment, Houston-Galveston Area Council may recover funds. Houston-Galveston Area Council may withhold payments on any invoices owed to a Galveston County if the Galveston County does not provide a current inventory when requested. Houston-Galveston Area Council may refuse to close a contract and make a final payment to Galveston County if the Galveston County's inventory is not current with Houston-Galveston Area Council records. Houston-Galveston Area Council may also recover funds when Galveston County fails to report stolen or lost equipment.
- E. Notwithstanding Houston-Galveston Area Council's exercise of its right of early termination, the Galveston County will not be relieved of any liability for damages due to Houston-Galveston Area Council. Houston-Galveston Area Council may withhold payment to Galveston County on this contract until such time as the exact amount of damages due to Houston-Galveston Area Council from the Galveston County is agreed upon or is otherwise determined by Houston-Galveston Area Council.

#### **SECTION 8: COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

Except as otherwise specifically authorized by Houston-Galveston Area Council in writing, Galveston County will comply with the applicable cost principles and administrative requirements set forth in 2 CFR 200 and 48 CFR, Chapter 1, Part 31, (Federal Acquisition Regulations). Additionally, the Texas Office of the Governor has released guidance under the Texas Grant Management Standards (TxGMS) and those requirements are included herein. Where there is a conflict between federal and state requirements, federal requirements take precedence.

#### **SECTION 9: REPORTING**

In addition to the financial reporting requirements set forth in these Special Contract Provisions and Houston-Galveston Area Council's policies and procedures, Galveston County will submit such other reports, contract closeout, requested data, and/or ad hoc reports and information on the operation and performance of this Contract as may be required by Houston-Galveston Area Council. Houston-Galveston Area Council shall provide a reasonable time for response, in consideration of the nature and availability of the information requested.

#### **SECTION 10: INVESTIGATIONS, MONITORING AND TECHNICAL ASSISTANCE**

- A. Galveston County agrees to cooperate with any monitoring, inspection, audit, or investigation of activities related to this Contract as may be conducted by Houston-Galveston Area Council, applicable federal or state agencies, and the State of Texas, or their duly authorized representatives. This cooperation may include access to the premises for the purpose of questioning employees or participants and for the purpose of examining and/or photocopying any books, records, including participant records,

papers, or other documents whatsoever relating to this Contract and the performance thereof.

- B. In compliance with Texas Administrative Code (TAC), the HHSC Uniform Contract Terms & Contract Terms & Conditions and the requirements in H-GAC's policies and procedures, Galveston County is responsible for the monitoring and review of its own service delivery and fiscal activities as authorized and described in the Scope of Services and budget attached to this contract, to ensure that its services are being provided in compliance with applicable legislation, regulations, and the terms of this Contract. Galveston County will provide to Houston-Galveston Area Council, upon request of Houston-Galveston Area Council, the monitoring plan that Galveston County is required to have in place and any written monitoring reports or other reports or reviews of the Galveston County's services performed by or on behalf of the Galveston County.
- C. Houston-Galveston Area Council reserves the right to conduct, or to have conducted by designated representatives, monitoring and evaluation of Galveston County's performance as well as performances of Galveston County's subcontractors rendered under this Contract. Houston-Galveston Area Council will notify Galveston County of any deficiencies noted during such review, and may withhold payments as appropriate based upon such review, pursuant to Special Contract Provisions Sections 4 and 7 of this Contract. Houston-Galveston Area Council will provide technical assistance to Galveston County in correcting deficiencies noted. Houston-Galveston Area Council may conduct follow-up visits to review the previous deficiencies and to assess the efforts made to correct them.

#### **SECTION 11: PROPERTY**

Galveston County will acquire, maintain, and/or dispose of property purchased with funds received under this Contract in accordance with 2 CFR 200, the Texas Grant Management Standards (TxGMS), and Houston-Galveston Area Council's Contract Management policies and procedures.

#### **SECTION 12: INSURANCE**

Galveston County will obtain insurance coverage necessary to ensure proper fulfillment of this Contract prior to the receipt of funds under this agreement and maintain insurance throughout the term as required by Houston-Galveston Area Council. As required by Contractor's service delivery type, Galveston County will obtain:

- Worker's Compensation insurance coverage;
- Auto liability coverage;
- Comprehensive liability including bodily injury coverage;
- Property damage coverage; and/or
- Fidelity and honesty bond coverage.

Galveston County will furnish original certificates of coverage and name Houston-Galveston Area Council as the loss payee on such coverage. Governmental entities are excluded from this provision by state and federal law.

### **SECTION 13: SUBCONTRACTS**

- A. Galveston County may enter into subcontracts, defined herein as written legal agreements with another party that specify the terms and conditions for the provision of goods or services to be used by the Galveston County or by participants in the Galveston County's programs and which will be paid for by funds from this contract. All subcontracts must be procured in accordance with the guidance in 2 CFR 200. Houston-Galveston Area Council reserves the right to review subcontracts and the performance of subcontractors.
- B. All subcontracts are the sole responsibility of Galveston County. Houston-Galveston Area Council is not responsible for the administration or payment of subcontractor of Galveston County and such contracts do not convey any liability on Houston-Galveston Area Council for payment or acceptance of work product.
- C. All cost principles and regulations for which the Galveston County is liable shall pass through to any subcontractor under this contract and Galveston County shall assure that such provisions are included in any written agreement.

### **SECTION 14. PREVENTION OF FRAUD AND ABUSE**

- A. Galveston County shall establish and implement reasonable internal program management procedures sufficient to ensure that its employees, participants, and subcontractors are aware of reporting suspected fraud and abuse.
- B. Within 24 hours of discovery, Galveston County shall report in writing to Houston-Galveston Area Council any knowledge of suspected fraud, program abuse, possible illegal expenditures, unlawful activity, and violations of law and policies and procedures including patent and copyright abuse. Galveston County must report any suspicion of fraud and abuse to its Houston-Galveston Area Council contract liaison or Houston-Galveston Area Council's Area Agency on Aging Quality Assurance Coordinator immediately.
- C. Except as provided by law or court order, the parties to this contract will ensure the confidentiality of all incident reports. Neither Galveston County nor the Houston-Galveston Area Council will retaliate against any person filing an incident report. Failure to comply with this Section may result in sanctions pursuant to Article 16 of the General Contract Provisions of this contract.

### **SECTION 15: PREVENTION OF CONFLICTING INTERESTS**

In addition to Article 23 of the General Provisions, the Galveston County agrees to the following:

- A. Galveston County must comply with federal and state statutes and regulations regarding standards of conduct and conflicts of interest including, but not limited to the

applicable OMB circular requirements 29 CFR, Part 97.36

- B. Galveston County shall maintain on file and make available for inspection by Houston-Galveston Area Council or its authorized agents a statement submitted by each of the members of Galveston County's governing board of directors or staff disclosing any interest, fact, or circumstance which does or which may present a potential conflict of interest. Such conflict of interest disclosure statement shall be updated as circumstances require, but in any case, it must be updated annually.
- C. Galveston County must refrain from using non-public information gained through a relationship with Texas Health and Human Services Commission, an Houston-Galveston Area Council Board or Board employee, to seek or obtain financial gains that would be a conflict of interest or the appearance of a conflict of interest. Galveston County must avoid any real or apparent conflicts of interest.
- D. A Galveston County must disclose in writing on an annual basis to Houston-Galveston Area Council, and as frequently as necessary: any substantial financial interest that the Galveston County or any of its employees in decision-making positions, have in a business entity that is a party to any business transaction with a Board member or Board staff who is in a decision-making position for the Board; and the existence of any conflict of interest and any appearance of a conflict of interest or lack thereof; information describing the appearance of a conflict of interest; information describing the conflict of interest; actions taken to prevent conflicts of interests from occurring; a description of the gift if the gift is greater than \$50 in value and the gift was given to a Board member or Board employee by a Galveston County or its employees. Galveston County must report this to its contract liaison within ten days.
- E. Galveston County should not employ or otherwise compensate a former Board employee who was in a Board decision-making position or worked on a particular matter concerning the Galveston County and was employed or compensated by the Board any time during the previous 12 months. Upon request from the Galveston County, Board staff will provide clarification concerning this issue.
- F. Galveston County shall take every reasonable course of action to maintain the integrity of the expenditure of public funds under this contract and to avoid favoritism and questionable or improper conduct. The contract shall be administered in an impartial manner, free from efforts to gain personal, financial, or political benefit, tangible or intangible. Galveston County, its executive staff and employees, while administering this contract, shall avoid situations that could give the appearance that any decision was influenced by prejudice, bias, special interest, or desire for personal gain.
- G. Should Galveston County fail to abide by the foregoing covenants and affirmations regarding conflict of interest, Galveston County will not be entitled to the recovery of any costs or expenses incurred in relation to this contract and will be liable for any costs

incurred or damages sustained by Houston-Galveston Area Council relating to this contract. Such failure to perform will subject the Galveston County to sanctions as described in these Special Contract Provisions and Article 16 of the General Contract Provisions.

**SECTION 16: Galveston County ASSURANCES AND CERTIFICATIONS**

- A. Galveston County certifies that no funds provided under this Contract will be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with state or local legislators. Galveston County will comply with the requirements of Restrictions on Lobbying: Certification and Disclosure Requirements imposed by 29 CFR 93 and Article 21 of the General Provisions.
- B. Galveston County certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal department or agency.
- C. Galveston County agrees to provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988 (102 Stat. 4304, P.L. 100-690, Title V, and Subtitle D).
- D. Galveston County certifies that it is current in state franchise taxes, pursuant to Article 2.45, Texas Business Corporation Act, or that it is a non-profit corporation. Galveston County shall require any subGalveston County that will receive funds under this Contract to certify compliance with this provision by using forms found in the Contract Management policies and procedures.
- E. Galveston County certifies that the individual or business entity in this contract is not ineligible, pursuant to Texas Family Code §231.006, to receive the specified payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. If any subcontract is subject to the requirements of Texas Family Code §231.006, Galveston County shall obtain certification of compliance with the provisions of that statute.
- F. Galveston County certifies that it has not been found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year. Galveston County further affirms that no officer of Galveston County has served as an officer of any company found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year.
- G. Galveston County certifies that it will disclose to Houston-Galveston Area Council and any applicable federal or state agencies the name of any person who has an ownership or control interest in or is an agent or managing employee of the Galveston County who has been convicted of a criminal offense related to the person's involvement in any program under Title XVIII, XIX, or XX of the Social Security Act since the inception of

these programs.

- H. Galveston County certifies that it will notify Houston-Galveston Area Council immediately in the event of any significant change affecting the Galveston County and Galveston County's identity, such as ownership or control, name change, governing board membership, and vendor identification number.
- I. Galveston County certifies that it will comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 1, 1986, who will perform any labor services under this contract.
- J. Galveston County understands and agrees that any funds available to it under this Contract are to be used only for activities that are in addition to those which would be otherwise available for existing services.

**SECTION 17: HOURS OF OPERATION**

Galveston County will ensure that facilities where it delivers services funded in whole or part under this Contract are open and available to the public at a minimum from Monday through Friday, 8:00a.m. to 5:00 p.m. unless otherwise approved by the contract liaison assigned to this contract.

**SECTION 18: SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS**

- A. In accordance with Texas Governor's Executive Order GWB 96-10, and 2308.303(a)(9), Government Code, a charitable or faith-based organization is eligible to be a contractor to Houston-Galveston Area Council or subcontractor to Houston-Galveston Area Council's contractor on the same basis as any other private organization. As a contractor or subcontractor under this contract, such organization retains control over the definition, development, practice and expression of its charitable or religious beliefs except as provided by federal law.
- B. The Galveston County and any subcontractors will ensure that all funds provided through this contract are expended for services and activities described in the Scope of Services, and that no expenditures have, as their objective, the funding, sectarian worship, instruction, or proselytizing. This provision will not be interpreted to prohibit the Galveston County from contracting for goods or services with any religious institution or entity.
- C. If a charitable or faith-based organization establishes a separate account for the government funds provided through this Contract, then only the services and activities provided by those funds will be subject to audit.
- D. A charitable or faith-based provider of services or activities funded through this Contract

shall reasonably apprise all customers/participants of the following:

“Neither Houston-Galveston Area Council or Galveston County’s selection of a charitable or faith-based provider nor the expenditure of funds under this contract is an endorsement of the provider’s charitable or religious character, practices, or expression. If you, as a customer, object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider, or notify the Area Agency on Aging Compliance Officer at 713.627.3200.”

- E. Galveston County will submit notification to Houston-Galveston Area Council of any subcontract or partnership agreement developed between the Galveston County and a charitable or faith-based organization.

**SECTION 19: NON-ASSIGNMENT**

This contract may not be assigned. Notwithstanding any attempt to assign this contract, Galveston County shall remain fully liable on this contract and shall not be released from performing any of the terms, covenants, and conditions of this contract. The Galveston County shall be held responsible for all funds received under this contract.

**SECTION 20: ACKNOWLEDGEMENT OF FUNDING AND SUPPORT**

Galveston County agrees to place in all literature describing its services covered under this contract, prominent notices acknowledging Houston-Galveston Area Council.

**SECTION 21: TARGETING**

Galveston County shall assure, in accordance with the 42 U.S. Code (USC) Section 3026, and Older Americans Act of 1965, as amended, that preference in the delivery of services is given to:

1. Eligible older individuals residing in rural areas;
2. Eligible older individuals with greatest economic need (with particular attention to low-income minority individuals);
3. Eligible older individuals who have greatest social need (with particular attention to low-income minority individuals);
4. Eligible older individuals with severe disabilities;
5. Eligible older individuals with limited English-speaking ability;
6. Eligible older individuals with Alzheimer's Disease or related disorder with neurological and organic brain dysfunction and the caretakers of such individuals; and
7. Older individuals at risk for institutional placement.

**SECTION 22: DATA USAGE**

The Galveston County agrees to abide by the terms and conditions of the Data Usage Agreement (DUA), without modifications, which is attached to this contract and on file at the Houston-Galveston Area Council;

**SECTION 23: CODE OF CONDUCT**

- A. Galveston County shall maintain a written code or standards of conduct, which shall govern the performance of its officers, employees or agents engaged in the award and administration of this contract supported by federal funds if a conflict, real or apparent, arises. Such a conflict would arise when: the employee, officer or agent; any member of his immediate family; his/her partner; or an organization which employs, or is about to employ any of the above, has a financial or other interest in the entity selected for award.
  
- B. Galveston County's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value for purpose that is or gives appearance of being motivated by a desire for private gain or favorable treatment for themselves or others, particularly those with whom they have family, business, or personal ties.
  
- C. No officer or member of Galveston County and no public official or officer or member of the Board of Galveston County who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this contract which affects his personal or pecuniary interest, direct or indirect, in the Galveston County or the proceeds thereof.

**SECTION 24: RIGHT TO APPEAL**

Any applicant to provide services whose application is denied or whose contract is terminated or not renewed (except as provided in 2 CFR Part 200), has a right to appeal such action. The applicant shall give notice of appeal to Houston-Galveston Area Council within ten calendar days after it receives H- GAC's action letter.

**SECTION 25: DISPUTE RESOLUTION**

Galveston County agrees to:

- A. The dispute resolution process provided in Houston-Galveston Area Council's Area Agency on Aging's Policy and Procedures Handbook, should be used as further described, by the Parties to attempt to resolve any claim for breach of contract made by the Galveston County.
  
- B. A Galveston County's claim for breach of this contract that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Houston-Galveston Area Council's Area Agency on Aging's Policy and Procedures Handbook.

**SECTION 26: SCOPE OF SERVICES, GOALS, OUTPUTS AND INCOMES**

The Galveston County agrees to provide the services set out in the attached Scope of Service which reflects the organization's approved levels of service. The Budget for these

services is separately attached.

The Galveston County agrees to serve the number of persons and units and substantially meet the goals and outcomes described in Galveston County's proposal with Houston-Galveston Area Council.

**SECTION 27: CUSTOMER COMPLAINTS AND HEARINGS**

- A. To address complaints relating to discrimination or a violation of any of the legal authorities cited in these Special Contract Provisions, Houston-Galveston Area Council has adopted Methods of Administration approved by the U.S. Department of Health and Human Services and the U.S. Administration for Community Living establishing complaint processing procedures.
  
- B. Galveston County is responsible for using the complaint and hearing provisions set forth in those Methods of Administration as described in Area Agency on Aging's Policy and Procedures Handbook. This requirement includes complaints or hearings related to Galveston County's denial of service or financial assistance.

**ATTACHMENT "A"**

**DATA USE AGREEMENT  
BETWEEN THE  
TEXAS HEALTH AND HUMAN SERVICES ENTERPRISE  
AND  
HOUSTON-GALVESTON AREA COUNCIL**

This Data Use Agreement ("DUA") entered into by and between the Texas Health and Human Services Enterprise ("HHS") agency, the Department of Aging and Disability Services (DADS) and Houston-Galveston Area Council ("CONTRACTOR"), and incorporated into the terms of DADS Contract No.539-11-0024-00001, in Travis County, Texas (the "Base Contract").

**ARTICLE 1. PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE**

**ATTACHMENT 1. THE PURPOSE OF THIS DUA IS TO FACILITATE CREATION, RECEIPT, MAINTENANCE, USE, DISCLOSURE OR ACCESS TO CONFIDENTIAL INFORMATION WITH CONTRACTOR, AND DESCRIBE CONTRACTOR'S RIGHTS AND OBLIGATIONS WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND THE LIMITED PURPOSES FOR WHICH THE CONTRACTOR MAY CREATE, RECEIVE, MAINTAIN, USE, DISCLOSE OR HAVE ACCESS TO CONFIDENTIAL INFORMATION. 45 CFR 164.504(E)(1)-(3) THIS DUA ALSO DESCRIBES HHS'S REMEDIES IN THE EVENT OF CONTRACTOR'S NONCOMPLIANCE WITH ITS OBLIGATIONS UNDER THIS DUA. THIS DUA APPLIES TO BOTH BUSINESS ASSOCIATES AND CONTRACTORS WHO ARE NOT BUSINESS ASSOCIATES WHO CREATE, RECEIVE, MAINTAIN, USE, DISCLOSE OR HAVE ACCESS TO CONFIDENTIAL INFORMATION ON BEHALF OF HHS, ITS PROGRAMS OR CLIENTS AS DESCRIBED IN THE BASE CONTRACT.**

As of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Standard Contract Terms and Conditions, conflicts with this DUA, this DUA controls.

**ARTICLE 2. DEFINITIONS**

For the purposes of this DUA, **capitalized, underlined terms have the meanings set forth in the following:** Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq.*) and regulations there under in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance there under; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

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**“Authorized Purpose”** means the specific purpose or purposes described in the Scope of Work of the Base Contract for CONTRACTOR to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

**“Authorized User”** means a Person:

- (1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;
- (2) For whom CONTRACTOR warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and
- (3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

**“Confidential Information”** means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of HHS that consists of or includes any or all of the following:

- (1) Client Information;
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

**“Legally Authorized Representative”** of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; Estates Code Ch. 752 and Texas Prob. Code § 3.

**ARTICLE 3. CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION**

**Section 3.01 Obligations of CONTRACTOR**

CONTRACTOR agrees that:

(A) CONTRACTOR will exercise reasonable care and no less than the same degree of care CONTRACTOR uses to protect its own confidential, proprietary and trade secret information to prevent any portion of the Confidential Information from being used in a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. *45 CFR 164.502(b)(1); 45 CFR 164.514(d)*

(B) CONTRACTOR will not, without HHS's prior written consent, disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out the Authorized Purpose or as Required by Law.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. *45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101*

(C) CONTRACTOR will establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or

applicable law. CONTRACTOR will maintain evidence of sanctions and produce it to HHS upon request. *45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)*

(D) CONTRACTOR will not, without prior written approval of HHS, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying HHS so that HHS may have the opportunity to object to the disclosure or access and seek appropriate relief. If HHS objects to such disclosure or access, CONTRACTOR will refrain from disclosing or providing access to the Confidential Information until HHS has exhausted all alternatives for relief. *45 CFR 164.504(e)(2)(ii)(A)*

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. *45 CFR 164.502(d)(2)(i) and (ii)* CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. *45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002*

(F) CONTRACTOR will not permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information, on behalf of CONTRACTOR without requiring that Subcontractor first execute the Form Subcontractor Agreement,

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Attachment 1, which ensures that the Subcontractor will comply with the identical terms, conditions, safeguards and restrictions as contained in this DUA for PHI and any other relevant Confidential Information and which permits more strict limitations; and *45 CFR 164.502(e)(1)(i)(ii); 164.504(e)(1)(i) and (2)*

(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. *45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.*

(H) If CONTRACTOR maintains PHI in a Designated Record Set, CONTRACTOR will make PHI available to HHS in a Designated Record Set or, as directed by HHS, provide PHI to the Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. *45 CFR 164.524 and 164.504(e)(2)(ii)(E)*

(I) CONTRACTOR will make PHI as required by HIPAA available to HHS for amendment and incorporate any amendments to this information that HHS directs or agrees to pursuant to the HIPAA. *45 CFR 164.504(e)(2)(ii)(E) and (F)*

(J) CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. *45 CFR 164.504(e)(2)(ii)(G) and 164.528*

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI by any Individual subject to this DUA, it will promptly forward the request to HHS; however, if it would violate HIPAA to forward the request, CONTRACTOR will promptly notify HHS of the request and of CONTRACTOR's response. Unless CONTRACTOR is prohibited by law from forwarding a request, HHS will respond to all such requests, unless HHS has given prior written consent for CONTRACTOR to respond to and account for all such requests. *45 CFR 164.504(e)(2)*

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. *45 CFR 164.308; 164.530(c); 1 TAC 202*

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use or disclose PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's legal responsibilities if: *45 CFR 164.504(e)(ii)(1)(A)*

(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D);

(2) CONTRACTOR obtains reasonable assurances from the Person to whom the information is disclosed that the Person will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the Person; and

(c) Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. *45 CFR 164.504(e)(4)(ii)(B)*

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if requested by HHS, use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. *45 CFR 164.504(e)(2)(i)(B)*

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, return to HHS or Destroy, at HHS's election, and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information. CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, has been Destroyed or returned to HHS, and that CONTRACTOR and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, CONTRACTOR acknowledges and agrees that it may not Destroy any Confidential Information if federal or state law, or HHS record retention policy or a litigation hold notice prohibits such Destruction. If such return or Destruction is not reasonably feasible, or is impermissible by law, CONTRACTOR will immediately notify HHS of the reasons such return or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. *45 CFR 164.504(e)(2)(ii)(J)*

(P) CONTRACTOR will create, maintain, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses. *45 CFR 164.306; 164.530(c)*

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at [infosecurity@hhsc.state.tx.us](mailto:infosecurity@hhsc.state.tx.us) the HHS information security and privacy initial inquiry (SPI) at Attachment 2. The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information

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CONTRACTOR creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. CONTRACTOR's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment

whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. *45 CFR 164.306*

(R) CONTRACTOR will establish, implement and maintain any and all appropriate procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as CONTRACTOR has such Confidential Information in its actual or constructive possession. *45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c) (privacy safeguards)*

(S) CONTRACTOR will designate and identify, subject to HHS approval, a Person or Persons, as Privacy Official *45 CFR 164.530(a)(1)* and Information Security Official, each of whom is authorized to act on behalf of CONTRACTOR and is responsible for the development and implementation of the privacy and security requirements in this DUA. CONTRACTOR will provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. *45 CFR 164.308(a)(2)*

(T) CONTRACTOR represents and warrants that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. *45 CFR 164.502; 164.514(d)*

(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the DUA. *45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1)*

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(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR on behalf of HHS for HHS's review and approval within 30 days of execution of this DUA and upon request by HHS the following business day or other agreed upon time frame. *45 CFR 164.308; 164.514(d)*

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary, or other federal or state law. *45 CFR 164.504(e)(2)(i)(I)*

(Y) CONTRACTOR will only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form. A secure transmission of electronic Confidential Information *in motion* includes secure File Transfer Protocol (SFTP) or Encryption at an appropriate level or otherwise protected as required by rule, regulation or law. HHS Confidential Information *at rest* requires Encryption unless there is adequate administrative, technical, and physical security, or as otherwise protected as required by rule, regulation or law. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. *45 CFR 164.312; 164.530(d)*

(Z) CONTRACTOR will comply with the following laws and standards *if applicable to the type of Confidential Information and Contractor's Authorized Purpose*:

Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;

The Privacy Act of 1974;

OMB Memorandum 07-16;

The Federal Information Security Management Act of 2002 (FISMA);

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;

Internal Revenue Publication 1075 -- Tax Information Security Guidelines for Federal, State and Local Agencies;

National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;

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NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;

NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;

NIST Special Publication 800-88, Guidelines for Media Sanitization;

NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI; and

Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

#### **ARTICLE 4. BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS**

##### **Section 4.01. *Breach or Event Notification to HHS. 45 CFR 164.400-414***

(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's satisfaction (the "incident response period"). *45 CFR 164.404*

(C) Breach Notice:

##### **1. Initial Notice.**

a. For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour

of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, *or in a timeframe otherwise approved by HHS in writing*, initially report to HHS's Privacy and Security Officers via email at: [privacy@HHSC.state.tx.us](mailto:privacy@HHSC.state.tx.us) and to the HHS division responsible for this DUA; and *IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.*

b. Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. *45 CFR 164.410*

c. Name, and provide contact information to HHS for, CONTRACTOR's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

2. 48-Hour Formal Notice. No later than 48 consecutive clock hours after Discovery, or a time within which Discovery reasonably should have been made by CONTRACTOR of an Event or Breach of Confidential Information, provide formal notification to the State, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available: *For (a) - (m) below: 45 CFR 164.400-414*

a. The date the Event or Breach occurred;

b. The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

c. A brief description of the Event or Breach; including how it occurred and who is responsible (or hypotheses, if not yet determined);

d. A brief description of CONTRACTOR's investigation and the status of the investigation;

e. A description of the types and amount of Confidential Information involved;

f. Identification of and number of all Individuals reasonably believed to be affected, including first and last name of the individual and if applicable the, Legally authorized representative, last known address, age, telephone number, and email address if it is a preferred contact method, to the extent known or can be reasonably determined by CONTRACTOR at that time;

g. CONTRACTOR's initial risk assessment of the Event or Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;

h. CONTRACTOR's recommendation for HHS's approval as to the steps Individuals and/or CONTRACTOR on behalf of Individuals, should take to protect the Individuals from potential harm, including without limitation CONTRACTOR's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an Individual with special capacity or circumstances;

i. The steps CONTRACTOR has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);

j. The steps CONTRACTOR has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Event or Breach;

k. Identify, describe or estimate of the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

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l. A reasonable schedule for CONTRACTOR to provide regular updates to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed by HHS, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and

m. Any reasonably available, pertinent information, documents or reports related to an Event or Breach that HHS requests following Discovery.

**Section 4.02 Investigation, Response and Mitigation. For A-F below: 45 CFR 164.308, 310 and 312; 164.530**

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

**Section 4.03 Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (Authorities)**

(A) HHS may direct CONTRACTOR to provide Breach notification to Individuals, regulators or third-parties, as specified by HHS following a Breach.

(B) CONTRACTOR must obtain HHS's prior written approval of the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities. Notice letters will be in CONTRACTOR's name and on CONTRACTOR's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name

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and title of CONTRACTOR's representative, an email address and a toll-free telephone number, for the Individual to obtain additional information.

(C) CONTRACTOR will provide HHS with copies of distributed and approved communications.

(D) CONTRACTOR will have the burden of demonstrating to the satisfaction of HHS that any notification required by HHS was timely made. If there are delays outside of CONTRACTOR's control, CONTRACTOR will provide written documentation of the reasons for the delay.

(E) If HHS delegates notice requirements to CONTRACTOR, HHS shall, in the time and manner reasonably requested by CONTRACTOR, cooperate and assist with CONTRACTOR's information requests in order to make such notifications and reports.

## **ARTICLE 5. SCOPE OF WORK**

Scope of Work means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Scope of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

## **ARTICLE 6. GENERAL PROVISIONS**

### **Section 6.01 Ownership of Confidential Information**

CONTRACTOR acknowledges and agrees that the Confidential Information is and will remain the property of HHS. CONTRACTOR agrees it acquires no title or rights to the Confidential Information.

### **Section 6.02 HHS Commitment and Obligations**

HHS will not request CONTRACTOR to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

### **Section 6.03 HHS Right to Inspection**

At any time upon reasonable notice to CONTRACTOR, or if HHS determines that CONTRACTOR has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of CONTRACTOR to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

### **Section 6.04 Term: Termination of DUA; Survival**

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA is updated automatically concurrent with such extension or amendment.

HHS Data Use Agreement V.8.3 HIPAA Omnibus Compliant April 1, 2015

Attachment A

DADS Contract No. 539-11-0024-00001

(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(D) If HHS determines that CONTRACTOR has violated a material term of this DUA; HHS may in its sole discretion:

1. Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or
2. Require CONTRACTOR to submit to a corrective action plan, including a plan for monitoring and plan for reporting, as HHS may determine necessary to maintain compliance with this DUA; or
3. Provide CONTRACTOR with a reasonable period to cure the violation as determined by HHS; or
4. Terminate the DUA and Base Contract immediately, and seek relief in a court of competent jurisdiction in Travis County, Texas.

Before exercising any of these options, HHS will provide written notice to CONTRACTOR describing the violation and the action it intends to take.

(E) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary.

(F) The duties of CONTRACTOR or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

#### **Section 6.05     *Governin; Law, Venue and Litigation***

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Travis County, Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

#### **Section 6.06     *Injunctive Relief***

(A) CONTRACTOR acknowledges and agrees that HHS may suffer irreparable injury if CONTRACTOR or its Subcontractor fails to comply with any of the terms of this DUA with respect to

DADS Contract No. 539-11-0024-00001

the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) CONTRACTOR further agrees that monetary damages may be inadequate to compensate HHS for CONTRACTOR's or its Subcontractor's failure to comply. Accordingly, CONTRACTOR agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

#### **Section 6.07**     **Indemnification**

To the extent permitted by law, CONTRACTOR will indemnify, defend and hold harmless HHS and its respective Executive Commissioner, employees, Subcontractors, agents (including other state agencies acting on behalf of HHS) or other members of its Workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this DUA or from any acts or omissions related to this DUA by CONTRACTOR or its employees, directors, officers, Subcontractors, or agents or other members of its Workforce. The duty to indemnify, defend and hold harmless is independent of the duty to insure and continues to apply even in the event insurance coverage required, if any, in the DUA or Base Contract is denied, or coverage rights are reserved by any insurance carrier. Upon demand, CONTRACTOR will reimburse HHS for any and all losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party to the extent caused by and which results from the CONTRACTOR's failure to meet any of its obligations under this DUA. To the extent permitted by law, CONTRACTOR's obligation to defend, indemnify and hold harmless any Indemnified Party will survive the expiration or termination of this DUA.

#### **Section 6.08**     **Insurance**

(A) CONTRACTOR represents and warrants that it maintains either self-insurance or commercial insurance with policy limits sufficient to cover any liability arising from any acts or omissions by CONTRACTOR or its employees, directors, officers, Subcontractors, or agents or other members of its Workforce under this DUA. CONTRACTOR warrants that HHS will be a loss payee and beneficiary for any such claims.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

**Section 6.09 Fees and Costs**

Except as otherwise specified in this DUA or the Base Contract, including but not limited to requirements to insure and/or indemnify HHS, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

**Section 6.10 Entirety of the Contract**

This Data Use Agreement is incorporated by reference into the Base Contract and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced.

**Section 6.11 Automatic Amendment and Interpretation**

Upon the effective date of any amendment or issuance of additional regulations to HIPAA, or any other law applicable to Confidential Information, this DUA will automatically be amended so that the obligations imposed on HHS and/or CONTRACTOR remain in compliance with such requirements. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and CONTRACTOR to comply with HIPAA or any other law applicable to Confidential Information.

**Section 6.12 Effective Date**

The effective date of this Data Use Agreement is as stated in the contract amendment which incorporates the DUA into the Base Contract.

**ATTACHMENT 1. SUBCONTRACTOR AGREEMENT FORM  
DADS CONTRACT NUMBER 539-11-0024-00001**

The DUA between HHS and CONTRACTOR establishes the permitted and required uses and disclosures of Confidential Information by CONTRACTOR.

CONTRACTOR has subcontracted with Galveston County (SUBCONTRACTOR) for performance of duties on behalf of CONTRACTOR which are subject to the DUA. SUBCONTRACTOR acknowledges, understands and agrees to be bound by the identical terms and conditions applicable to CONTRACTOR under the DUA, incorporated by reference in this Agreement, with respect to HHS Confidential Information. CONTRACTOR and SUBCONTRACTOR agree that HHS is a third-party beneficiary to applicable provisions of the subcontract.

HHS has the right but not the obligation to review or approve the terms and conditions of the subcontract by virtue of this Subcontractor Agreement Form.

CONTRACTOR and SUBCONTRACTOR assure HHS that any Breach or Event as defined by the DUA that SUBCONTRACTOR Discovers will be reported to HHS by CONTRACTOR in the time, manner and content required by the DUA.

If CONTRACTOR knows or should have known in the exercise of reasonable diligence of a pattern of activity or practice by SUBCONTRACTOR that constitutes a material breach or violation of the DUA or the SUBCONTRACTOR's obligations CONTRACTOR will:

1. Take reasonable steps to cure the violation or end the violation, as applicable;
2. If the steps are unsuccessful, terminate the contract or arrangement with SUBCONTRACTOR, if feasible;
3. Notify HHS immediately upon reasonably discovery of the pattern of activity or practice of SUBCONTRACTOR that constitutes a material breach or violation of the DUA and keep HHS reasonably and regularly informed about steps CONTRACTOR is taking to cure or end the violation or terminate SUBCONTRACTOR's contract or arrangement.

This Subcontractor Agreement Form is executed by the parties in their capacities indicated below.

**CONTRACTOR**

**SUBCONTRACTOR**

BY:  \_\_\_\_\_

BY:  \_\_\_\_\_

NAME: Chuck Wemple

NAME: Mark Henry

TITLE: Executive Director

TITLE: County Judge

DATE: 15-Dec-2025, 2025.

DATE: November 10, 2025



### Meals and Transportation Services

- Request For Qualification
- HS - Area Agency on Aging
- 95230, 95294, 96347

Close Date: No Close Date

**Project ID:** HS-AAA-METRS-03-25  
**Release Date:** Friday, March 28, 2025  
**Due Date:** Thursday, May 15, 2025 12:00pm  
**Posted** Friday, March 28, 2025 5:00am  
 Bid Unsealed Thursday, May 15, 2025 2:03pm by Allison Cruz  
 Pricing Unsealed Thursday, May 15, 2025 2:03pm by Allison Cruz  
*All dates & times in Central Time*

Edit Preview

## 3. Project Information/Services Requested

*Firms will be contracted with on an as needed basis and fees will be established based upon submitted budgets and capped pricing set by the State.*

### 3.1. Minimum Qualifications

The Area Agency on Aging (AAA) is soliciting proposals from businesses that have experience in providing direct consumer services and participant assessments, and meet the following criteria:

- Has been in business for at least three (3) years or have a contract with the State of Texas
- Maintain at least three (3) month's operating revenue
- Maintain insurance that protects the health and safety of clients and employees. At a minimum, awardees will need to obtain Worker's Compensation insurance coverage, auto liability coverage, comprehensive liability including bodily injury coverage, and property damage coverage.
- Maintain bonding insurance on employees, including fidelity and honesty bond coverage.
- Awardees will furnish original certificates of coverage and name H-GAC as the loss payee on such coverage. Governmental entities are excluded from this provision by state and federal law.

#### General Disaster Relief/Emergency Services

Service contractors are required to participate and play a role in disaster relief activities which meet the needs of the older individuals in planning for, during, and after natural, civil defense, and/or man-made disasters. Contractors located in a disaster affected area and/or located near a disaster area must participate in disaster relief efforts. Types of disaster relief efforts include, however are not limited to: Use of contractor's facilities, equipment, and vehicles, and/or meals. Contractors must maintain written policies and procedures to provide for the availability of facilities, vehicles and food for participants in emergencies and disasters. The written policies and procedures should make high-risk, older individuals a priority.

Refer to the OAA, Texas Administrative Code (TAC), Texas Health and Human Service Commission (HHSC), Texas Department of Health Service (TDHS), and Houston-Galveston Area Agency on Aging's (AAA) policies and procedures for additional information.

#### Satisfaction Survey

Contractors must regularly survey the consumer's satisfaction with the delivery and the quality of the services provided. Contractors must compile and analyze the clients' satisfaction results and use the results in the development of their annual outreach plan, include needs assessment, budget, and service mix considerations in the outreach plan and submit to H-GAC every fiscal year.

### 3.2. Service 1 -Title III C Congregate Meals

#### Service Definition

A hot or other appropriate meal served to an eligible older individual which meets 33½ percent of the dietary reference intakes established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary of Agriculture, and which is served in a congregate setting. The objective is to reduce food insecurity and promote socialization of older individuals. There are two types of congregate meals:

- Standard meal - A regular meal from the standard menu that is served to the majority or all participants.
- Therapeutic meal or liquid supplement - A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietitian (e.g., diabetic diet, renal diet, pureed diet, tube feeding). "Liquid supplement" meals are included in the allowable category of therapeutic meals, such as diabetic, renal or heart safe meals. The OAA defines "liquid supplement" meals as those meals provided through a feeding tube to meet the needs of a specific individual. These meals require a doctor's prescription and close monitoring. Dietary supplements, such as vitamins or Ensure, can be authorized by a doctor, dietitian/nutritionist or the need may be identified through the nutritional risk assessment. These items do not require a prescription, nor do they necessarily require oversight. As items such as these are not considered meals (stand-alone), they must be purchased under Health Maintenance. If a AAA is providing these services through Health Maintenance because of a doctor's prescription, some monitoring should be conducted, whether through a home health nurse or follow-up nutritional risk and functional assessment Consumer Needs Evaluation (CNE). The circumstance would dictate the follow-up.

#### Program Outcome

The service outcome is to promote better mental and physical health for older people through nutritious meals and socialization. Congregate nutrition services must be a part of a system of services to promote independent living for the elderly by serving as a focal point for services. Contractors must review carefully and adhere to the requirements of TAC. Other names used when referring to congregate meals are Title IIIC1, III C1, or C1.

#### Eligibility Requirements

Program participants must be sixty (60) years of age or older. The Older American Act (OAA) ensures nutrition services are made available to:

- The spouses of eligible participants who participates at the nutrition site, and
- Individuals with disabilities who are not sixty (60) years of age or older but reside in housing facilities occupied by older individuals at which congregate nutrition services are provided.

The OAA also allows nutrition service contractors the option to offer a meal, on the same basis as meals provided to participating older individuals to:

- Individuals providing volunteer services during the meal hours, and
- Individuals with disabilities who reside at home with and accompany older individuals eligible to the congregate meal site.

#### Service Activities :

- Provision of congregate meals
- Provision of ongoing nutrition education services to include information and referral
- Access to congregate meal sites
- Health and nutrition education programs
- Recreational activities may also be provided by resources other than the Older Americans Act.

#### Documentation

A unit of service equals one (1) meal served in accordance with the Texas Health and Human Services Commission's (HHSC) Title III Nutrition Service Standards. The contractor must maintain official files containing information that identifies regular participants, documents eligibility, and gives procedures for emergency care. The contractor must use only the reporting and documentation forms provided by the AAA.

#### Service Delivery Forms (Provided by AAA)

The following documents will be required under the contract for all new and renewing Title III Congregate Meal participants. Participant forms **must be updated and submitted by the contractor to the AAA annually upon reassessment for existing participants.**

Form/Document	Contractor	Participant
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Frequency of Submission	Monthly or as required for new and renewing clients	Annually for existing clients
Client Intake and Request Form		✓
Client Checklist	✓	✓
Client Request for Services	✓	✓
Participant Rights and Responsibilities	✓	✓
Nutrition Risk Screening	✓	✓
Client Information Release (as necessary)	✓	
Client/Service Change of Status (as necessary)	✓	
Monthly Invoice	✓	
Nutrition Education Sign-In Sheet	✓	
Service Delivery Log	✓	
Client Grievance and Participant Contribution Policies	✓	✓

Client Grievance and Participant Contribution Policies must be posted in the senior center and provided to the client during the Intake and Assessment process.

**Frequency of Service**

Meals must be served at least once a day, five days a week, and a minimum of 260 days a year, except in a rural area where such frequency may not be feasible. Contractor must request a meal waiver if they cannot provide a hot meal five-days a week, in their service area. Contractor is required to request a waiver if their nutrition program (all sites) is serving hot meals less than five (5) days a week in their service area.

Contractor must request a waiver from the Area Agency on Aging. Contractor's waiver must be requested prior to start of the fiscal year or before meal service begins. When a new Fiscal Year begins, contractors must request a new waiver. Once granted, a waiver is valid until the end of the Fiscal Year. The request for a waiver must include:

- Name of the contractor
- The name and description of affected area(s),
- What meals and days of the week meals will be provided
- The affected area, including county, city, and neighborhood if appropriate
- Condition making this request necessary.

**Holiday Meal Delivery**

Contractors are required to provide holiday meal(s) on or before the actual day of the holiday. Contractors must make holiday meals available to all eligible program participants. **The meals(s) must be counted and reported on the same day the client received them, not when they were intended to be eaten. Contractors must submit holiday schedule to AAA at start of contract.**

**Disaster Relief/Emergency Meals**

Contractors must furnish shelf stable meals for eligible participants effected by a disaster or emergency. A minimum of five (5) meals will be provided per delivery, particularly during hurricane season. Emergency shelf stable meals must be provided in advance to known weather related events. If possible, emergency meals will be provided to eligible participants pre and post disaster. Contractors must have the necessary storage space to supply the appropriate amount of shelf stable meals. Contractors will be reimbursed for emergency meals when the meals are delivered to eligible participants. Contractors will not be reimbursed for shelf stable meals purchased to meet their contracted service delivery performance goals. Contractors must maintain weather related documentation supporting the distribution of emergency meals. Examples of documentation are printed weather reports, disaster declaration, or emails from the State or the Area Agency on Aging.

**Nutrition Education to Meal Recipients**

Nutrition Education consists of the provision of information to older individuals to promote nutritional well-being and to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior. An education session is counted for each individual trained during the consumer assessment and annual reassessment.

**Documentation**

Contractors are required to provide older individuals nutrition screening, nutrition education, and nutrition assessment and counseling if appropriate, based on the needs of the meal participants.

The AAA, through its licensed nutrition consultant, will provide contractors with required Nutrition Education material, staff training, and Nutrition Education Sign-in Sheets. Contractors are required to provide program participants with Nutrition Education at a minimum annually, during the consumer assessment and reassessment. Contractors are required to submit Nutrition Education documentation to the AAA.

**Nutrition Outreach Plan**

A written nutrition outreach plan must be developed and implemented with emphasis on the preferred target group as defined in the TAC. Nutrition outreach service expenses must be included in budgeted costs for Congregate and Home-delivered meals.

#### **Facilities Compliance**

Contractors must follow procedures and maintain facilities that are following all applicable federal, state and local fire, health, sanitation, safety laws and regulations, and the Older Americans Act. All food preparation, handling, and service activities must comply with Texas Department of Health Services' (DHS) "Rules on Food Service Sanitation." Contractor must provide a copy of all required inspection results to the AAA within five (5) calendar days of receipt of the results.

#### **Training**

Contractors must provide at least one (1) hour of training to all staff and volunteers who serve and/or deliver meals. Contractors must provide new staff and volunteers with training within the first month of employment. Staff must provide training at least annually. This information must be provided before staff and volunteers assume duties and must include:

- Participant information confidentiality
- Procedures used in handling emergency situations involving participants
- Sanitary methods used in serving and delivering meals
- General knowledge and basic techniques of working with persons who are aged and persons who are disabled
- Personal hygiene

Service contractors must provide the following training to a staff or volunteers who are involved only in the administration of nutrition services before the staff person or volunteer assumes duties:

- Training described in the previous paragraph
- One (1) hour of training on the content and implementation of applicable forms, rules, procedures, and policies of Health and Human Services Commission (HHSC), the AAA, and the service contractor relating to the administration or provision of nutrition services.

Contractors must provide at least two (2) hours of training to a food service supervisor before the supervisor assumes duties. Training topics must include:

- Personal hygiene
- Food storage, preparation and service, including prevention of food borne illness
- Equipment cleaning before, during, and after meal service
- Selection of proper utensils and equipment for transporting and serving foods
- Automatic and manual dishwashing procedures
- Accident prevention

In addition to the training required in the previous paragraph, services contractors must provide at least six (6) hours of training for a food service supervisor no later than thirty (30) days after the supervisor assumes duties. Training topics must include:

- Practical procedures for food preparation, storage, and serving
- Portion control of food in appropriate dishes
- Use of standardized recipes
- Nutritional needs and meal pattern requirements of older program participants to be served
- Quality control of:
  - flavor
  - consistency
  - texture
  - temperature
  - appearance, including the use of garnishes

Contractors must ensure their food service supervisor complies with 25 TAC §229.163 (relating to Management and Personnel).

Contractors must document the provision of training required by the above paragraphs of this section. The documentation must include the names of the staff person or volunteer being trained and the trainer; the topics covered; and the date, time, and length of the training.

Contractors must have an adequate number of staff persons available during the time congregate meals are provided who are certified in:

- a. first aid
- b. cardiopulmonary resuscitation
- c. operating an automatic external defibrillator, if one is available

### **3.3. Service 2 -Title III C Home-Delivered Meals**

**Service Definition**

Hot, cold, frozen, dried, canned, fresh, or supplemental food (with a satisfactory storage life) which provides a minimum of 33¼ percent of the dietary reference intakes established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary of Agriculture, and is delivered to an eligible participant in their place of residence. The objective is to reduce food insecurity, help the recipient sustain independent living in a safe and healthful environment. There are two types of home delivered meals:

- Standard meal - A regular meal from the standard menu that is served to the majority or all participants.
- Therapeutic meal or liquid supplement - A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietitian (e.g., diabetic diet, renal diet, pureed diet, tube feeding). "Liquid supplement" meals are included in the allowable category of therapeutic meals, such as diabetic, renal or heart safe meals. The OAA defines "liquid supplement" meals as those meals provided through a feeding tube, to meet the needs of a specific individual. These meals require a doctor's prescription and close monitoring. Dietary supplements, such as vitamins or Ensure, can be authorized by a doctor, dietitian/nutritionist or the need may be identified through the nutritional risk assessment. These items do not require a prescription, nor do they necessarily require oversight. As items such as these are not considered meals (stand-alone), they must be purchased under Health Maintenance. If a AAA is providing these services through Health Maintenance because of a doctor's prescription, some monitoring should be conducted, whether through a home health nurse or follow-up nutritional risk and functional assessment (Consumer Needs Evaluation). The circumstance would dictate the follow-up.

**Program Outcome**

The service outcome is to promote better health for homebound older persons who are eligible for nutritious home-delivered meals. Contractors should review carefully and adhere to the requirements of the TAC, HHSC, and the Area Agency on Aging, in the delivery of services. Other names for Home-Delivered Meals are Title IIC2, III C2, or C2.

**Eligibility Criteria**

Participants must be sixty (60) years of age or older and score a minimum of twenty (20) on the HHSC Consumer Needs Evaluation (CNE). Eligibility must be based on an assessment of at least the following: impairment in the ability to perform activities of daily living or instrumental activities of daily living; frequency of a person leaving his or her home or need assistance to do so; ability to prepare nutritious meals and shop for food, their nutritional risk, and financial resources available to the senior.

The Older American Act (OAA) ensures nutrition services are made available to:

- The spouse of an older person, regardless of age or condition, may receive a home delivered meal if, according to criteria determined by the AAA, receipt of the meal is in the best interest of the homebound older person.

**Service Activities**

- Provision of home delivered meals
- Provision of ongoing nutrition education services in the home-to include information and referral
- Assessment of needs
- Appropriate referral to other services
- Other in-home services may also be provided by resources other than the OAA

**Documentation**

A unit of service equals one (1) meal served in accordance with the HHSC Title III Nutrition Service Standards. Contractor must maintain official files containing information that identifies regular participants, documents eligibility, and gives procedures for emergency care. The contractor must use only the reporting and documentation forms provided by the AAA.

**Service Delivery Forms (Provided by AAA)**

The following documents will be required under the contract for all new and renewing Title III Home Delivered Meal clients. Participant forms **must be updated and submitted by the contractor to the AAA annually upon reassessment for existing participants.**

Form/Document	Contractor	Participant
Frequency of Submission	Monthly or as required for new and renewing clients	Annually for existing clients
Client Checklist	✓	✓
Client Intake	✓	✓
Client Needs Assessment (CNE)	✓	✓
Client Request for Services	✓	✓

Participant Rights and Responsibilities	✓	✓
Nutrition Risk Screening	✓	✓
Client Information Release (as necessary)	✓	
Client/Service Change of Status (as necessary)	✓	
Monthly Invoice	✓	
Nutrition Education Certification	✓	
Service Delivery Log	✓	
Client Grievance and Participant Participation Policy	✓	✓
Telephone Reassurance Log (if providing less than five (5) meals per week)	✓	

Client Grievance and Participant Contribution Policies must be provided to the client during the Intake and Assessment process.

**Frequency of Service**

Contractor must deliver at least one (1) home delivered hot, cold, frozen, dried, canned, or supplemental foods (with satisfactory storage life) meal per day and any additional meals for a minimum of 260 days a year, except in a rural area where such frequency is not feasible. A Contractor delivering less than one (1) meal per day must submit a waiver. See Wavier Requirements below. See OAA Part C – Nutrition Service, Subpart 2 – Home Delivered Nutrition Services, Section 336 (42 U. S. C. 3030f)

**Holiday Meal Delivery**

Contractors are required to provide holiday meal(s) on or before the actual day of the holiday. Contractors must make holiday meals available to all eligible program participants. **The meals(s) must be counted and reported on the same day the client received them, not when they were intended to be eaten. Contractors must submit holiday schedule to AAA at start of contract.**

**Emergency Meals**

Contractors are required to provide shelf stable emergency meals once during the fiscal year for all eligible program participants, particularly during hurricane season. Contractors must provide at a minimum five (5) shelf stable meals per delivery. The AAA requires that shelf stable emergency meals be provided to program participants by June 1, the start of hurricane season.

It is important that each senior center adhere to the provision schedule set by the AAA. Anything otherwise is considered out of compliance.

**Telephone Reassurance**

The home delivered meal program is intended to provide contact to frail, isolated individuals as well as good nutrition. Contractor will be required to describe how they will contact the client on a regular basis and describe the frequency. Telephone Reassurance is required for Contractors that provide at delivery a meal less than every other day. **Everyone must be contacted in person or by telephone at least three (3) times per week.**

**Nutrition Wavier**

If a nutrition Contractor serves a rural area where it is not feasible to deliver/provide a home delivered meal (5) five days a week, the Contractor must request a waiver from the Texas Health and Human Services Commission. Contractor’s waiver must be requested prior to start of the fiscal year or before meal service begins. Waivers are requested annually. Once granted, a waiver is valid until the end of the Fiscal Year.

**Training**

Meal contractors must provide meal staff and volunteers with training in the areas of:

- Client confidentiality
- Procedures used in handling emergency situations involving clients
- Personal hygiene and Sanitary methods used in serving and delivering meals
- First aid and CPR training
- General knowledge and basic techniques of working with persons who are aged or disabled
- Orientation in applicable HHSC, the Area Agency Agreement, rules, procedures and policies

Meal contractors must provide new staff and volunteers with at least one (1) hour of training within the 1<sup>st</sup> six (6) months of employment. Existing staff must provide training annually.

3.4. Service 3: Title III B – Demand/Response Transportation Services

Service 3: Title III B – Demand/Response Transportation Services

**Service Definition**

Taking an older individual from one location to another but does not include any other activity. Demand/Response transportation is designed to carry older individuals from specific origin to specific destination upon request. Older individuals request the transportation service in advance of their need, usually twenty-four (24) to forty-eight (48) hours prior to the trip.

**Program Outcome**

Transportation services must provide access to needed services which maintain the independence and dignity of the elderly. Contractors must adhere to the requirements of the TAC in the delivery of services. Transportation is a Title IIIB service.

**Eligibility Requirements**

Clients must be sixty (60) years of age or older. Eligible participants must not be denied transportation services by any transit contractor, funded by the Older Americans Act, because they cannot afford to pay for and/or do not wish to contribute to the service.

The OAA **does not** allow transportation services to be offered to:

- A spouse or family member who is under sixty (60) years of age,
- An individual with disabilities who is under sixty (60) years of age and lives with an older individual, or
- An individual who is a paid caregiver assisting an older individual.

The OAA does allow individuals who are under sixty (60) years of age to financially contribute to transportation services, or the service contractor may use funds from other funding sources.

**Documentation**

A unit of service is a one-way trip provided to an eligible person from one location to another. Contractor must maintain official files containing information that identifies regular participants, documents eligibility, and gives procedures for emergency care. Contractor must use only the reporting and documentation forms provided by the Area Agency.

**Service Delivery Forms (Provided by AAA)**

The following documents will be required under the contract for all new and renewing Title III Transportation clients. Participant forms **must be updated and submitted by the Contractor to the AAA annually upon reassessment for existing participants.**

Form/Document	Contractor	Participant
<b>Frequency of Submission</b>	<b>Monthly or as required for new and renewing clients</b>	<b>Annually for existing clients</b>
Client Checklist	✓	✓
Client Intake	✓	✓
Client Request for Services	✓	✓
Participant Rights and Responsibilities	✓	✓
Client Information Release (as necessary)	✓	
Client/Service Change of Status (as necessary)	✓	
Monthly Invoice	✓	
Service Delivery Log	✓	
Client Grievance and Participant Participation Policy	✓	✓

Grievance Policy and Participant Contribution Policy should be posted in the vehicle and provided to the client during the Intake and Assessment process.

**Service Delivery**

Transportation services must be designed by transit contractors in accordance with the Americans with Disability Act of 1990. Transportation services must be provided to and from activities only as specified by the AAA.

Eligible trips include trips for medical purposes, for essential shopping, and to the senior center. Title III funds must not be used to cover the costs of trips for recreational purposes outside the county where nutrition and in-home services are provided. Allowable trips, in order of priority, are as follows:

- Medical Trips - any related trip including to doctor's office, dental appointments, hospitals, health clinics, ophthalmic visits, pharmacy, or any other essential medical purposes.
- Essential Shopping - includes grocery shopping, bill payment, public benefit offices, post office, employment, beauty and barbershops.
- Senior Center - trips to participate in services in a senior center including meals, nutrition education programs, physical fitness programs, health screening, volunteer opportunities, and recreational activities in the center.

#### Accident Reporting

The transit contractor must call the AAA the day of the accident and complete and file a HHSC accident report with the AAA and HHSC.

#### Training

Transit contractors must provide transit staff and volunteers with training in the areas of:

- Scheduling and dispatching
- Defensive driving
- Passenger handling and assistance
- First aid, and
- CPR training

Transit contractors must provide new staff and volunteers with training within the 1<sup>st</sup> six months of employment. Existing staff must provide training annually.

### 3.5. Service Reimbursement, Program Match Requirements, Program Income and Post Award Meeting

#### Service Reimbursement

H-GAC agrees to make payment to Contractors in the amounts, and upon the terms and provisions, set forth their contract. Contractors agree to accept such payments as full compensation for services performed hereunder.

H-GAC will pay Contractors on a unit rate reimbursement basis for services rendered. Contractors agree to deliver specific services on an "at-risk" basis. Adjustments will be considered only in instances where a service provider suffers operating losses due to events over which they have no control, or reasonably could not have anticipated OR in instances where a service provider experiences significant excess revenues over operational costs due to unanticipated and/or unbudgeted additional resources or reductions in expenses due to a change in costs resources or reductions in expenses due to a change in cost allocation methodology. "At-risk" unit rates will not be adjusted to offset poor management planning. Any adjustment to an "at-risk" unit rate will be judged on its own merits.

Unit rates established by H-GAC will not exceed rates or rate limitations established by Texas Health and Human Services Commission in its rules and regulations.

#### Program Match Requirements

Contractors may use their allocation of Title III B and/or Title C funds to pay no more than 90 percent of the costs of providing services. At least ten (10) percent of the costs must be provided by the Contractor, for each service. Contractors may provide more than a 10% match (over match) if they desire. This non-federal share must be a cash match. If enough cash is not available to meet the minimum ten (10) percent match requirement, a combination of cash and in-kind resources may be used to meet the match requirement.

Program match consists of two components local cash and in-kind.

- **Cash Match** – Cash match is funding the Contractor typically receives from local funding sources and not federal or state funds. Examples of cash match are funds received from the United Way, county and city government, churches, foundations, bequests, donations, and fundraisers. Cash match must be reported to the Area Agency on Aging.
- **In-Kind Resource Match** – In-kind resources are commonly valuable space, vehicles, or volunteer hours donated. Contractors may use in-kind resources in lieu of cash, if securing cash funds is not possible. Contractor must provide documentation showing that the cash match cannot be secured, and in-kind resources must be used. Contractor must provide documentation demonstrating how the in-kind resources value was determined.

#### Program Income

Program Income is a donation from program participants who received services. Contributions are used to increase services in the program area where they are donated. Contributions should be collected by Contractors. Contractors should provide participants an opportunity to contribute. Participant contributions are voluntary and are not a condition to receive services. Participants should not feel coerced to contribute.

#### Post Award Meeting

H-GAC reserves the right to require the awarded respondent attend a post award meeting with H-GAC staff and/or other designated persons at H-GAC offices in Houston, Texas within thirty (30) calendar days after the award. The purpose of the meeting will be to discuss the terms and conditions and to provide additional information regarding the work tasks and requirements. Awarded respondent and H-GAC will identify specific goals, strategies and activities planned for meeting program objectives.



**Galveston County Parks & Cultural Services**

Houston-Galveston Area Council

**Fiscal Year 2026**

Budget Summary

October 1, 2025- September 30, 2026

Service Description	Unit Rate	Approved Units	OAA Funds	Matching Funds	Program Income	Total Funding
<b>Transportation-Demand/Response</b>						
Title III B Transportation	\$ 8.90	14,586	\$ 129,816			\$ 129,816
Local Match	\$ -			\$ -		-
Cash Match	\$ 8.90	5,734		51,033		51,033
In-Kind Match						-
<b>Subtotal</b>		<b>20,320</b>	<b>\$ 129,816</b>	<b>\$ 51,033</b>		<b>\$ 180,849</b>
Program Income	\$ 8.90	20			\$ 178	\$ 178
<b>Transportation Total</b>		<b>20,340</b>	<b>\$ 129,816</b>	<b>\$ 51,033</b>	<b>\$ 178</b>	<b>\$ 181,027</b>
<b>Congregate Meals</b>						
Title III Congregate Meals	\$ 6.50	31,955	\$ 207,706			\$ 207,706
Local Match	\$ 0.64			\$ 20,451		20,451
Cash Match	\$ 7.14	34,645		247,365		247,365
In-Kind Match						-
<b>Subtotal</b>		<b>66,600</b>	<b>\$ 207,706</b>	<b>\$ 267,816</b>		<b>\$ 475,522</b>
Program Income	\$ 7.14	400			\$ 2,856	\$ 2,856
<b>Title III C1 Total</b>		<b>67,000</b>	<b>\$ 207,706</b>	<b>\$ 267,816</b>	<b>\$ 2,856</b>	<b>\$ 478,378</b>
Cash Match	\$ 7.14	-		-		-
<b>C1 Grand Total</b>		<b>67,000</b>	<b>\$ 207,706</b>	<b>\$ 267,816</b>	<b>\$ 2,856</b>	<b>\$ 478,378</b>
<b>Home Delivered Meals</b>						
Title III Home Delivered Meals						
SGR HDM						
Local Match						
Cash Match						
In-Kind Match						
<b>Subtotal</b>						
Program Income						
<b>Title III C2 Total</b>						
Cash Match						
<b>HDM Grand Total</b>						
<b>Title III Funds</b>			<b>\$ 337,522</b>			<b>\$ 337,522</b>
<b>Cash Match</b>				<b>\$ 318,849</b>		<b>\$ 318,849</b>
<b>In-Kind Match</b>				<b>\$ -</b>		<b>\$ -</b>
<b>Program Income</b>					<b>\$ 3,034</b>	<b>\$ 3,034</b>
<b>GRAND TOTAL</b>			<b>\$ 337,522</b>	<b>\$ 318,849</b>	<b>\$ 3,034</b>	<b>\$ 659,405</b>

## Signatures



Signed by Charles Wemple on 15-Dec-2025

Job Title: **Executive Director**  
Company: **Houston-Galveston Area Council**



Signed by Mark Henry on 08-Dec-2025

Job Title: **County Judge**  
Company: **Galveston County**

## eSign Audit Trail

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### Document History

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	<b>Viewed by</b> Charles Wemple	15-Dec-2025 22:57.31 UTC	Location: Houston, TX 77019, United States 174.202.226.6
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