



**Request for Applications
RFA #17-014
Addendum August 27, 2018
Specialized Therapy and Services for
HCBS**

Anticipated Schedule of Events

May 20, 2017 Issuance RFA
August 27, 2018 Issuance of RFA Addendum
Open – Continuous



Emergence Health Network

El Paso Center for Mental Health/Intellectual Disabilities

201 E. Main Suite 600
El Paso, TX 79901
(915) 887-3410
Fax: (915) 351-4703

Notice to Interested Parties

Request for Application will be received at Emergence Health Network at 9609 Carnegie, El Paso, Texas 79925 **on an on-going basis.**

Applications must be received in an envelope and marked:

“Specialized Therapy and Services for HCBS RFA #17-014”

Do not contact the requesting department. Any questions or additional information required by interested vendors must be emailed to: bidquestions@ehnel Paso.org RFA number and title must be on the “Subject Line” of the email. Attempts to circumvent this requirement may result in rejection of the application as non-compliant.

Any changes in the specifications will be posted on the EHN website as an addendum. **It shall be the proposer’s responsibility to check the website prior to the due date/opening to verify whether any addendums have been posted.** Website: www.emergencehealthnetwork.org; Procurement.

In order to remain active on the Emergence Health Network Vendor list, each vendor receiving this proposal must respond in some form. Vendors submitting proposals must meet or exceed all requirements herein. Vendors not responding to the request must submit their reason in writing to the Emergence Health Network.

EHN SIGNATURE PAGE

<p>Specialized Therapy and Services for HCBS RFA #17-014</p> <p>Vendor must meet specifications</p>
<p>Please do not include tax, as EHN is tax-exempt. We will sign tax exemption certificates covering these items. Please submit one (1) original copy and submit the application to rfp@ehnel Paso.org in a PDF format. Electronic copies must reflect the original hard copy.</p>

I or we agree to furnish the following described equipment, supplies, or services for the prices shown in accordance with specifications listed below or attached. By execution of this proposal, I hereby represent and warrant to Emergence Health Network that I have read and understood the Proposal Documents and the Contract Documents and this application is made in accordance with the Application Documents.

Company

Mailing Address

Federal Tax Identification No.

City, State, Zip Code

DUNS Number

Representative Name & Title

Telephone Number include area code

Signature

Fax Number include area code

Date

Email Address

*****THIS MUST BE THE FIRST PAGE ON ALL PROPOSALS*****

Specialized Therapy and Services for HCBS

RFA #17-014



Emergence Health Network
El Paso Center for Mental Health/Intellectual Disabilities

Date: _____

STATEMENT OF WORK/ SPECIFIC PROPOSAL REQUIREMENTS

Specialized Therapy and Services for HCBS RFA 17-014

Emergence Health Network (EHN) (Local Authority) is the Department of State Health Services (DSHS) designated Mental Health Authority established to plan, coordinate, develop policy, develop and allocate resources, supervise, and ensure the provision of community based mental health (MH) and intellectual and developmental disability (IDD) services for the residents of El Paso County, Texas.

The attachments in this RFA include:

- Attachment A: Deviation Form
- Attachment B: HUB Subcontracting Plan
- Attachment C: Professional Services Agreement
- Attachment D: Business Associate Agreement

A. SERVICE OBJECTIVES

The Home and Community Based Services- Adult Mental Health program is designed to support recovery from mental illness. EHN offers services to help better manage one's physical and mental well-being; attain stable and safe housing; engage in meaningful daily life activities; forging and cultivating relationships with others in the community; develop a positive sense of identity; and regaining belief in one's self.

Population criteria:

1. Long Term Psychiatric Hospitalization (LTPH), which must have been hospitalized for 3 out of the last 5 years (1095 days cumulative or consecutive).
2. Jail Diversion (JD), must have 4 arrests and 2 psychiatric crisis episodes with in the last 3 years
3. Emergency Department Diversion (EDD), must have 15 or more ED visits and 2 psychiatric crisis episodes in the last 3 years.

The following services are available in HCBS-AMH:

1. Host Home/Companion Care;
2. Supervised Living Services;
3. Assisted Living;
4. Supported Home Living;
5. HCBS-AMH Psychosocial Rehabilitation services;
6. Employment Services
7. Supported employment;
8. Employment assistance;
9. Minor home modifications;
10. Home-delivered meals;
11. Transition assistance services;
12. Adaptive aids;
13. Transportation services (non-duplicative of state plan medical transportation);

14. Community Psychiatric Supports and Treatment
15. Peer support;
16. Respite care (short term);
17. Substance use disorder services;
18. Nursing;
19. Recovery Management; and
20. Flexible Funds

B. APPLICATION REQUIREMENTS

All Applications must include the following information:

- Clear identification of information by section and page.
- List of at least three (3) references, including contact person, telephone number, fax number and email address.
- Identification of all services provided.

Application:

- As applicable, Independent Provider(s) and/or Provider Firm(s) must provide a brief history of company and ownership, date started business, current total number of employees, employee turnover rate and include any special accommodations/services that could be provided
- Must be typed.
- Must make provision to meet and comply with all applicable laws and regulatory criteria.
- Interested parties are encouraged to submit along with their Application any additional descriptive information about their services, which they believe, might be helpful.

Additional documents to be submitted:

- Application Signature Page. Must bear the original signature in INK of the Independent Provider or a person or officer of the Provider Firm submitting the Application that is authorized to enter into contractual agreements on behalf of the Provider. Applications received unsigned will not be accepted.
- Deviation Form (Attachment A)
- Submit proof of Historically Underutilized Business “HUB” State Certificate and/or City of El Paso M/W/DBE Certificate. (Attachment B)
- Reference list
- Documentation of experience addressing professionalism, contract performance, quality of personnel, responsiveness and flexibility, etc. to achieve overall customer satisfaction.
- Proof of Insurance
- Documentation of Contractor’s professional and educational qualifications for services to be delivered including copies of certifications, licenses, and/or registrations
- Professional Services Agreement (Attachment C)
- Business Associate Agreement (Attachment D)

- Certification Regarding Lobbying
- Conflict of Interest Questionnaire

C. SCOPE OF SERVICES

SERVICE NAME	DESCRIPTION	PROVIDER QUALIFICATIONS	RATES
<p>Supported Employment/ Employment Assistance</p>	<p>Supported Employment Service Definition: Provides individualized services to sustain individuals in paid jobs in regular work settings, who, because of disability, require support to be self-employed, work from home, or perform in a work setting at which individuals without disabilities are employed.</p> <p>Billable Supported Employment Activities and Services The only billable activities for HCBS-AMH supported employment are:</p> <ol style="list-style-type: none"> 1. Employment adaptations, supervision and training related to an individual's disability; 2. Assisting the individual with transportation needs which include: <ul style="list-style-type: none"> • developing the individual's transportation plan; • training the individual on how to travel to and from the job; and • securing transportation for or transporting an individual, as necessary, to assist self-employment, work from home or perform in a work setting; 3. Participating in a service planning team meeting; 4. Orienting and training the individual in work-related tasks; 5. Training or consulting with employers, coworkers or advocates to maximize natural supports; 6. Monitoring job performance; 7. Communicating with managers and supervisors to gather input and plan training; 8. Communicating with company personnel or support systems to ensure job retention; 9. Training in work-related tasks or behaviors to ensure job retention (for example, grooming or behavior management); 10. Setting up compensatory strategies; 11. Assisting the individual to report earned income to the Social Security Administration and the Texas Health and Human Services Commission; 12. Assisting the individual to develop a method for ongoing income reporting and for staying informed about the impact of the individual's earnings on cash, Medicaid and other benefits; 13. Assisting the individual to utilize work incentives to maintain needed benefits and continue to access needed supports and services; <p>Home and Community-Based Services—Adult Mental Health Billing Guidelines</p> <ol style="list-style-type: none"> 14. Assisting the individual with career advancement; 15. Assisting the individual to develop assets and obtain self-sufficiency through work; 16. Training or consulting in work-related tasks or behaviors, such as support for advertising, marketing and sales; 17. Training or consulting with paid or natural supports (accountants, employees, etc.) who are supporting the 	<p>Direct Service Provider: An individual provider must be at least 18 years of age and meet one of the following qualifications:</p> <ul style="list-style-type: none"> • Have a bachelor's degree in rehabilitation, business, marketing, or a related human services field, and one year's paid or unpaid experience providing employment services to people with disabilities; • Have an associate degree in rehabilitation, business, marketing, or a related human services field, and two years paid or unpaid experience providing employment services to people with disabilities; or • Have a high school diploma or Certificate of High School Equivalency (GED credentials), and three years paid or unpaid experience providing employment services to people with disabilities. 	<ul style="list-style-type: none"> • \$23.46 per hour of billable services

<p>Supported Employment/ Employment Assistance</p>	<p>13. Assisting the individual to utilize work incentives to maintain needed benefits and continue to access needed supports and services;</p> <p>Home and Community-Based Services—Adult Mental Health Billing Guidelines</p> <p>14. Assisting the individual with career advancement;</p> <p>15. Assisting the individual to develop assets and obtain self-sufficiency through work;</p> <p>16. Training or consulting in work-related tasks or behaviors, such as support for advertising, marketing and sales;</p> <p>17. Training or consulting with paid or natural supports (accountants, employees, etc.) who are supporting the individual either short-term or long-term in managing the business;</p> <p>18. Problem-solving related to company personnel or support systems necessary to run the business effectively and efficiently;</p> <p>19. Assistance with bookkeeping, marketing and managing data or inventories;</p> <p>20. Assisting the individual with development of natural supports in the workplace;</p> <p>21. Helping the individual attend school and providing academic supports, when that is their preference;</p> <p>22. Coordinating with employers or employees, coworkers and customers, as necessary;</p> <p>23. Assisting individuals in making informed decisions about whether to disclose their mental illness condition to employers and co-workers; and</p> <p>24. Providing follow-along services for as long as the individual needs and desires them to help the individual maintain employment. Follow-along may include periodic reminders of effective workplace practices and reinforcement of skills.</p> <p>Employment Assistance Service Definition:</p> <p>Employment Assistance services consist of developing and implementing strategies for achieving the individual’s desired employment outcome, including more suitable employment for individuals who are employed. Services are individualized, person-directed, and may include:</p> <p>Billable Employment Services include:</p> <ol style="list-style-type: none"> 1. Identifying an individual's employment preferences, job skills and requirements for a work setting and work conditions; 2. Locating prospective employers offering employment compatible with an individual's identified preferences, skills and requirements; 3. Contacting a prospective employer on behalf of an individual and negotiating the individual's employment; 4. Assisting the individual with transportation needs, which include: 		
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<p>Supported Employment/ Employment Assistance</p>	<ul style="list-style-type: none"> • developing the individual's transportation plan; • training the individual on how to travel to and from a job; • securing transportation for or transporting an individual, as necessary, to assist the individual to obtain a job; and • transporting the individual to help the individual locate paid employment in the community; <ol style="list-style-type: none"> 5. Participating in service planning team meetings, including those with the Department of Assistive and Rehabilitative Services or, for individuals under age 22, with the individual's school district; 6. Exploring options related to wages and employment outcomes (including self-employment outcomes); 7. Exploring the individual's interests, capabilities, preferences and ongoing support needs; 8. Exploring the extended services and supports required at and away from the job site that will be necessary for employment success; 9. Observing the individual's work skills and behaviors at home and in the community; 10. Touring current or potential work environments with the individual; 11. Assisting the individual to understand the impact of work activity on his/her services and financial supports; 12. Assisting the individual to utilize work incentives to maintain needed benefits; 13. Collecting personal and professional reference information; 14. Assessing the individual's learning style and needs for adaptive technology, accommodations and on-site supports; 15. Assessing the individual's strengths, challenges and transferable skills from previous job placements; 16. Identifying the individual's assets, strengths and abilities; 17. Identifying negotiable and non-negotiable employment conditions; 18. Identifying targeted job tasks the individual can perform or potentially perform; 19. Identifying potential employers or self-employment options; 20. Training related to an individual assessed need specific to his/her employment preferences, job skills and requirements for a work setting and work conditions; 21. Writing resumes and proposals to assist in placement; 22. Contacting employers and developing individual jobs; 23. Performing a job analysis to determine if a potential job meets the individual's interests, capabilities, preferences and ongoing support needs; 24. Assisting the individual with job applications, pre-employment forms, practice interviews, and pre-employment testing or physicals; 25. Accompanying the individual to interviews; 26. Negotiating aspects of the individual's employment with prospective employers; and <p>Home and Community-Based Services—Adult Mental Health Billing Guidelines</p> <ol style="list-style-type: none"> 27. Educating the employer about the Work Opportunity Tax Credit and other employer benefits. 		
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<p>Supported Employment/ Employment Assistance</p>	<p>For self-employment, services may additionally include:</p> <ul style="list-style-type: none"> • Supporting the individual in work-related tasks or behaviors, such as advertising, marketing, sales, accounting, and obtaining licenses and registrations; • Training or consulting with paid or natural supports (accountants, employees, etc.) who will be supporting the individual either short-term or long-term in managing the business; and • Setting up services to address long-term supports that will be necessary to sustain the business. 		
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I. Standards

1. Quality Assurance

EHN and the contractor will collaborate to create a quality assurance system that entails the following components:

- 1) Monitor and evaluate service performance and outcome data to identify needs for additional training or collaboration with key stakeholders and community partners to immediately address roadblocks in the service delivery system.
- 2) Ensure compliance with record maintenance and documentation consistent with state and federal regulations by conducting desk reviews of service records, on-site reviews evaluating adherence to clinical design by providers implementing crisis services, and monitoring services through EHN’s electronic medical records system (Anasazi).
- 3) Ensure crisis respite sites are compliant with all state and federal safety regulations.
- 4) On a monthly basis, EHN will monitor impact on access and quality of services through data collection. EHN will assess the impact of interventions based on standardized quantitative measures and qualitative analysis relevant to the target population. Examples of data sources include:
 - Standardized assessments of functional, mental and health status
 - Medical and service encounter records
 - Participant surveys and contractor surveys.

EHN will evaluate performance outcome data to identify needs for additional training or collaboration with key stakeholders and community partners to immediately address roadblocks in the service delivery system.

EHN will also conduct desk reviews of service records and on-site reviews evaluating adherence to clinical design by providers implementing new crisis services. The first quality assurance review will be conducted 60 days after program initiation and routine reviews will be scheduled every six months.

2. Financial Oversight

On a monthly basis, EHN will monitor budget and expenditure reports related to the costs of delivering the crisis response system.

II. Reporting

By the tenth (10th) day of the month, Provider will submit a report of activities for the preceding month to EHN containing the following information:

- a. Names of EHN-referred individuals seen by Provider;
- b. Description of any complaints received from EHN referred individuals (or their LAR), identifying those resolved to the individual's (or LAR's) satisfaction within 14 days from the date of complaint; and
- c. Number and documentation of all incidents of restraint and seclusion of EHN-referred individuals.
- d. Number of EHN-referred individuals with MH who did not transition back to home from crisis respite within fourteen (14) calendar days.

All significant risk events involving individuals served under this Agreement must be documented on an EHN Event Report immediately after occurrence. The original report must be routed to the person and in the manner designated by EHN. In no event shall these reports be routed later than twenty-four (24) hours of knowledge of the event of:

- e. Any allegation of abuse, neglect, and/or exploitation of EHN-referred individuals that involves Provider and/or Personnel;
- f. Any significant incidents, injuries, or illnesses related to EHN-referred individuals; or Any death of an EHN-referred individual, whereby Provider has been made aware

D. GENERAL PROVISIONS

A. Irregularities in Applications

Except as otherwise stated in this Request for Application, evaluation of all Applications will be based solely upon information contained in the vendor's response to this Application. EHN shall not be held responsible for errors, omissions or oversights in any vendor's response to this Application. EHN may waive technical irregularities, which do not alter the price or quality of the services.

EHN shall have the right to reject Applications containing a statement, representation, warranty or certification which is determined by EHN and its counsel to be materially false, incorrect, misleading or incomplete. Additionally, any errors, omissions, or oversights of a material nature may constitute grounds for rejection of any Application.

The inability of a vendor to provide one or more of the required components or specified features or capabilities required by this Application does not, in and of itself, preclude acceptance by EHN of the Applications. All Applications will be evaluated as a whole in the best interest of EHN.

B. Oral Presentations

Any vendor that submits an Application in response to this request may be required to make an oral presentation for further clarification upon EHN's request.

C. Amendments to the Application

If it becomes necessary to revise any part of this Application package or if additional information is necessary to clarify any provision, the revision and/or additional information will be provided to each vendor via faxed amendment or e-mail.

D. Public Information Act

The parties agree that EHN is a governmental body for purposes of the Texas Public Information Act (TPIA), codified as Chapter 552 of the Texas Government Code and as such is required to release information in accordance with the Public Information Act. Applicant acknowledges that information submitted to EHN is subject to disclosure to third parties as per the requirements of the TPIA.

E. Deviation Form

Each Application shall contain a Deviation Form, which states the prospective vendor’s commitment to the provision of this Request for Application. An individual authorized to execute contracts shall sign the Deviation Form. Any exception taken to the terms and conditions identified in this Application Package including the sample contract must be expressly stated in the Deviation Form. (See Attachment A – Deviation Form)

E. Term of Contract

The intent of the RFA is to award a one (1) year initial period of performance with one (2) two-year renewal options at the sole discretion of EHN based upon satisfactory performance and funding availability which will be reviewed on an annual basis.

F. Licensure

The vendor shall submit, with their Application, a copy of any license(s), certification(s), registration(s), permit(s), etc. as required by authorities having jurisdiction: local, state, county, and/or federal.

E. EVALUATION CRITERIA

Evaluation criteria is established to ensure EHN is recruiting the most qualified providers that are dedicated to high quality and the most experienced. A decision to proceed with contracting will be based on the applicant meeting a minimum percentage of 90% based on the criteria listed below, criteria is based on the TAC Title 25, Chapter 412, Subchapter B:

AWARD CRITERIA AND SCORING	MAXIMUM SCORE
<p><u>Experience/Capabilities in Providing the Service:</u></p> <ul style="list-style-type: none"> • Number of years of experience providing services. • Demonstrated ability to satisfactorily provide all required services. • Staffing patterns: number of years of relevant experience per shift. • Access to clinical supervision. • References. • Responses in full throughout listed Exhibits. • Description of how program will operate. 	50%
<p><u>Financial Viability:</u></p> <ul style="list-style-type: none"> • Company must proof viability and sustainability for entire contract award period stated. 	10%
<p><u>Risk Profile:</u></p> <ul style="list-style-type: none"> • Process in place for evaluation of services provided including quality of services, satisfaction of contracting entities and customers. • Evidence of follow-up improvement activities based on results of evaluations. • Evidence of in-service staff training: topics, frequency, mode. • Stable workforce evaluated on turnover and tenure reports. • Retention efforts identified. • Provisions for confidentiality of calls and information. • Financial resources sufficient to satisfactorily provide the services. • Number of years in business. 	40%
<p>TOTAL NUMBER OF POSSIBLE POINTS</p>	100%

Receipt of a signed contract by EHN does not constitute acceptance. Contract will be final once countersigned by an authorized agent of EHN.

ATTACHMENT A



DEVIATION FORM

All deviations to this Solicitation (Proposal and Sample Contract) must be noted on this sheet. In the absence of any entry on this Deviation Form, the prospective vendor assures EHN of their full agreement and compliance with the Specifications, Terms and Conditions.

Each response to this Solicitation shall contain a Deviation Form, which states the prospective vendor's commitment to the provisions of this Solicitation. An individual authorized to execute contracts must sign the Deviation Form. Any exceptions taken to the terms and conditions identified in this Solicitation Package including the Sample Contract must be expressly stated in the Deviation Form. **(Attachment A)**

THIS DEVIATION FORM MUST BE SIGNED BY EACH PROSPECTIVE VENDOR WHETHER THERE ARE DEVIATIONS LISTED OR NOT, AND SUBMITTED WITH THIS SOLICITATION

SPEC#/Section#/Page #	DEVIATION(S)

Independent Contractor/Firm

Authorized Signature

Date

ATTACHMENT B

**HUB SUBCONTRACTING PLAN
HISTORICALLY UNDERUTILIZED BUSINESS**

(HUB-LOI IS USED BY POTENTIAL VENDOR/VENDOR TO IDENTIFY SUB-VENDORS SELECTED FOR WORK ON THE CONTRACT)

Vendor _____ Vendor Identification Number: _____

Address: _____

Phone: ____ - ____ - _____ Bid/Proposal Number: _____ Contract Amount: _____

Description of commodities/specifications: _____

Duration of Contract: _____

Name of Subcontractor/Supplier: _____

Address: _____

Phone: ____ - ____ - _____ Is the subcontractor a certified HUB? ____ Yes ____ No

If yes, enter the GSC Certificate (VID) number: _____

Dollar amount of contract with subcontractor /supplier: \$ _____

Percentage amount of contract with subcontractor /supplier: % _____

Description of materials/services performed under agreement with the subcontractor for amount indicated above:

PLEASE SUBMIT A SEPARATE FORM FOR EACH SUBVENDOR/SUPPLIER

ATTACHMENT C

PROFESSIONAL SERVICES AGREEMENT HCBS Crisis Respite Services

THIS AGREEMENT with an effective date of _____ (herein, the “Effective Date”) is made by and between EL PASO MHMR d/b/a EMERGENCE HEALTH NETWORK (“EHN”), a community center under the provisions of the Texas Health and Safety Code, and _____ (hereinafter referred to as “Provider”) for the purpose of providing specialized therapy and services, more specifically detailed on **Exhibit 1**, attached hereto and incorporated by reference (the “Services”) for qualified individuals in El Paso County in accordance with State of Texas requirements and community standards.

RECITALS

WHEREAS, pursuant to the Texas Health and Safety Code EHN been designated by the Texas Department of State Health Services (“DSHS”) as the local mental health (“MH”) authority for El Paso County, Texas residents; and

WHEREAS, as the local MH authority, EHN is responsible for the planning, policy development, coordination, Resource Allocation and resource development for and oversight of MH services for El Paso County; and

WHEREAS, on _____, EHN has issued a Request for Applications for MH Specialized Therapy and Services; and

WHEREAS, Provider, upon entering into this Agreement, meets EHN and Texas State requirements for performance of crisis respite services; and

WHEREAS, Provider desires to contract with EHN to provide MH specialized therapy and services; and

WHEREAS, this Agreement sets forth terms and conditions evidencing the agreement of the parties hereto.

Now, THEREFORE, in consideration of the mutual covenants, rights, and obligations set forth herein, the benefits to be derived therefrom, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

Article 1

OBLIGATIONS OF PROVIDER

- Provision of Covered Services.** Provider agrees to provide the Services as requested by EHN and in accordance with **Exhibit 1**. Provider must immediately notify EHN of any change, or potential change, in its status that could affect its ability to provide the Services. Consumers will have choice of providers; Provider acknowledges that EHN does not warrant or guarantee any Consumer will choose Provider to perform the Services. Provider agrees that no individuals will be refused for Services solely on the basis of the person’s arrest, charge, fine, probation, indictment, incarceration, deferred adjudication, community supervision, sentencing or conviction of a criminal offense.
- Non-Disparagement.** Provider shall not in any way, verbally or in writing, disparage or derogate the business, services or personnel of EHN to any third-party, nor shall Provider intentionally interfere with any business relationship between EHN and any third-party. This provision shall survive the termination of this Agreement.
- Non-Exclusivity.** Nothing contained in this Agreement shall be construed to confer upon the Provider the exclusive right to perform the Services in any geographic area and EHN explicitly reserves the right to contract with any other Provider in the geographic area of EHN.
- Claims for Payment.** Provider will submit a claim for payment no later than the tenth (10th) day following the month in which the Services were provided (“Claim Submission Deadline”). Provider shall invoice EHN outlining type of service provided, dates, and times of service. Along with submission of invoice, established EHN consumers (or their legally authorized representative) will be required to execute a verification statement of services received. Such forms shall be provided by EHN.
- Reimbursement.** If no clarifications are requested or otherwise immediately addressed, EHN shall remit payment to Provider not later than the thirtieth (30th) day following the Claim Submission Deadline. Provider will accept payment received from EHN in accordance with the Fee Schedule set forth in **Exhibit 2** (“Payment and EHN

Obligations”). Provider will not submit a claim or bill or collect compensation from any individual referred to Provider by EHN for Services.

6. **Non-Covered Services.** Provider agrees that compensation for providing other services beyond the Services will be solely between the individual and the Provider and that the individual or the legally authorized representative (LAR) will be informed in writing, before such services are provided, that EHN is not responsible for payment of such services. Individuals (or the LAR) will be responsible for payment for other services only if the individual is informed in accordance with this paragraph and consents in writing to the provision of such services.

7. **Representations.**

- a. Provider represents that at all times during this Agreement, it will comply with:
- (1) The most current Texas Administrative Code governing community standards for Community Mental Health and IDD Centers and Community Service Programs;
 - (2) All applicable local, state, and federal laws, rules, and regulations now in effect and that become effective during the term of this Agreement;
- b. Provider represents that any employees performing services under this Agreement where direct contact with individuals referred by EHN will occur, have been trained in the prevention and management of aggressive behavior.
- c. Provider represents that it, or any of its employees, is not currently an employee of EHN;
- d. Provider represents that the Provider and the Provider’s employees, independent contractors, and agents (“Personnel”) are duly licensed, certified, registered and possess other legally necessary and recognized credentials necessary to perform the Services in accordance with the laws and regulations of the State of Texas;
- e. Provider represents that individuals providing service under this Agreement have been or will be credentialed by EHN prior to providing the Services;
- f. Provider further agrees to provide Services in a manner consistent with professional standards;
- g. Provider and its Personnel will maintain any certifications, registrations, or licenses, or as required by law, and agree to remain in good standing in its profession during the term of the Agreement. Additionally, Provider shall inform EHN immediately of any changes, including any termination, reduction, revocation, or suspension to any certifications, registrations, or licenses held by the Provider and its Personnel. Provider shall report to EHN when Personnel has committed an action that constitutes grounds for the suspension or revocation of the certification or licensure;
- h. Provider agrees to provide to EHN current information regarding professional licensure, insurance, and changes in name, address, and telephone number of Personnel, within fifteen days of the change;
- i. Provider represents and warrants that it, nor its principals, is not more than thirty (30) days delinquent in child support payments and is eligible to receive payments from state funds as required by Texas Family Code Section 231.006;
- j. The Provider has full power and authority to enter into this Agreement and to bind its Personnel to the terms and conditions of this Agreement and shall be directly responsible for such performance. Provider shall utilize its best efforts to ensure that all its Personnel comply with all applicable terms and conditions of this Agreement;
- k. Provider represents that Provider is currently in good standing for state tax;
- l. Provider is in compliance with and has signed the Certification Regarding Lobbying, attached and incorporated by reference as **Exhibit 3**.

8. **Disclosure.** Provider agrees to disclose to EHN if it or any of its Personnel rendering services to an individual pursuant to this Agreement:

- a. Is currently barred from the award of a federal, state or county contract, or if such occurs anytime during the term of this Agreement;
- b. Has been convicted of a criminal offense related to any county, state or federally funded program; or,
- c. Is placed on “vendor hold” status for any county, state, or federally funded program.

9. **Criminal Background Checks.** Provider agrees to submit to a criminal background check for any Personnel whose duties place them in direct contact with individuals referred by EHN. Provider understands that any Personnel having direct contact with referred individuals will be barred from providing services under this Agreement if the Personnel cannot comply with the requirements under 40 T.A.C. § 4.505. Provider shall immediately inform EHN in the event that any Personnel becomes unable to comply with the provisions of 40 T.A.C. § 4.505. Should any Personnel have been convicted, received a probated sentence, or for whom there exists an arrest warrant or wanted persons notice relevant to employment, Provider will immediately remove the Personnel from any direct

contact with individuals referred by EHN. If Provider or its Personnel has a conviction prohibited under the applicable provisions of the Texas Health and Safety Code and Texas Administrative Code, then this Agreement may be terminated without prior notice.

10. **Immigration Reform and Control Act.** Provider agrees to provide appropriate identification and employment eligibility documents and complete an I-9 form to meet requirements of Immigration Reform and Control Act of 1986.

11. **AIDS/HIV Workplace Guidelines.** Provider agrees to adopt and implement AIDS/HIV workplace guidelines and AIDS/HIV confidentiality guidelines, consistent with state and federal law.

12. **Reports of Abuse, Neglect and Exploitation.** Provider agrees that it shall report any allegations of abuse, neglect and exploitation in accordance with applicable law, rules of the Texas Department of Family and Protective Services (DFPS). Provider further agrees to cooperate in all DFPS investigations, according to DFPS rules, guidelines and procedures.

13. **Credentialing Requirements.** Provider shall submit the appropriate credentialing application and await approval by EHN prior to providing Covered Services to individuals referred to Provider under this Agreement. Credentialing shall be required for Provider's licensed staff and non-licensed staff, as determined by EHN. Provider further agrees to comply with EHN credentialing and re-credentialing standards. Failure to comply shall be deemed a material breach of this Agreement and may result in termination of this Agreement.

Article 2

RECORDS, CONFIDENTIALITY, AND ACCESS

1. **Public Information Act.** All data and information gathered by EHN for purposes of provider profiling and contract monitoring may be subject to release as public information for purposes of open records requests, as per the opinions of the Texas Attorney General's Office.

2. **Retention of Records.** Provider will create and maintain all documents pertinent to this Agreement, including records of individuals referred by EHN, receipts for the purchases of all goods and services involving the use of EHN funds as well as all other financial and supporting documents and statistical records. Provider will retain records for a minimum of five (5) years.

3. **Confidentiality of Records of Individuals Referred by EHN.**

a. Provider agrees and acknowledges that in receiving, storing, processing or otherwise dealing with information of individuals referred by EHN, if any, accessed or generated during services as a provider for EHN that it is bound by the provisions of laws, statutes, and regulations protecting the confidentiality of this information and shall maintain such information as required under state and federal laws and regulations. Furthermore, in compliance with EHN's obligations under a data use agreement with the Texas Health and Human Services Commission, Provider agrees to execute the Subcontractor Agreement Form attached hereto and incorporated by reference as **Exhibit 4**;

b. Provider agrees and acknowledges that in receiving, storing, processing or otherwise dealing with information, if any, pertaining to or about a person with respect to alcohol or drug abuse, it is bound by the provisions of 42 C.F.R. Part 2;

a. Provider agrees to follow, undertake, or institute appropriate procedures of safeguarding information pertaining to an individual referred by EHN, if any, with particular reference to identifying information pertaining to an individual referred by EHN. The term "identifying information" includes, but is not limited to, an individual's medical record, graphs, or charts; statements made by the individual, either orally or in writing, while receiving services; photographs, videotapes, etc., and any acknowledgment that a person is or has been a consumer of EHN, center or other designated provider;

b. Provider agrees to resist in judicial proceedings any efforts to obtain access to information pertaining to individuals referred by EHN except as expressly stated in applicable laws, rules, and regulations, and Provider agrees to inform EHN of any attempts to gain access to information pertaining to individuals referred by EHN; and

c. To the extent required by law and not otherwise, the parties do hereby assure each other that each party will appropriately safeguard Protected Health Information and/or individually identifiable health information made available to or obtained by either party. In implementation of such assurance and without limiting the obligations of either party otherwise set forth in this Agreement or imposed by applicable law, the parties hereby agree to comply with applicable requirements of law relating to Protected Health Information and/or Individually Identifiable Health Information and with respect to any task or other activity the parties perform on behalf of each

other, to the extent the parties would be required to comply with such requirements. The parties agree that they will:

- (1) Not use or further disclose such information other than as permitted or required by this Agreement;
- (2) Not use or further disclose the information in a manner that would violate the requirements of applicable law, if done by either party;
- (3) Use appropriate safeguards to prevent use or disclosure of such information other than as provided for by this Agreement;
- (4) Report to the other party any use or disclosure of such information not provided for by this Agreement of which either party becomes aware;
- (5) Ensure that any subcontractors or agents to whom either party provides Protected Health Information and/or Individually Identifiable Health Information received from the other party agree to the same restrictions and conditions that apply to either party with respect to such information;
- (6) Make available Protected Health Information in accordance with applicable law;
- (7) Make their internal practices, books, records relating to the use and disclosure of Protected Health Information received from the other party available to the Secretary of the United States Health and Human Services for purposes of determining their compliance with applicable law (in all events, both parties shall immediately notify the other party upon receipt by the other party of any such request, and shall provide the other party with copies of any such materials);
- (8) At termination of this Agreement, return or destroy all Protected Health Information received from the other party that either party still maintains in any form and retain no copies of such information; and
- (9) Incorporate any amendments or corrections to protected health information when notified pursuant to applicable law.

d. Without limiting the rights and remedies of either party elsewhere set forth in this Agreement or available under applicable law, either party may terminate this Agreement without penalty or recourse to the other party if either party determines that the other party has violated a material term of the provisions of this Section of this Agreement, or such violation is imminent and material.

4. **Access to Facilities, Books and Records by EHN or Authorized State of Texas Agencies.** Upon seven (7) days' notice, unless immediately required for regulatory or accrediting purposes, Provider agrees to allow EHN or other authorized agencies unrestricted access during usual business hours to all facilities, service providers, individuals served, records, data, and other information as necessary to enable EHN or other authorized agencies to audit, monitor, and review all financial or programmatic activities and services associated with this Agreement. Provider authorizes EHN or their designated agents to make copies of, at no charge, Provider's medical, financial and administrative books, documents, and records related to the provision of services and the cost thereof, subject to applicable laws and regulations.

5. **Right of Audit and Recovery.** Provider hereby authorizes EHN to conduct retrospective audits, upon seven (7) days' notice unless immediately required for regulatory or accrediting purposes, of Provider's claims and other records related to any Covered Service rendered for a period of up to two (2) years following payment to Provider. In the event such an audit reveals that Provider was paid by EHN for Services not rendered or provided in accordance with this Agreement, EHN may recover any compensation paid to Provider for such services.

Article 3

RESPONSIBILITY OF EHN

1. **Payment.** In consideration of the obligations undertaken by Provider, EHN projects to pay Provider in accordance with Exhibit 1 ("Payment and EHN Obligations").

2. **Contract Monitoring.** EHN is responsible for routine monitoring of this Agreement to ensure the Provider complies with the terms of this Agreement.

3. **Franchise Tax.** If Provider is a corporation and becomes delinquent in the payment of its Texas Franchise tax, then payments to the Provider due under this Agreement may be withheld until such delinquency is remedied.

4. **Sanctions.** Provider will be given notice in writing of EHN intention to impose sanctions for nonperformance requirements of this Agreement. EHN retains sole discretion to determine which situations

constitute a major breach of this Agreement. Failure to remedy situations leading to sanctions will result in termination of this Agreement.

5. **Determination of Individuals.** EHN will assess individuals to determine eligibility.

Article 4 INDEMNIFICATION

To the extent not covered by insurance, each party hereby agrees, to the extent permitted under the laws of the State of Texas to indemnify and hold harmless the other party, its trustees, officers, employees, and agents from and against all liabilities, claims, actions, expenses (including attorney's fees and costs related to the investigation of any such claim, action, or proceeding), obligations, losses, fines, penalties, and assessments resulting from or arising out of the non-performance or the negligent performance of the party's obligations under this Agreement, whether by the party or its Personnel.

Article 5 INDEPENDENT CONTRACTOR RELATIONSHIP BETWEEN THE PARTIES

1. **Independent Contractor.**

a. The relationship between EHN and Provider shall be that of an independent contractor. The parties agree that none of the provisions of this Agreement is intended to create, nor will be deemed or construed to create, any relationship between EHN and Provider other than that of independent parties contracting with each other to carry out this Agreement. It is agreed that Provider and Personnel will not be considered an employee, agent, partner, joint venture, ostensible or apparent agent, servant, or borrowed servant of EHN. Provider agrees that it will not hold itself out as an agent of EHN to individuals served under this Agreement or to any other persons.

b. Provider understands and agrees that EHN will not:

(1) Withhold on behalf of Provider any sum for income tax, unemployment insurance, social security, or any other withholding;

(2) Will not give to Provider any of the benefits given to employees of EHN.

c. In the event the Internal Revenue Service should question or challenge Provider's independent contractor status, the parties mutually agree that all parties to the Agreement will have the right to participate in any discussion or negotiation occurring with the Internal Revenue Service.

2. **Professional Judgment.** In the performance of all services under this Agreement, Provider is at all times acting as an independent contractor engaged in the delivery of services. Provider and Personnel will exercise their own professional judgment in performing the services under this Agreement. The sole concern of EHN under this Agreement is that, irrespective of the means selected, the services will be performed in a competent, efficient, and satisfactory manner in compliance with the terms of the Agreement and professional standards.

Article 6 TERM AND TERMINATION

1. **Term.** The term of this Agreement is for (1) one year beginning on the Effective Date (the "Initial Term"), unless sooner terminated as permitted herein. This Agreement's implementation and continuation is contingent upon availability of funds appropriated by the Texas Legislature and being made available to EHN. This Agreement may be renewing for four (4) additional one (1) year periods upon the anniversary of the Effective Date (the "Renewal Term"). EHN may renew this Agreement only if the Agreement meets best value as determined by EHN by considering all relevant factors. This Agreement shall automatically expire upon the fifth (5th) anniversary of the Effective Date, unless otherwise agreed to in writing by the parties.

2. **Immediate Termination.** EHN may terminate this Agreement immediately if:

a. EHN does not receive the funding to pay for designated services under this Agreement from Medicaid and/or General Revenue;

- b. EHN has cause to believe that termination of the Agreement is in the best interests of the health and safety of the individuals who would receive services under this Agreement;
 - c. Material Breach of this Agreement by Provider;
 - d. Provider has become ineligible to receive EHN funds; or
 - e. Provider or Personnel has a license or certificate suspended or revoked.
3. **Termination Upon Default.** Either party may terminate this Agreement after thirty (30) days written notice if the other party is in default of any of the provisions herein and the default has not been cured within the thirty (30) day period or, if the default is such that it cannot be cured within such thirty (30) day period, reasonable progress is being made by the defaulting party to cure the default.
4. **Termination by Mutual Consent.** This Agreement may be terminated by the mutual consent of both parties.
5. **Termination for Failure to Disclose Criminal Conviction.** EHN may terminate the Agreement at its sole discretion if it determines that Provider did not fully and accurately disclose the following information concerning persons convicted of crimes:
 - a. The identity of any Personnel directly or indirectly involved in the Agreement who has been convicted of any criminal offense related to any state or federally funded program; or
 - b. The identity of any Personnel directly or indirectly involved in the Agreement who is in direct contact with persons served and who has been convicted of a crime including any sexual offense, drug-related offense, homicide, theft, assault, battery, or any other crime involving personal injury or threat to another person;
 - (1) Should any person have a conviction described herein, Provider will immediately remove the individual from direct contact with persons served; and
 - (2) If the Provider has a conviction described herein, the Agreement may be terminated immediately.
6. **Effect Upon Notice of Termination.** Upon notice of termination, Provider will cooperate fully with EHN in the transfer of referred individuals to other providers.
7. **Effect Upon Termination.** Upon termination, the rights of EHN and Provider under this Agreement will terminate, except that termination will not release the parties of their respective obligations with respect to:
 - a. Payments accrued for Services by Provider prior to termination; and
 - b. The continuation of Provider's responsibility to participate in any meetings, hearings or other activities related to the performance of any Services.
8. **Termination of Employees or Agents.** Provider shall terminate the participation of particular Personnel under this Agreement immediately or upon request, in the event of:
 - a. Personnel's failure to comply with EHN credentialing or re-credentialing criteria;
 - b. Any misrepresentation or fraud by Personnel in the credentialing or re-credentialing process;
 - c. Any action by Personnel which, in the reasonable judgment of EHN, constitutes gross misconduct;
 - d. Personnel's loss, suspension or restriction of any required applicable licensure or certification; or
 - e. Thirty (30) days' notice without cause.
9. **Termination by Either Party.** Either party may terminate this Agreement as of any date, by giving written notice of such intent at least thirty (30) days in advance.

Article 7

PROFESSIONAL LIABILITY INSURANCE

Provider shall maintain professional liability insurance in an amount equal to or greater than one million dollars (\$1,000,000) per claim and three million dollars (\$3,000,000) in the aggregate of all claims per policy year. Such professional liability coverage shall include "tail" coverage of the same limits as stated above for any "claims-made" policy as necessary to continue coverage until any applicable statute of limitations has expired. Provider agrees to provide EHN with written evidence, acceptable to EHN, of such insurance coverage within three (3) days of such request by EHN. Provider also agrees to notify or to ensure that its insurance carriers notify EHN at least thirty (30) days prior to any proposed termination, cancellation or material modification of any policy for all or any portion of the coverage provided for above.

Article 8
MISCELLANEOUS

1. **Nondiscrimination.** Each party to this Agreement agrees that no person, on the basis of race, color, national origin, religion, sex, sexual orientation, age, disability, political affiliation, or criminal history will be excluded from participation, be denied the benefits of, or be subject to discrimination in the provision of any services hereunder. The parties hereto agree to comply with the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, the Civil Rights Act of 1991, and Age Discrimination in Employment Act of 1967, all amendments to each and all requirements imposed by the regulations issued pursuant to these acts.

2. **Amendment.** EHN may amend this Agreement by written notice to Provider. The failure of Provider to object to any such proposed amendment within ten (10) days of receipt of notice shall constitute acceptance. Amendments required by law or accrediting requirements do not require the consent of Provider and will be effective immediately on the effective date thereof.

3. **Entire Agreement.** This Agreement, including all exhibits referenced herein and documents, incorporated herein by reference, constitute the sole and only agreement of the parties hereto, and supersedes any prior understandings and written or oral agreements between the parties respecting the subject matter herein.

4. **Assignment.** The Agreement or the rights or obligations under it will not be assigned or subcontracted without prior written consent of the parties.

5. **Additional Requirements.** If Provider is required to comply with an additional requirement pursuant to compliance with standards, regulations, resolutions, settlements, or plans, and compliance results in a material change in Provider's rights or obligations under the Agreement or places a significant financial burden on the Providers, the Provider may, upon giving sixty (60) days' notice of such intention, be entitled to renegotiate the Agreement.

6. **Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, and shall be performable in El Paso County, Texas.

7. **Notices.** Any required notice shall be in writing and shall be sent, postage prepaid, by certified mail, return receipt requested, or by overnight mail delivery service, to EHN or Provider at the address below. The notice shall be effective on the date of delivery indicated on the return receipt.

If to EHN:
Emergence Health Network
Kristen Daugherty
Chief Executive Officer
P.O. Box 9997
El Paso, Texas 79995

If to Provider:

8. **Severability.** If any part of this Agreement is for any reason found to be unenforceable, all other portions nevertheless remain enforceable.

9. **Effects of Severable Provision.** In the event that a provision of this Agreement is rendered invalid or unenforceable and its removal has the effect of materially altering the obligations hereunder, the party so affected with have thirty (30) days to notify the other of its desire to renegotiate. At such time, the parties shall negotiate in good faith replacement terms.

10. **Successors and Assigns.** This Agreement shall be binding on the heirs, executors, administrators, legal representatives, successors, and assigns of the respective parties hereto.

11. **No Third-Party Beneficiary.** Unless otherwise specifically stated in this Agreement, nothing in this Agreement is intended to, or shall be deemed or construed to, create any rights or remedies in any third party, including any individual referred to Provider by EHN. Nothing contained herein shall operate (or be construed to operate) in any manner whatsoever to create any rights of any individual or duties or any responsibilities of Provider or EHN with respect to such individuals.

12. **Regulations.** EHN is subject to the requirements of various local, state, and federal laws, rules, and

regulations. Such requirements binding upon EHN shall bind Provider when required by such requirement.

13. **Headings.** The headings contained in this Agreement are for the convenience of the parties only and shall not be deemed to affect the meaning of the provisions hereof.

14. **Counterparts.** This Agreement may be executed in two counterparts, each of which shall be deemed an original and together shall constitute one and the same agreement, with one counterpart being delivered to the other party hereto.

15. **No Waiver of Rights.** The failure of either party to insist upon the strict observation or performance of any provision of this Agreement or to exercise any right or remedy shall not impair or waive any such right or remedy. Every right and remedy given by this Agreement to the parties may be exercised from time to time and as often as appropriate.

16. **Dispute Resolution.** All disputes or controversies arising under or related to this Agreement, shall first be attempted to be resolved through good faith efforts in accordance with the Policies and Procedures. In the even the parties are unable to resolve the dispute within sixty (60) days, either party may initiate binding arbitration in accordance with the procedures set forth in the Texas General Arbitration Act, and the American Arbitration Association Rules. Disputes relating to compensation rates shall not be subject to binding arbitration.

Accepted and agreed to by the parties.

SUBCONTRACTOR (PROVIDER)

By: _____

Printed Name:

Title: _____

Date: _____

CONTRACTOR (EHN)

**EL PASO MHMR D/B/A EMERGENCE HEALTH
NETWORK**

By: _____
Kristen Daugherty, CEO

Date: _____

**EXHIBIT 1-A
Reporting**

1. By the tenth (10th) day of the month, Provider will submit a report of activities for the preceding month to EHN containing the following information:
 - a. Names of EHN-referred individuals seen by Provider;
 - b. Description of any complaints received from EHN referred individuals (or their LAR), identifying those resolved to the individual's (or LAR's) satisfaction within 14 days from the date of complaint; and
 - c. Number and documentation of all incidents of restraint and seclusion of EHN-referred individuals.
 - d. Number of EHN-referred individuals with MH who did not transition back to home from crisis respite within fourteen (14) calendar days.
2. All significant risk events involving individuals served under this Agreement must be documented on an EHN Event Report immediately after occurrence. The original report must be routed to the person and in the manner designated by EHN. In no event shall these reports be routed later than twenty-four (24) hours of knowledge of the event of:
 - a. Any allegation of abuse, neglect, and/or exploitation of EHN-referred individuals that involves Provider and/or Personnel;
 - b. Any significant incidents, injuries, or illnesses related to EHN-referred individuals; or
 - c. Any death of an EHN-referred individual, whereby Provider has been made aware.

**EXHIBIT 2
Payment and EHN Obligations**

SERVICE NAME	RATES
Supported Employment/ Employment Assistance	<ul style="list-style-type: none"> • 23.46 per hour of billable services • Rates applicable only to Supported Employment/ Employment Assistance • Rates to other Services in this RFA available at primary RFA posted on (5/20/2017) and can be viewed https://emergencehealthnetwork.org/procurement/

1. EHN agrees to pay Provider based upon the above schedule for fiscal year 2017 (beginning on September 1) and every fiscal year thereafter.
2. Payment to Provider is contingent upon appropriations by the legislature of the State of Texas for funding of the services contemplated under this Agreement.
3. Travel expenses will not be reimbursed.
4. Provider expressly understands and agrees that EHN shall render no payment whatsoever to Provider for Covered Services provided to an individual who has not been referred to Provider.
5. Payment for Covered Services is conditioned upon the Provider completing the documentation necessary for EHN to process the claim(s). The documentation must meet standards, reporting requirements and rules set forth by EHN.
6. If EHN overpays Provider for any reason, Provider hereby authorizes EHN to offset the amount of such payments against future payments to Provider, upon reasonable notice to Provider and submission to Provider of appropriate supporting documentation. If EHN underpays Provider for any reason, EHN will pay the difference between the amount paid and the amounts payable pursuant to the Agreement within thirty (30) days of discovering such underpayment.



Emergence Health Network
El Paso Center for Mental Health/Intellectual Disabilities

EXHIBIT 3

CERTIFICATION REGARDING LOBBYING

PART A. PREAMBLE

Federal legislation, Section 319 of Public Law 101-121 generally prohibits entities from using federally appropriated funds to lobby the executive or legislative branches of the federal government. Section 319 specifically requires disclosure of certain lobbying activities. A federal government-wide rule, “New Restrictions on Lobbying”, published in the Federal Register, February 26, 1990, requires certification and disclosure in specific instances.

PART B. CERTIFICATION

This certification applies only to the instant federal action for which the certification is being obtained and is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with these federally funded contract, subcontract, subgrant, or cooperative agreement, the undersigned shall complete and submit “Disclosure Form to Report Lobbying”, in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all covered subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered subrecipients will certify and disclose accordingly.

Do you have, or do you anticipate having covered subawards under this transaction?

- Yes
 No

Name of Provider	Vendor ID No. or Social Security No.	Program No.
Name of Authorized Representative		Title

Signature – Authorized Representative

Date



EXHIBIT 4

**TEXAS HHSC DATA USE AGREEMENT (DUA)
SUBCONTRACTOR FORM**

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

CONTRACTOR has subcontracted with the undersigned provider (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.

SUBCONTRACTOR (PROVIDER)

CONTRACTOR (EHN)

By: _____

**EL PASO MHMR D/B/A
EMERGENCE HEALTH
NETWORK**

Printed Name:

By: _____

Title: _____

Kristen Daugherty, CEO

Date: _____

Date: _____

ATTACHMENT D

BUSINESS ASSOCIATE
PROTECTED HEALTH INFORMATION DISCLOSURE AGREEMENT

This Business Associate Protected Health Information Disclosure Agreement (Agreement) is entered into effective as of the _____ day of _____ (Effective Date), by and between **El Paso MHMR d/b/a Emergence Health Network (EHN)**, a community center under the provisions of Chapter 534 of the Texas Health and Safety Code and _____ (Business Associate).

RECITALS

A. WHEREAS, Business Associate provides services to EHN, and Business Associate receives, has access to, or creates Protected Health Information in order to provide those services;

B. WHEREAS, EHN is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information (Privacy Regulations) and the Security Standards for Electronic Protected Health Information (Security Regulations) at 45 Code of Federal Regulations Parts 160, 162, and 164 (together, the "Privacy and Security Regulations");

C. WHEREAS, the Privacy and Security Regulations require EHN to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the Disclosure to or Use of Protected Health Information by Business Associate if such a contract is not in place.

D. WHEREAS, Business Associate acknowledges that effective January 1, 2010, as a Business Associate, it is responsible to comply with the HIPAA Security and Privacy regulations pursuant to Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), including, but not limited to, Sections 164.308, 164.310, 164.312 and 164.316 of title 45 of the Code of Federal Regulations.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

Unless otherwise defined in this Agreement, all terms used in this Agreement, including but not limited to the following, have the meanings ascribed in the HIPAA Regulations,

1.1 Breach shall mean the unauthorized acquisition, access, use, or disclosure of unsecured Protected Health Information or PHI which compromises the security or privacy of such information, except where an authorized person to whom such information is disclosed would not reasonably have been able to retain such information.

1.2 Disclose and Disclosure means, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

1.3 Electronic Media means:

- (a) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or
- (b) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, electronic mail/e-mail, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are

not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.

1.4 Electronic Protected Health Information or E-PHI means Protected Health Information that is transmitted or maintained in electronic media.

1.5 HITECH shall mean the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act, and any amendments, regulations, rules and guidance issued thereto and the relevant dates for compliance.

1.6 Information System means an interconnected set of information resources under the same direct management control that shares common functionality. A system normally includes hardware, software, information, data, applications, communications, and people.

1.7 Protected Health Information or PHI means information that (i) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (ii) identifies the individual, or for which there is a reasonable basis for believing that the information can be used to identify the individual; and (iii) is received by Business Associate from or on behalf of EHN, or is created by Business Associate, or is made accessible to Business Associate by EHN. Protected Health Information includes Electronic Protected Health Information.

1.8 Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information.

1.9 Unsecured PHI shall mean PHI not secured through the use of a technology or methodology specified in guidance by the Secretary that renders PHI unusable, unreadable, or indecipherable to unauthorized individuals.

1.10 Use or Uses mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.

ARTICLE II OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:

- (a) shall use and disclose Protected Health Information as necessary or appropriate to perform the services, as provided in Article II of this Agreement, and shall not use or disclose Protected Health Information other than as permitted or by law;
- (b) shall disclose Protected Health Information to EHN upon request;
- (c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:
 - (i) use Protected Health Information; and
 - (ii) disclose Protected Health Information if (a) the disclosure is required by law, or (b) Business Associate obtains reasonable assurance from the person to whom the information is disclosed that the Protected Health Information will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person agrees to notify Business Associate of any instances of which the person is aware in which the confidentiality of the Protected Health Information has been breached.

All uses and disclosures of and requests by Business Associate for PHI are subject to the minimum necessary rule of the Privacy Standards and shall be limited to the information contained in a limited data

set, to the extent practical, unless additional information is needed to accomplish the intended purpose, or as otherwise permitted in accordance with Section 13405(b) of HITECH and any implementing regulations.

Furthermore, Business Associate acknowledges that in receiving, storing, processing, or otherwise dealing with any information from EHN about any individuals receiving services from EHN, it is fully bound by the provisions of the Federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, and undertakes to resist in judicial proceedings any effort to obtain access to information governed by 42 CFR Part 2 as such information pertains to such individuals otherwise than as expressly provided for in 42 CFR Part 2.

2.2. Adequate Safeguards for Protected Health Information. Business Associate represents and warrants that it shall implement and maintain appropriate safeguards to prevent the use or disclosure of Protected Health Information in any manner other than as permitted by this Agreement. Effective as of January 1, 2010, specifically as to Electronic Protected Health Information, in accordance with Section 13401(a) of HITECH, Business Associate warrants that it shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information. To ensure the security and confidentiality of Electronic Protected Health Information pursuant to 45 C.F.R. § 164.312(e)(2)(ii) and Section 13401(a) of HITECH, Business Associate shall implement a mechanism to encrypt Electronic Protected Health Information on all its Electronic Media containing any of EHN's Protected Health Information.

2.3 Reporting Non-Permitted Use or Disclosure and Security Incidents. Business Associate shall immediately report to EHN each use or disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors which is not specifically permitted by this Agreement, as well as effective as of January 1, 2010 each security incident of which Business Associate becomes aware, in accordance with Section 13402(b) of HITECH. The initial report shall be made by telephone call to the EHN's Privacy Officer (Privacy Officer) at 915-887-3410 within forty-eight (48) hours from the time the Business Associate becomes aware of the non-permitted use or disclosure or security incident, followed by a written report to the Privacy Officer no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted use or disclosure or security incident.

2.4 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effects of a use or disclosure of PHI by Business Associate or is known to Business Associate to be in violation of the requirements of this Agreement, including, but not limited to, compliance with any state law or contractual data breach requirements.

2.5 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of Protected Health Information available to the Secretary of the Federal Department of Health and Human Services for purposes of determining EHN's compliance with the Privacy and Security Regulations. Business Associate shall immediately notify EHN of any requests made by the Secretary and provide EHN with copies of any documents produced in response to such request.

2.6 Access to and Amendment of Protected Health Information. Business Associate and EHN, to the extent either determines that any Protected Health Information retained constitutes a "designated record set" under the Privacy Regulations, shall: (a) make the Protected Health Information available to the individual(s) identified as being entitled to access and copy that Protected Health Information; and (b) make any amendments to Protected Health Information that are requested. Business Associate and EHN shall provide such access and make such amendments within the time and in the manner specified by either party.

2.7 Documentation of Disclosures. Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for EHN to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. At a minimum, Business Associate shall provide EHN with the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure.

2.8 Accounting of Disclosures. Within ten (10) days of notice by EHN to Business Associate that it has received a request for an accounting of disclosures of PHI regarding an individual during the six (6) years prior to the date on which the accounting was requested, Business Associate shall make available to EHN information collected in accordance with Section 1.1 of this Agreement, to permit EHN to respond to the request for an accounting of disclosures of PHI, as required by 45

C.F.R. §164.528. In the case of an electronic health record maintained or hosted by Business Associate on behalf of EHN, the accounting period shall be three (3) years and the accounting shall include disclosures for treatment, payment and healthcare operations, in accordance with the applicable effective date of Section 13402(a) of HITECH. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within two (2) days forward such request to EHN. Business Associate hereby agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this section.

2.9 Obligations of EHN. EHN shall notify Business Associate in writing of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

2.10 Term and Termination. The term of this Agreement shall continue until terminated by either party. Both party's legal obligations under this Article II shall survive the termination or expirations of this Agreement.

2.11 Disposition of Protected Health Information Upon Termination or Expiration. Upon the termination of the Services Agreement or this Agreement for any reason, Business Associate shall return to EHN or, at EHN's direction, destroy all PHI received from EHN that Business Associate maintains in any form, recorded on any medium, or stored in any storage system, unless said information has been de-identified and is no longer PHI. This provision shall apply to PHI that is in the possession of Business Associates or agents of Business Associate. Business Associate shall retain no copies of the PHI. Business Associate shall remain bound by the provisions of this Agreement, even after termination of the Services Agreement or Agreement until such time as all PHI has been returned, de-identified or otherwise destroyed as provided in this Section.

2.12. Breach of Contract by Business Associate. In addition to any other rights EHN may have in the Services Agreement, this Agreement or by operation of law or in equity, EHN may i) immediately terminate the Services Agreement and this Agreement if EHN determines that Business Associate has violated a material term of this Agreement, or ii) at EHN's option, permit Business Associate to cure or end any such violations within the time specified by EHN. EHN's option to have cured a breach of this Agreement shall not be construed as a waiver of any other rights EHN has in the Services Agreement, this Agreement or by operation of law or inequity.

2.13 Third Party Beneficiaries. The terms of this Agreement are not intended, nor should they be construed, to grant any rights to any parties other than Business Associate and EHN, and any EHN subsidiaries and affiliates.

2.14 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.

2.15 Relationship to Services Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of the Services Agreement, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of the Services Agreement.

2.16 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits EHN to comply with the Privacy and Security Regulations. If there are any direct conflicts between the Agreement and this Agreement, the terms and conditions of this Agreement shall control.

2.17 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for EHN to comply with the requirements of the Privacy and Security Regulations.

2.18 Indemnification. Business Associate shall indemnify and hold harmless EHN and its officers, trustees, employees, and agents from any and all claims, penalties, fines, costs, liabilities or damages, including but not



limited to reasonable attorney fees, incurred by EHN arising from a violation by Business Associate of its obligations under this Agreement.

2.19 Injunctive Relief. Business Associate acknowledges and stipulates that its unauthorized use or disclosure of PHI while performing services pursuant to the Services Agreement or this Agreement would cause irreparable harm to EHN, and in such event EHN shall be entitled, if it so elects, to institute and prosecute proceedings in any court of competent jurisdiction, either in law or in equity, to obtain damages and injunctive relief, together with the right to recover from Business Associate costs, including reasonable attorney’s fees, for any such breach of the terms and conditions of the Services Agreement or this Agreement.

2.20 Owner of PHI. Under no circumstances shall Business Associate be deemed in any respect to be the owner of any PHI used or disclosed by or to Business Associate pursuant to the terms of the Agreement.

2.21 Changes in the Law. EHN may amend either the Services Agreement or this Agreement, as appropriate, to conform to any new or revised legislation, rules and regulations to which EHN is subject now or in the future including, without limitation, HIPAA, HITECH, the Privacy Standards, Security Standards or Transaction Standards.

2.22 Exclusion from Limitation of Liability. To the extent that Business Associate has limited its liability under the terms of the Services Agreement, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to EHN arising from Business Associate’s breach of its obligations relating to the use and disclosure of PHI.

2.23 Judicial and Administrative Proceedings. In the event Business Associate receives a subpoena, court or administrative order or other discovery request or mandate for release of PHI, EHN shall have the right to control Business Associate’s response to such request. Business Associate shall notify EHN of the request as soon as reasonably practicable, but in any event within forty-eight (48) business hours of receipt of such request.

IN WITNESS WHEREOF, EHN and Business Associate have caused this Agreement to be executed as of the Effective Date.

SUBCONTRACTOR (PROVIDER)

CONTRACTOR (EHN)

By: _____

EL PASO MHMR D/B/A EMERGENCE HEALTH NETWORK

Printed Name:

By: _____
Kristen Daugherty, CEO

Title: _____

Date: _____

Date: _____


Emergence Health Network
El Paso Center for Mental Health/Intellectual Disabilities

201 E. Main Suite 600
El Paso, TX 79901
(915) 887-3410
Fax: (915) 351-4703

RE: RFA #17-014 Specialized Therapy and Services for HCBS

Dear Applicant:

All applicants and potential vendors who contract or seek to contract for the sale or purchase of property, goods, or services with any local government entity to complete and submit a Conflicts of Interest Questionnaire.

Attached is a copy of the questionnaire.

In filing out the Questionnaire, the following are EHN Officers that will award the proposal and the employees which will make a recommendation:

EHN Officers:

Robert Jacob Cintron, Chair
David Stout, Vice-Chair
David Driscoll, Secretary
Rick Myer, Ph.D., Trustee
Dr. Peter M. Thompson, Trustee
Joyce Wilson, Trustee

EHN Employees:

Kristen Daugherty, CEO
Ashley Sandoval, Associate CEO
Rene Hurtado, Chief of Staff
Rene Navarro, CCO
Tewiana Norris, CNO
Chrystal Davis, Chief Clinical Officer
Marcelo Rodriguez-Chevres, MD, CMO
Juan Gonzalez- CIO
Carol Thornburg, DO- CMO Substance Abuse
Erin Silva, Purchasing Manager

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor or other person doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

RFA #17-014

1 **Name of person who has a business relationship with local governmental entity.**

2 **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 **Name of local government officer with whom filer has employment or business relationship.**

Name of Officer _____

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes No

D. Describe each employment or business relationship with the local government officer named in this section.

Signature of person doing business with the governmental entity

Date

EMERGENCE HEALTH NETWORK
Application Check List
Specialized Therapy and Services for HCBS
RFA #17-014

THIS CHECKLIST IS PROVIDED FOR YOUR CONVENIENCE

_____ Did you visit our website (www.emergencehealthnetwork.org) for any addendums?

_____ Did you sign the application?

_____ Did you sign the “Certifications Regarding Lobbying” document?

_____ Did you sign the “Conflict of Interest Questionnaire” document?

_____ Did you provide one original and an electronic copy submitted to rfp@ehnel Paso.org of your response? Electronic copies must reflect the original hard copy in a PDF format.