
GLENN HEGAR
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



Notice of Funding Availability

Request for Applications (RFA No. OAFC-24-0001)
for

TEXAS OPIOID ABATEMENT FUND COUNCIL
NALOXONE PROGRAM GRANT

Application Open Period: 4/10/2024 – 5/7/2024

Available Funding: \$25 million

1.0 Texas Opioid Abatement Fund Council (OAFC) Naloxone Program Grant

The 87th Texas Legislature in Senate Bill 1827 created the OAFC to ensure that money recovered by this state through a statewide opioid settlement agreement is spent to remediate the opioid crisis in the state via efficient and cost-effective methods that are directed to regions experiencing opioid-related harms. This Notice of Funding Availability (NOFA) covers the release of the first round of funds totaling \$25 million.

The purpose of this NOFA is to solicit Grant Applications and award grant funds to one Grant Applicant to perform statewide distribution of naloxone and training of entities on administering naloxone, including training on airway clearance techniques, and program status reporting. The Grant Recipient must allocate grant funds available for the performance of these tasks as set out in Section 9.0.

2.0 Available Funding

The State of Texas has participated in settlement agreements with different companies to resolve legal claims against the companies for their role in the opioid crisis. From these settlement agreements, a portion of the distribution for Texas is deposited in the Opioid Abatement Trust Fund and is allocated to OAFC to fund strategies in response to the opioid crisis. A list of these settlement agreements may be found at <https://comptroller.texas.gov/programs/opioid-council/settlements/>.

Maximum available funding for the grant opportunity covered by this NOFA is \$25 million. Actual funds awarded may be lower than the amount available depending on the volume of Grant Applications received and the level of need of the proposed projects for grant support. Subject to adjustment upon the Grant Award, up to \$3,125,000 of the \$25 million is available for the Grant Recipient's administrative costs. See Section 9 for allocations of all grant funds.

Grant funds may not be used for costs that will be reimbursed by another funding source. The Grant Recipient may be required to demonstrate through certification and accounting records that funds received from another funding source are not used for costs that will be reimbursed under the Grant Agreement.

3.0 Eligibility for Award

Eligible Grant Applicants include any Texas governmental entity, as defined by Texas Government Code, Section 2252.001(2), nonprofit organizations, and any entity registered with Texas Secretary of State and eligible to conduct business in Texas. Grant Applicants may be located outside the state of Texas when the Grant Application is submitted and reviewed but the Grant Applicant must demonstrate that it engages in business in the state of Texas, pursuant to and as defined by Title 34, Chapter 16, Section 16.205 of the Texas Administrative Code, as a condition of the Grant Award.

3.1 Participant Disqualifications

A Grant Applicant is not eligible to participate in the program if any of the following apply. See sections 3.1.1 and 3.12:

3.1.1 General Disqualifications

A Grant Applicant is disqualified if it is an entity that:

- Is not registered to do business with the State of Texas (if applicable);
- Is on the [Comptroller of Public Accounts Debarred Vendors List](https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php) (<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/debarred-vendors.php>);
- Is on any of the [Comptroller of Public Accounts Divestment Statute Lists](https://comptroller.texas.gov/purchasing/publications/divestment.php) (<https://comptroller.texas.gov/purchasing/publications/divestment.php>);
- Owes a debt to the State or is under warrant or vendor hold;
- Has not complied with statutory [Transparency reporting requirements](https://comptroller.texas.gov/transparency/local/requirements.php) (<https://comptroller.texas.gov/transparency/local/requirements.php>);

- Has a grade below C with the Texas Smart Buy [Vendor Performance Tracking System](https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/) (<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>);
- Is “Excluded” on the System of Award Management (<https://sam.gov/content/entity-information>) website;
- Has paid funds for use in the state of Texas in response to opioid abatement settlement litigation; or
- Is a named party in ongoing opioid abatement settlement litigation involving the state of Texas and/or Texas local governmental entities.

3.1.2 Conflicts of Interest for the O AFC Members

The office of the Texas Comptroller of Public Accounts (CPA) will review each application to determine whether an award to the Grant Applicant constitutes a conflict of interest for any person serving as a member of O AFC. If any member of the O AFC has a conflict of interest in connection with a potential award to the Grant Applicant, the Grant Applicant is not eligible for a Grant Award. A conflict of interest exists when a member of the O AFC is employed by the Grant Applicant or has a direct or indirect pecuniary interest in the grant. Conflicts of interest may also exist within the Grant Applicant’s network of subgrantees and subcontractors, if any, that will perform any work described in the Grant Agreement.

By submitting its Grant Application, a Grant Applicant certifies, to the best of its knowledge, a Grant Award would not create a conflict of interest on behalf of a current member of the O AFC.

The Grant Applicant may submit a written request for the CPA’s preliminary review of any potential conflict of interest by the due date in the Schedule of Events (see Section 5.0). Requests for preliminary review of conflicts of interest may be submitted in connection with the Grant Applicant or any subgrantee or subcontractor that the Grant Applicant intends to utilize in performance of the work under the Grant Agreement. Grant Applicant’s request should include sufficient facts to enable the CPA to make a preliminary determination on potential conflict(s) of interest. The CPA’s responses are nonbinding and CPA’s final decision on whether a conflict of interest exists in connection with any parties that will perform work under the Grant Agreement will be made following submission of the Grant Application.

4.0 Application Information

4.1 Application Process

Grant Applicants must access O AFC’s electronic Grant Management System to register and apply for funding. Grant Applicants should be prepared to submit fully developed and detailed proposals and budgets in the Grant Application. For more information regarding the application process, see Section 12, as well as the O AFC’s public website for instructions and additional guidance as it becomes available.

4.2 Public Records/Confidentiality

All information received by the CPA or O AFC related to Grant Applications and/or grant compliance and monitoring becomes the property of the State of Texas and, as such, is subject to public disclosure under the Texas Public Information Act, Texas Government Code, Chapter 552.

Texas Government Code §552.1101 provides an exception to disclosure for information submitted by a potential vendor in response to a request for bid, proposal or qualification. Grant Applicants who submit information they believe to be confidential or proprietary must clearly identify the information or document(s) they believe is protected under the Public Information Act. If the O AFC receives a request for information that is clearly marked as protected, CPA, on behalf of O AFC, will refer the

request to the Office of the Attorney General for a decision. Grant Applicants who submit protected information should be prepared to argue against release to the Attorney General.

Grant Applicants are encouraged to familiarize themselves with the provisions of the Texas Public Information Act before submitting Grant Applications or other information to the CPA. Grant Applicants with concerns regarding the release of information under the Texas Public Information Act should seek the advice of legal counsel.

5.0 Schedule of Events

The OAFc may modify this schedule of events by written addendum.

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|------------------------------------|---|
| 2/27/2024 | NOFA Issued and first day to submit written questions. |
| 3/6/2024 | First day to submit requests for preliminary review of potential conflicts of interest (see Section 3.1.2) and first day to register |
| 3/14/2024 | Educational Webinars for potential Grant Applicants. |
| 2:00 p.m. CST 3/18/2024 | Deadline for submitting written questions regarding the NOFA. |
| 2:00 p.m. CST 3/20/2024 | Deadline for submitting requests for preliminary review of potential conflicts of interest |
| 4/2/2024 | Post and deliver responses to written questions regarding the NOFA |
| 4/10/2024 | First day to submit Grant Applications and anticipated date of responses to requests for preliminary review of potential conflicts of interest |
| 5/7/2024 | Last day to submit Grant Applications |

6.0 NOFA Administration

6.1 NOFA Addenda

The CPA reserves the right to amend this NOFA through written addenda. Grant Applicants are responsible for checking the Electronic State Business Daily (ESBD), *Texas.gov eGrants* and the OAFc public websites for addenda prior to submitting a Grant Application based on this NOFA. In the event this NOFA is amended after the deadline to submit Grant Applications, the OAFc will contact each Grant Applicant’s primary contact designated in its Grant Application.

6.2 Written Questions and Requests for Preliminary Review of Potential Conflicts of Interest, and Responses

Grant Applicants may submit written (a) questions regarding this NOFA and (b) requests for preliminary review of potential conflicts of interest (see Section 3.1.2) via e-mail to OAFc.nofa@cpa.texas.gov no later than 2 p.m. Central Standard Time (CST) by the respective deadlines set forth in the Schedule of Events. On or about the respective dates set forth in the Schedule of Events, the OAFc expects to electronically post answers to the written questions on its public website and provide responses directly to parties that submitted a conflict inquiry. The OAFc will not respond to inquiries regarding the status of a Grant Application or Grant Awards beyond publicly disclosed information.

6.3 Capitalized Terms

Capitalized terms in this NOFA have the meanings defined under the Definitions section of this NOFA (see Appendix B), Texas Government Code, Chapter 403, Subchapter R, and the rules adopted by the Comptroller in Title 34, Chapter 16, Subchapter C of the Texas Administrative Code.

6.4 Open Competition Disclaimer

The issuance of this NOFA in no way constitutes a commitment by the CPA or OAFB to issue any Grant Award or enter into a grant agreement with a particular Grant Applicant or other interested person or party.

7.0 Grant Program and Objectives

The OAFB Naloxone Program Grant will be awarded to one Grant Recipient. The Grant Recipient will perform the tasks of distributing naloxone, conducting training (including training on airway clearance techniques) on administering naloxone and tracking and reporting completion of the work and objectives of the program. The Grant Recipient may utilize subgrantees or subcontractors to perform part or all of the work described in the Grant Agreement. For all subawards and subcontracts, the Grant Recipient must comply with the procurement standards and competitive selection and other requirements of Texas Grant Management Standards, if applicable, and applicable law. The Grant Applicant must identify any known subgrantees and subcontractors that it intends to utilize for any portion of the work in its Grant Application. The Grant Applicant may also select subgrantees and subcontractors following the Grant Award. See Texas Grant Management Standards, Sub-grantee and Contractor Determination, for a discussion of subgrantee versus contractor (vendor) relationships.

The Grant Recipient is responsible for managing the day-to-day operations and activities supported by the Grant Agreement and is accountable to the OAFB for the performance of all requirements of the Grant Agreement and ensuring appropriate expenditures of Grant Award funds.

The Grant Recipient must maintain a sound financial management system that provides appropriate fiscal controls and accounting procedures to ensure accurate preparation of reports required by the Grant Agreement and adequate identification of the source and application of grant funds awarded to the Grant Recipient.

The main tasks associated with the grant are as follows:

7.1 Distributing Naloxone Statewide

The Grant Recipient shall perform statewide naloxone distribution. The products shall be reimbursed at a set price reimbursement or actual cost of the product, whichever is lower, and is preferred to not be obtained by a named party in ongoing opioid abatement settlement litigation in the state of Texas. The products will be distributed at zero cost to the recipient. The distribution of funds for purposes of purchasing and distributing naloxone products shall be allocated as outlined in Section 9.0. Eligible products for distribution must be approved overdose reversal medications by the federal Food and Drug Administration, which may include:

- Injectable brands of naloxone;
- Prepackaged nasal spray brands of naloxone; and
- Prepackaged nasal spray kit of naloxone.

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7.2 Providing Training and/or Materials

The Grant Recipient shall provide appropriate training, whether via provision of direct training or written training materials, to recipients of naloxone. The Grant Recipient may utilize existing training materials to meet this requirement. These materials should provide guidance on and cover the administration and proper use of naloxone, including airway clearance techniques, and be available in at least English and Spanish languages. The distribution of funds, for purposes conducting training, shall be allocated as outlined in Section 9.0.

7.3 Processing the Subgrantees' and Subcontractors' Reimbursement Requests

The Grant Recipient shall process and pay reimbursement requests of any subgrantees or subcontractors that perform work described in the Grant Agreement. The Grant Recipient shall send their reimbursements to the CPA for payment, which may include payment for work performed by the subgrantees or subcontractors. Reimbursement requests shall be sent to the CPA monthly or as otherwise specified by the CPA. The Grant Recipient shall submit any supporting documentation for reimbursement requests to the CPA upon request.

7.4 Documenting Performance

The Grant Recipient shall document their and any subgrantee's performance, including but not limited to:

- Documentation of the proper use of funds, including:
 - funds distribution in accordance with Sections 9.2 and 9.3;
 - number of naloxone units disbursed;
 - identities of recipients of naloxone and training, including names of organizations and types of entities;
 - number of unused naloxone units; and
 - number of days that have elapsed between request of product or training and delivery.
- Training:
 - number of trainings completed/ training information distributed; and
 - attendance at trainings.
- Post-training/ post-distribution survey results on:
 - application of the training;
 - use of the product; and
 - testimonials.
- Naloxone expiration date monitoring.

7.5 Programmatic Reporting

The Grant Recipient shall submit reports to the OAFIC on a quarterly basis. These reports shall cover the Grant Recipient's and any subgrantee's performance as described in Section 7.4, funds disbursement and status of distribution of training materials. Based on their reporting, the Grant Recipient will be subject to monitoring by the CPA.

7.6 Managing Website/Web-Based Application for Communication

The Grant Recipient shall implement and manage a self-funded website or web-based application for stakeholder communication to:

- promote the program to build public awareness;
- inform stakeholders about functionality of the program, eligibility, and important updates;
- process stakeholders' request for naloxone and/or training; and
- support documentation of performance described in Section 7.4.

8.0 Term of Grant Agreement

Unless terminated sooner pursuant to the terms of the Grant Agreement, the expected term of the Grant Agreement is an initial two-year period, with three possible two-year renewal periods for a total project length of eight years. The CPA may unilaterally renew the Grant Agreement. No additional funds will be awarded for the renewal periods.

9.0 Grant Funding

All grant funding is contingent upon the availability of funds and upon approval of a Grant Application by the OAF. Neither this NOFA nor a Grant Agreement creates any entitlement or right to grant funds by a Grant Applicant. Upon any Grant Award, and subject to adjustment as provided in the Grant Agreement, grant funds must be allocated as set out below in Sections 9.1 through 9.3.

9.1 Administrative Funding

Subject to adjustment upon the Grant Award, approximately \$3,125,000 is available for all direct costs and indirect costs incurred by the Grant Recipient in administering this grant program. Allowable administrative costs are costs that are reasonable and necessary for the proper and efficient administration of the grant project and are restricted to costs that comply with Texas Grant Management Standards and the terms of the Grant Agreement. Costs eligible for reimbursement under this administrative funding allocation include those incurred by the Grant Recipient in awarding subgrantees or subcontractors to perform portions of the work, monitoring performance of subgrantees and subcontractors, processing subgrantees’ and subcontractors’ reimbursement requests, documenting progress toward completing the objectives of the grant program, and performing work otherwise directly supporting the primary tasks of the grant program. Costs incurred in performing the primary tasks of the grant program (whether performed by the Grant Recipient or any subgrantee or subcontractor), including statewide purchasing and distribution of naloxone and any associated training, are ineligible for reimbursement under this Section 9.1 and must be billed to the regional and targeted allocations set out in Sections 9.2 and 9.3. This administrative funding allocation covers all indirect costs of the Grant Recipient and all subgrantees. Indirect costs are not allowable under, and an indirect cost rate may not be applied to, the regional and targeted allocations set out in Sections 9.2 and 9.3. The Grant Recipient and all subgrantees must therefore share this administrative funding allocation to cover their indirect costs, and all indirect costs charged to the Grant Award may only be reimbursed with this administrative funding allocation. Itemized and detailed reimbursement requests will be required for administrative costs. Grant Applicant should indicate in the Grant Application the specific amount of this administrative funding allocation that will be expended during each year of the grant agreement.

9.2 Naloxone Distribution Funding for Regional Healthcare Partnership Regions

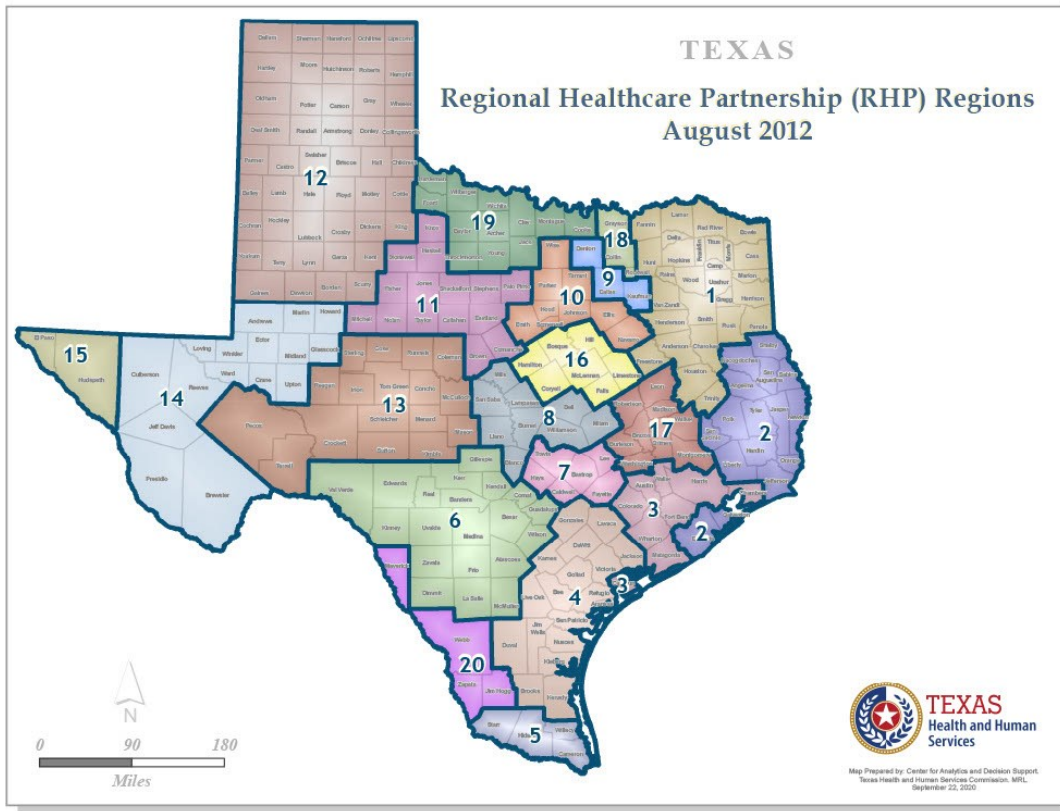
Approximately \$18,750,000 is available for the life of the agreement to fund the Grant Recipient’s (and any subgrantee’s or subcontractor’s) performance of the primary grant tasks of purchasing naloxone and conducting training on administration and proper use of naloxone and airway clearance techniques. The funds are allocated to the Regional Healthcare Partnership Regions as outlined in the table below. Any modifications of these regional allocations require approval of the OAF and execution of a written amendment to the Agreement. A single recipient may not receive 100 percent of the value of funds (via naloxone and training) allocated to a respective region unless there is only one eligible recipient in that region. Funds allocated for conducting and/or providing training on administration and proper use of naloxone and airway clearance techniques may be limited to 10 percent of available funds to emphasize directing funds towards the purchasing and distribution of naloxone. Additionally, the distribution of naloxone should reach populations not currently being served by systems already in place or existing resources.

Regional Healthcare Partnership Regions Allocations Table

| Regional Allocations | \$18,750,000 | Estimates for each regional allocation |
|----------------------|--------------|--|
| Region 1 | 5.5% | \$1,034,181.19 |
| Region 2 | 7.8% | \$1,465,076.06 |

| | | |
|-----------|-------|----------------|
| Region 3 | 17.5% | \$3,272,880.94 |
| Region 4 | 3.9% | \$731,804.06 |
| Region 5 | 2.5% | \$476,728.13 |
| Region 6 | 9.8% | \$1,845,996.94 |
| Region 7 | 7.3% | \$1,366,063.13 |
| Region 8 | 3.5% | \$655,317.19 |
| Region 9 | 9.6% | \$1,799,028.56 |
| Region 10 | 9.5% | \$1,773,225.38 |
| Region 11 | 1.4% | \$257,300.25 |
| Region 12 | 3.4% | \$635,769.19 |
| Region 13 | 0.7% | \$140,573.81 |
| Region 14 | 1.7% | \$328,039.88 |
| Region 15 | 2.6% | \$486,858.38 |
| Region 16 | 1.4% | \$255,736.50 |
| Region 17 | 3.3% | \$623,456.44 |
| Region 18 | 5.7% | \$1,076,506.50 |
| Region 19 | 1.8% | \$342,675.00 |
| Region 20 | 0.8% | \$182,782.88 |

Map of Regional Healthcare Partnership Regions



9.3 Naloxone Distribution Funding for Targeted Interventions

An additional \$3,125,000 is available for the Grant Recipient to allocate to targeted counties with a population of fewer than 100,000 residents (about 211 counties). Funding for these targeted interventions is available for the Grant Recipient's (and any subgrantee's or subcontractor's) performance of the primary grant tasks of purchasing naloxone and conducting training on administration and proper use of naloxone and airway clearance techniques in eligible counties. The Grant Recipient shall ensure these funds are equitably distributed across the eligible counties as Grant Applications allow. Funds allocated for conducting and/or providing training on administration and proper use of naloxone and airway clearance techniques may be limited to 10 percent of available funds for the life of the agreement. Additionally, the distribution of naloxone should reach populations not currently being served by systems already in place or existing resources and within the targeted counties.

10.0 Applicable Law and Texas Grant Management Standards

The Grant Recipient must comply with all applicable state and federal rules and laws, including Texas Government Code, Chapter 403, Subchapter R, the rules adopted by the Comptroller in Title 34, Chapter 16, Subchapter C of the Texas Administrative Code, and the Texas Grant Management Standards and any successor guidance. The grant recipient shall further ensure compliance of any subgrantees and subcontractors with applicable laws and rules and the Texas Grant Management Standards, as applicable and as further set out in the grant agreement.

11.0 Project Timeline

Within six months of the effective date of the Grant Agreement or as soon thereafter as practicable, the Grant Recipient should have its distribution network in place and begin performing the primary grant tasks of distributing naloxone and conducting associated training. Within two years of the effective date of the Grant

Agreement, the Grant Recipient must complete at least 80 percent of the regional allocations outlined in Section 9 have been made. Any unused funds may be used over the remaining years of the project, if any, for performance of the primary grant tasks and monitoring and reporting on the project.

12.0 Grant Application, Evaluation and Award

12.1 Application Process

Grant Applications and other associated forms will be available on the OAFc website and OAFc Grant Management System. Forms include the proposed budget, distribution plan and other related materials.

12.2 Exceptions to Terms and Conditions

The CPA may disqualify any grant application that includes material exceptions to the terms and conditions of the Grant Agreement (see Section 13.1). Instead of including exceptions in a Grant Application, Grant Applicants should request any desired modifications of the Grant Agreement through the question-and-answer process (see Sections 5.0 and 6.2). Any exceptions to the terms and conditions must be included in the Grant Application, and the Grant Applicant must clearly identify each exception taken, the section number modified by the requested exception, and proposed alternative language.

12.3 Authorized Official and Resolution from Grant Applicant's Governing Body

Grant Applicant must designate an authorized official and submit with its Grant Application (a) a resolution from the Grant Applicant's governing body that, at minimum, designates an authorized official to act on the Grant Applicant's behalf and authorizes the authorized official to submit a Grant Application; (b) the authorized official's title, mailing address, telephone number and email address; and (c) the Grant Applicant's physical address.

12.4 Preliminary Application Review

The CPA will screen all Grant Applications to ensure that they meet the requirements of the Grant Application and the NOFA. The preliminary review will include assessments for Grant Application completeness and determinations of the Grant Applicant's eligibility and project eligibility, including a review for conflicts of interest. Ineligible Grant Applicants or projects will be disqualified. The CPA may waive minor or immaterial requirements in the submission process, but Grant Applicants will not otherwise be permitted to edit a Grant Application after submission.

12.5 Application Evaluation

The Grant Recipient shall demonstrate the ability to distribute naloxone and training statewide expeditiously and meet the funding allocations for Regional Healthcare Partnership Regions (Section 9.2) and Targeted Interventions (Section 9.3). If the Grant Applicant plans to utilize subgrantees or subcontractors, and the subgrantee(s) or subcontractor(s) will be selected following the Grant Award from the OAFc, the Grant Applicant must demonstrate in its Grant Application the evaluation process for selecting subgrantees or subcontractors, clearly identify the task(s) to be performed by the subgrantee(s) and subcontractor(s), and describe how the Grant Applicant will monitor and ensure completion of the work. If the Grant Applicant proposes use of preselected subgrantees or subcontractors, the Grant Applicant must describe the qualifications of any such parties, and likewise state the tasks to be performed by the subgrantee(s) and subcontractor(s) and how the Grant Applicant will monitor and ensure completion of the work. The Grant Applicant must further describe in its application how it will meet the funding allocations outlined in Sections 9.2 and 9.3, and its process for preventing a single recipient from receiving all of the funding for a region when there is more than one viable recipient.

12.6 Pre-Award Risk Review of Grant Applicants

In addition to the evaluation of Grant Applications pursuant to the evaluation criteria set out in Section 12.8, the risks posed by Grant Applicants will be evaluated. The following items may be considered in evaluating Grant Applicants for risk:

- financial stability;
- quality of management systems and ability to meet the management standards;
- the Grant Applicant’s record in managing state and federal awards, if it is a prior recipient of state or federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous state and federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;
- reports and findings from audits performed; and
- the Grant Applicant’s ability to effectively implement statutory, regulatory or other requirements imposed on the Grant Recipient, subcontractors and subgrantees.

This evaluation may incorporate results of the evaluation of a Grant Applicant’s eligibility or the quality of its Grant Application. The Peer Review Panel and OAFc may consider any information that they deem reliable in this evaluation and, based on the results of the evaluation, may disqualify a Grant Applicant if there is an unacceptable risk that it will fail to perform or impose specific Grant Award conditions in the Grant Agreement.

12.7 Scoring

At the conclusion of the Grant Application period, the OAFc will score and rank applications based on the evaluation criteria. Each Grant Application will be will independently assessed through a Peer Review Panel using the evaluation criteria and weights set out in Section 12.8. The Peer Review Panel members may include external stakeholders and subject-matter experts. Scores awarded under each category will be added and the resulting sum shall constitute the total score for the Grant Applicant.

12.8 Evaluation Criteria & Weighting

Grant Applications that pass the preliminary application review will be evaluated and scored based on the following criteria:

| Evaluation Category | Criteria | Weight |
|---|--|---------------|
| Grant Applicant’s qualifications | Qualifications of proposed staff for the proposal, including key personnel. | 10 |
| Grant Applicant's experience | Grant Applicant’s experience, including description of past successes in executing similar projects. | 10 |
| Estimated timeline, including distribution of product and materials | Timeline for execution of deliverables, including distribution of naloxone and training and educational materials for the administration and use of naloxone and airway clearance techniques. | 10 |
| Financial capacity and ability to perform | Grant Applicant’s existing funds and/or resources including Grant Applicant’s financial management system and the ability to report expenditures and adequately document funds have been expended in accordance with the terms of the award. | 10 |
| Cost effectiveness and efficiency | Cost effectiveness and efficiency, including leveraging existing resources and cost-saving techniques | 10 |

| | | |
|--|--|-----------|
| Geographic reach and capacity | Grant Applicant’s ability to provide deliverables and services statewide, meet the regional allocation and targeted allocation requirements and, if needed, award qualified Subgrantees and Subcontractors to perform the work and administer and manage Subawards and Subcontracts | 20 |
| Proposed plan of execution for distribution of naloxone, including use of evidence-based practices | Grant Applicant’s plan of execution and coordination, including its use of evidence-based practices, customer service plan, needs assessment plan, plan to address serving populations currently without access to naloxone, means to provide a web-based application as described in Section 7.6. | 25 |
| Proposed plan of execution for training and/or materials | Identify use of evidence-based practices and the kinds of practices present in the training and versions of community-based/accessible materials. | 5 |

12.9 Tie Breaker

The O AFC may consider how Grant Applicants utilize proven and/or innovative strategies to increase the speed and lower the cost of distribution to break ties between Grant Applications with the same scores. Further, and if applicable, the O AFC will break ties by applying a preference in favor of a Grant Application that does not propose utilizing as a subcontractor a named party in past or ongoing opioid abatement settlement litigation involving the state of Texas and/or Texas local governmental entities.

12.10 Award

All Grant Award decisions shall be made at the sole discretion of the O AFC and are not appealable or subject to protest or challenge.

The Grant Recipient may be selected for Grant Award based on rank-order of score, but the O AFC reserves the right to deviate from the list of ranked Grant Applications in making a Grant Award. The O AFC is not required to expend all of its program funds set aside for this funding opportunity and reserves the right to deny funding to otherwise eligible subawards even if adequate funds remain.

12.11 Notice of Award

Following the selection process, the O AFC will issue a notice of award to the selected Grant Applicant. The Grant Recipient must finalize and execute the Grant Agreement within 30 days of receipt. The CPA may extend the deadline to fully execute the Grant Agreement upon the written request of a Grant Recipient for good cause shown. If the Grant Agreement is not signed by the Grant Recipient and received by the CPA by the later of the 30th day after the award or the extended deadline date, the CPA may rescind the award.

13.0 Grant Agreement and Compliance

13.1 Grant Agreement

The Grant Recipient will be required to enter into a Grant Agreement with the CPA in a form that is substantially similar to the sample Grant Agreement as set forth in Appendix A. The CPA may disqualify any Grant Application that includes material exceptions to the terms and conditions. The CPA reserves the right to amend the terms in the required Grant Agreement without amending this NOFA, and to amend any budget provisions upon Grant Award, including the grant funding allocations set out in Section 9.0. By entering into a Grant Agreement, the Grant Recipient agrees to complete the project in compliance with all terms and conditions identified in the Grant Agreement, this NOFA (including subsequent amendments), and all applicable federal, state, and local laws, rules, regulations, codes, ordinances, policies, orders or any other legal requirements or limitations.

13.2 Required Completion

If project costs exceed the budget included with the Grant Application, the Grant Recipient will be required to fully perform the original scope of the proposed project without an increase in the amount of the Grant Award.

13.3 Reduction in Project Scope

Upon execution of the Grant Agreement, no reduction in project scope will be allowed without a decrease in the amount of the Grant Award. Any such reduction requires approval of the CPA and execution of a written amendment to the Agreement.

13.4 Allowable Expenditures

The OAFN Naloxone Program Grant funds may only be used for allowable expenditures as defined by this Section. Allowable expenditures are administrative costs incurred by the Grant Recipient under Section 9.1 or costs incurred by the Grant Recipient or a subgrantee or subcontractor in performing the primary tasks of the grant program (e.g., statewide purchasing and distribution of naloxone and any associated training) under Sections 9.2 and 9.3. Allowable expenditures are costs that are reasonable and necessary for performance of the work and are restricted to those that comply with Texas Grant Management Standards and the terms of the Grant Agreement. Below is a non-exhaustive list of allowable expenditures:

- Costs associated with completing the project's primary objectives of purchasing and distributing naloxone (including costs of shipping naloxone), providing training and/or creating and/or disseminating educational materials;
- Personnel costs including salaries and reasonable fringe benefits for staff and consultants required for completing the above-identified primary objectives of the project (such as project managers, program directors, subject matter experts, grant administrators and financial analysts);
- Costs associated with collecting and measuring performance data; and
- Costs associated with monitoring of and reporting on the project, including project closeout costs.

13.5 Indirect Costs

If the Grant Recipient or a subgrantee charges an indirect cost rate to cover administrative costs, the cost of purchasing naloxone is expressly excluded from the definition of supplies for purposes of this Grant Award and shall not be included in the Grant Recipient's or any subgrantee's indirect cost base. As stated in Section 9.1, indirect costs may only be reimbursed with the administrative funding allocation set out in Section 9.1, and indirect costs are not allowable under, and an indirect cost rate may not be applied to, the regional and targeted allocations set out in Sections 9.2 and 9.3. All indirect costs charged to the Grant Award, whether indirect costs of the Grant Recipient or any subgrantee, may only be reimbursed with the administrative funding allocation set out in Section 9.1.

13.6 Ineligible Expenses

Unless otherwise approved in writing by the CPA, grant funds may not be used for the following purposes:

- Operating expenses and overhead, including leases for real property;
- Pre-project development costs;
- Short-term operating leases;
- Costs incurred prior to the effective date of the Grant Award;
- Fees or issuance costs associated with the issuance of new debt; and
- Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding.

13.7 Reimbursement Requests

The Grant Recipient will receive funds from the CPA on a reimbursement basis. Reimbursement requests may be submitted monthly and must include sufficient documentation as required by the CPA to demonstrate the costs for which reimbursement is requested constitute allowable expenditures and were incurred in compliance with the NOFA and the Grant Agreement. The Grant Recipient will include associated budget categories within the reimbursement request. Payment date shall be dependent upon when the OAFc receives all required documentation related to the reimbursement request.

13.8 Reporting Requirements

13.8.1 Reporting Requirements Generally

The Grant Recipient must timely submit status reports and a project closeout report to the CPA as set out below. The CPA may unilaterally amend reporting intervals as needed. The Grant Recipient shall submit reports containing all required information using forms provided by the CPA. Further details of such reporting requirements are set forth in the Appendix A, "Sample Grant Agreement" and in any subsequent documentation to be released by the CPA.

13.8.2 Status Reports

For the first year of the Grant Agreement, the Grant Recipient must submit monthly status reports to the CPA. Reports are thereafter due quarterly and must include:

- A narrative update on the status of the project, including notification of any delays, project activities and accomplishments for the reporting period;
- Key performance indicators including those outlined in Section 7.4;
- Financial reporting including current expenditures and invoice documentation; and
- Any information requested by the CPA related to the current status of the project.

13.8.3 Project Closeout Report

The Grant Recipient must submit a project closeout report within 60 days of project completion. The project closeout report must include:

- Financial reports, including an expense and revenue summary of the project;
- Key performance indicators including what is outlined in Section 7.4;
- Problems encountered in completing the project;
- Any completed studies, surveys, reports, or other work projects; and
- Any additional information and/or data deemed relevant by the CPA.

13.8.4 Site Visits

The OAFc, CPA staff or any third party acting on the CPA behalf may conduct one or more site visits during the project and after project completion. The Grant Recipient must provide site access to the CPA and/or a delegated third party in any such case.

13.9 Remedies for Non-compliance

If the OAFc finds that the Grant Recipient has failed to comply with any term or condition of the Grant Agreement or any applicable laws, rules, regulations or guidance, the OAFc may:

- Require the Grant Recipient to refund the Grant Award or a portion of the Grant Award;
- Withhold Grant Award amounts from the Grant Recipient pending correction of the deficiency;
- Disallow all or part of the cost of the activity or action that is not in compliance;
- Terminate the Grant Award in whole or in part;
- Bar the Grant Recipient from future consideration for grant funds under the Texas Opioid Abatement Fund Program (Title 34, Chapter 16, Subchapter C of the Texas Administrative Code); or
- Exercise any other legal remedies available at law.

The Grant Recipient shall not be required to forfeit grant funds if it fails to perform due to force majeure as set out in the Grant Agreement.

Appendix A: Sample Grant Agreement (subject to change)

**TEXAS OPIOID ABATEMENT FUND COUNCIL
GRANT AGREEMENT FOR THE
NALOXONE PROGRAM**

FY2024

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**GRANT AGREEMENT
FOR THE
OPIOID ABATEMENT FUND COUNCIL NALOXONE PROGRAM**

This grant agreement (“Agreement”) is entered into by and between the Texas Opioid Abatement Fund Council (the “O AFC”), acting by and through the Texas Comptroller of Public Accounts (“CPA”), and _____ (“Grantee”) located at _____.

I. Recitals

Whereas, on February 27, 2024, O AFC, acting by and through CPA, issued the Texas Opioid Abatement Fund Council Naloxone Program Notice of Funding Availability (“NOFA”) for a provider to perform statewide distribution of naloxone and conduct training on administering naloxone (including provision of training materials, if applicable);

Whereas, Grantee submitted an application and the supporting documents on or before May 7, 2024, in response to CPA’s NOFA;

Whereas, Grantee has requested funding to perform statewide distribution of naloxone and conduct associated training;

Whereas, Grantee seeks financial assistance in the form of a grant for performance of these tasks on a statewide basis;

Whereas, the contemplated Project would not be undertaken absent the opportunity for funding provided by Texas Government Code, Chapter 403, Subchapter R, and Title 34, Chapter 16, Subchapter C of the Texas Administrative Code, and this Agreement;

Whereas, Grantee’s application was selected for award;

Whereas, the Parties desire to set forth their mutual expectations and obligations for participation in the Program;

Whereas, O AFC has the powers necessary to carry out the duties of the office under Texas Government Code, Chapter 403, including the power to enter into grants and other necessary instruments;

Whereas, under this Agreement, Grantee shall fully comply with all terms, conditions, requirements and other provisions of this Agreement, including those set forth in the Attachments attached hereto and incorporated herein for all purposes; and

Whereas, in consideration of Grantee’s compliance with all requirements of this Agreement, O AFC, acting by and through CPA, awards this Agreement to the Grantee.

Now, therefore, in consideration of the promises and the mutual representations, covenants, and agreements herein contained, and in particular the promise by Grantee to undertake specific activities identified as the Project, the Parties do hereby represent, covenant, and agree as follows:

II. Definitions

The following definitions add to or, in cases of conflict, supersede the definitions set forth in the NOFA, Appendix B:

“**Allowable Expenditures**” has the meaning set forth in Part VII.

“**Applicable Laws**” means all applicable federal, state, foreign, and local laws, rules, regulations, codes, ordinances, policies, orders or any other legal requirements or limitations, including but not limited to those set forth in this Agreement and Section 10.0 of the NOFA, all of which may be updated, amended, modified, or added to from time to time and all of which are incorporated herein by reference as of the date of any such change in the law. The term expressly includes the Texas Grant Management Standards and its requirements, which apply to this Agreement.

“**Application**” means the OAFN Naloxone Program Application, in the form and manner provided by OAFN, completed by Grantee.

“**Completion Date**” means the date on which CPA determines the Project is complete pursuant to the provisions of Part VI., Section F. (Project Completion).

“**Default**” has the meaning set forth in Part XII.

“**Effective Date**” means the date that this Agreement has been executed by CPA.

“**NOFA**” means the Notice of Funding Availability issued by CPA on behalf of OAFN on February 27, 2024.

“**Program**” means the Texas Opioid Abatement Fund Council Naloxone program described in the NOFA and authorized by Texas Government Code Section 403.509 and Title 34, Chapter 16, Subchapter C of the Texas Administrative Code.

“**Project**” means work proposed in Grantee’s Application that has been approved by CPA.

“**Project Budget**” means the budget proposed in Grantee’s Application that has been approved by CPA.

III. Authority

- A. **Authority to Award.** This Agreement is entered into pursuant to the authority in Chapter 403 of the Texas Government Code and Title 34, Chapter 16, Subchapter C of the Texas Administrative Code. Funding for this program is provided by state funds designated by the State Legislature. The purpose of the funding is to remediate the opioid crisis by using efficient and cost-effective methods directed to regions of the State of Texas experiencing opioid-related harms. The availability of these funds allows OAFN to aid Grantee’s Project. This funding is subject to any Applicable Laws.
- B. **Rights and Obligations of CPA and OAFN under Agreement.** Pursuant to Chapter 403 of the Texas Government Code, OAFN is administratively attached to CPA. All rights granted to CPA under this Agreement shall inure to the benefit of and be fully effective as to OAFN, and as such all references to CPA throughout the Agreement shall refer equally to and be inclusive of OAFN. CPA and OAFN further jointly assume the obligations of CPA or OAFN under the Agreement.

IV. Grant

- A. In consideration of the various obligations to be undertaken by Grantee, CPA awards Grantee the amount of \$_____ (“the Grant”), to be disbursed to Grantee for the purposes of funding the Project, subject to the following:
 1. Grantee shall use the Grant only for the approved Project.

2. Grantee acknowledges that the Project must meet the Program objectives of statewide distribution of naloxone and performance of associated training in accordance with the requirements set out in the NOFA and Project scope of work.
3. Grantee shall carry out the Project in accordance with:
 - a. this Agreement, including all Attachments;
 - b. the NOFA, hereby incorporated by reference; and
 - c. all Applicable Laws.

V. Term

Unless terminated sooner pursuant to the terms of this Agreement or extended by an amendment to the Agreement, this Agreement shall be effective as of the Effective Date and shall remain in effect for a 2-year period. CPA may unilaterally renew the Agreement for three (3) 2-year periods, for a total term of eight (8) years.

CPA may further approve Grantee's written request for a no cost time extension of the termination date of the Agreement to permit Grantee additional time to complete the scope of work of the Project if Grantee is in good fiscal and programmatic standing. A written request for a no cost time extension must include (a) a timeline of events beginning on the Effective Date, (b) a detailed explanation of why the Project is not expected to be completed within the term of the Agreement (including any exercised renewals), and (c) if applicable, supporting documentation demonstrating extenuating circumstances. CPA may approve one or more no cost time extensions. The duration of each no cost time extension may be no longer than six months from the termination date of the Agreement, unless CPA finds that special circumstances justify authorizing additional time to complete the scope of work of the Project. Approval of a no cost time extension request must be supported by a finding of good cause and requires an amendment to the Agreement.

VI. Project Commencement and Completion

- A. **Project Commencement.** Unless otherwise agreed to in writing by CPA, Grantee shall commence the Project in accordance with its Project scope of work on or prior to 30 calendar days after the Effective Date. Prior to commencement, Grantee shall obtain all necessary approvals, including all applicable permits and licenses.
- B. **Project Changes.** CPA must approve, in writing, any changes to the Application and Project Budget, including modifications of the scope of work of the Project or Completion Date. Such changes will not require a formal amendment to this Agreement so long as they are approved in writing by CPA and the total amount of the Grant does not change.
- C. **Performance.** Grantee must fully complete its Project by the date set forth in this Agreement in accordance with and consistent with any deadlines established in the NOFA. Grantee's Project must be implemented in a manner that complies with all applicable terms, conditions, requirements, and limitations set forth in this Agreement, the NOFA, and as proposed and represented in the Application.
- D. **Proof of Project Completion.**
 1. Obligation to Provide Proof. In order to certify project completion and receive final disbursement of funds, Grantee must provide CPA with approved documentation, or proof, that is substantively accurate and complete as set forth in Part VI., Section D.2. (Acceptable Substance of Proof). Notwithstanding the foregoing, CPA reserves the right to determine, in its sole discretion, the completeness and sufficiency of proof provided to the CPA by Grantee pursuant to this section. Grantee acknowledges that its failure to satisfy its obligation to provide proof as required in this section may delay or prohibit certification of project completion and disbursement of funds.
 2. Acceptable Substance of Proof. In order to be considered substantively complete, proof of project completion submitted to CPA must demonstrate with specificity that the Project scope of work has been performed consistent with Grantee's Application. Such proof must include:
 - a. Any and all information required to be provided to OAFIC, including but not limited to: information sufficient to enable CPA to determine funds distributed by region and, for targeted interventions, by county; number of naloxone units disbursed and recipients; number of unused naloxone units; number of trainings conducted and/or volume of training information distributed, and identities of recipients of training and/or training information; attendance at trainings; number of days that have elapsed between request of product or

training and delivery; testimonials of recipients of naloxone or training; expiration status of naloxone units; and

b. The Final Report required by Part VI., Section E.3.

E. Reports.

1. Monthly Status Reports. For the first year of the Agreement, Grantee shall submit monthly status reports to CPA. Grantee shall ensure the reports are received by CPA no later than ten (10) working days after the end of each month. Each report should cover the previous month and shall include such information as CPA requests, including but not limited to: an expense summary both statewide and by region; documentation of performance, including number of naloxone units disbursed statewide and by region, identities of recipients of naloxone units and/or training, number of unused naloxone units, and number of days that have elapsed between requests for product or training and provision of naloxone or training; number of trainings completed and attendance at each training; any testimonials or feedback received from recipients of naloxone or training; and problems encountered in completing the Project.
2. Quarterly Status Reports. For the second year and any remaining years of the Agreement, Grantee shall submit progress reports to CPA on January 1, April 1, July 1, and October 1 of each year in a manner and form to be determined by CPA. The progress reports shall contain such information as CPA requests, including but not limited to the information required in Monthly Status Reports. Grantee shall ensure that each report is received by CPA no later than ten (10) working days after the end of each reporting period. Each report should cover the most recent 3-month reporting period. Reporting periods are as follows:
 - Quarter 1: January 1 – March 31
 - Quarter 2: April 1 – June 30
 - Quarter 3: July 1 – September 30
 - Quarter 4: October 1 – December 31
3. Final Report. Unless otherwise agreed to in writing by CPA, within sixty (60) calendar days after Grantee completes the Project, Grantee shall submit to CPA a final report (the "Final Report") in a manner and form to be determined by CPA that describes the completed Project, the success of the Project, any problems encountered in completing the Project, and such other information as CPA requires. The Final Report shall also contain all financial, performance, and other reports as CPA requests, including but not limited to expense summary of the Project and the information required under Part VI., Section D.2. (Acceptable Substance of Proof). In addition, any completed studies, surveys, reports, or other work products, if applicable, shall be attached to the Final Report. The Grant will not be considered fully closed out until the Final Report has been submitted to, and accepted by, CPA.
4. Final Report Certifications. The Final Report shall also contain:
 - a. An expense summary of the Project both statewide and by region, certified by the highest fiscal officer of Grantee, that lists all expenditures relating to the Grant; and
 - b. Grantee must certify in writing to CPA that the Project has been completed as proposed/represented in the Application, including but not limited to a certification representing that the Project fully complies with and satisfies any and all terms and conditions identified in this Agreement, the NOFA, and all Applicable Laws.
5. In addition to the requirements set forth above, Grantee shall provide CPA with such additional records, reports, and other documentation as may be required by CPA.

F. **Project Completion.** For purposes of this Agreement, a Project shall be considered “complete” as of the later of the date CPA:

1. Accepts the certifications and proof of project completion provided by Grantee as required by Part VI., Sections D (Proof of Project Completion) and E.4. (Final Report Certifications), respectively; and,
2. Verifies that a Project certified as complete complies with the requirements of this Agreement, the NOFA, and Applicable Laws, or
3. Otherwise affirmatively elects to verify that the project is complete without exercising its rights to conduct any other monitoring, review, or audit rights available to CPA under this Agreement.

G. **Consequences of Non-Performance.** Failure to fully satisfy the criteria set forth in Part VI., Section C. (Performance), and Part VI., Section E.4. (Final Report Certifications), comply with all Applicable Laws, or to otherwise complete the Project as represented in the Grantee's Application, may result in CPA's denial of a request for reimbursement for any expenditures related to the Project and the return of previously reimbursed funds, and Grantee shall not otherwise be entitled to reimbursement for such expenditures.

VII. Expenditure of Grant Funds.

- A. **Allowable Expenditures.** Grantee shall only be entitled to payment for Allowable Expenditures, actually incurred, as enumerated in the NOFA and subject to any other restrictions imposed by this Agreement. CPA may order the return of any funds previously disbursed or deny a request for reimbursement for any expenditures that do not constitute Allowable Expenditures, and Grantee shall not otherwise be entitled to payment or reimbursement for any expenditures that do not constitute Allowable Expenditures.
- B. **Non-Reimbursable Expenses.** Grantee may not expend the Grant for purposes contrary to this Agreement, or for any purpose described under Section 13.6 of the NOFA (Ineligible Expenses). With the exception of Allowable Expenditures or other reimbursable expenses or costs expressly contemplated herein, there shall be no other reimbursable expenses associated with this Agreement. Except for expenditures that constitute Allowable Expenditures or other reimbursable expenses or costs expressly contemplated hereunder, Grantee shall be solely responsible for all costs, charges and expenses it incurs in connection with its performance under this Agreement, including, but not limited to, travel, mileage, meals, lodging, equipment, supplies, personnel, salaries, benefits, insurance, training, conferences, telephone, utilities, start-up costs, and all other costs and expenses of Grantee.
- C. **Pre-Award Expenses.** Grantee may only use funds to cover costs incurred after the Effective Date, unless otherwise specifically approved in writing. All unapproved costs incurred by Grantee before the Effective Date and before approval by CPA of the release of Grant funds are incurred voluntarily, at Grantee's own credit and expense.
- D. **Project Budget.** Grantee may not expend more than the amount allocated for any category in the Project Budget without the prior written consent of CPA. Unless otherwise agreed to in writing by CPA, Grantee shall expend at least eighty percent (80%) of the regional allocations set out in Section 9.2 of the NOFA (Naloxone Distribution Funding for Regional Healthcare Partnership Regions) by the second (2nd) anniversary of the Effective Date, in accordance with Section 11.0 of the NOFA (Project Timeline).
- E. **Return of Unexpended Funds.** If, upon completion of the Project, there are cost savings that result in unexpended Grant funds, Grantee shall return such Grant funds to CPA. CPA shall have the rights and remedies with respect to unexpended funds upon termination as provided by Part XII.
- F. **Duty to Report Misuse of Funds.** Grantee must promptly refer to CPA any credible evidence that a principal, employee, agent, subcontractor, subgrantee, or other person has either: 1) submitted a false claim for grant funds as that term is used under any false claims act or other similar law, whether state or federal; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds.

VIII. Payment

- A. **Disbursement of Grant Funding.** After the Effective Date, CPA will disburse Grant funds to Grantee on reimbursement basis.
- B. **Reimbursement.**
1. **Request for Reimbursement.** Grantee may request reimbursement for Allowable Expenditures monthly. A request for reimbursement shall identify in detail all Allowable Expenditures for which reimbursement is being sought on the forms and in the manner prescribed by CPA and attest that such Allowable Expenditures are true, accurate, and in fact constitute Allowable Expenditures, actually incurred by Grantee. CPA may request, in its sole discretion, and Grantee may be required to supply, additional records to verify any Allowable Expenditures claimed by Grantee, including, but not limited to, invoices, original itemized receipts, copies of checks, check registers, or bank statements indicating credit card invoices were paid. CPA shall review any request for reimbursement and related supporting documentation for compliance with this Agreement, the NOFA, and Applicable Laws. Notwithstanding anything herein to the contrary, CPA shall have the

right to dispute any request for reimbursement, invoice, or other supporting documentation and withhold payment of any disputed amount if CPA believes the documentation is inaccurate, incomplete, insufficient, or incorrect in any way.

2. Time for Reimbursement. Requests for reimbursement should be made allowing up to thirty (30) calendar days to receive the Grant funds. No payment of grant funds will be disbursed until CPA has reviewed and approved the eligible expenses incurred by Grantee. If CPA requires additional supporting documentation for a request for reimbursement, a hold will be placed on such request for reimbursement until claimed Allowable Expenditures are verified.
3. Payments Conditional. Reimbursements are conditioned on work being performed in compliance with this Agreement, the NOFA, and Applicable Laws. No payment, including final payment, shall be construed as or constitute: (1) acceptance of any Project(s) as satisfying the terms, conditions, or requirements of this Agreement, the NOFA, or Applicable Laws; or (2) a waiver by CPA of any rights or remedies it may have to enforce the terms of this Agreement, and Grantee shall remain responsible for full performance in strict compliance with the terms and conditions of this Agreement. By making any payments under this Agreement, CPA does not waive its ability to challenge any payment or reimbursement for either failing to comply with this Agreement, the NOFA, or any Applicable Laws. Grantee agrees that its acceptance of the last payment from CPA under this Agreement shall operate as a release of any and all claims related to this Agreement that Grantee may have or be capable of asserting against CPA or the State of Texas.

C. **Right to Withhold Reimbursement.** CPA reserves the right to not disburse any Grant funds if, in CPA's determination:

1. Grantee has failed to supply appropriate supporting documentation or withheld a material fact in a request for reimbursement;
2. Grantee's request for reimbursement, when combined with all prior reimbursement requests, exceeds the total amount of the Grant;
3. Grantee has used any portion of the Grant for uses or activities other than the Project, or in a manner inconsistent with the terms and conditions of this Agreement; Texas Government Code, Chapter 403, Subchapter R; Title 34, Chapter 16, Subchapter C of the Texas Administrative Code; Applicable Laws; or the NOFA;
4. Grantee is not performing or completing the Project in a manner satisfactory to CPA; or
5. Grantee is in default under any other term or condition contained in this Agreement.

D. **Return of Funds.** In the event that any previously reimbursed funds are determined to have been expended in violation of the laws applicable to the expenditure of such funds; or any payment was comprised of claimed expenditures that did not constitute Allowable Expenditures; was not otherwise reimbursable hereunder; was improperly or incorrectly allocated; was unreasonable; was not supported by sufficient and appropriate documentation; or was otherwise made in a manner inconsistent with or in violation of the terms, conditions, or requirements of this Agreement, the NOFA, or any Applicable Laws, Grantee shall be liable to CPA for the full amount of any claim disallowed and for all related penalties incurred and Grantee shall immediately return to CPA funds subject to this Repayment Obligation. This remedy is in addition to and not to the exclusion of any other remedies available to CPA under this Agreement, at law, in equity, or otherwise.

E. **Erroneous Payments and Credits.** Grantee shall promptly pay or refund to CPA the full amount of any overpayment, erroneous payment, or unallowable expense within ten (10) business days after either discovery by the Grantee or notification by CPA of the overpayment, erroneous payment, or unallowable expense. CPA may, in its sole discretion, elect to have Grantee apply any amounts due to CPA under this Section (Erroneous Payments and Credits) against any amounts payable by CPA under this Agreement.

F. **Compensation Generally.** Notwithstanding anything in this Agreement to the contrary, in no event shall CPA be obligated to pay Grantee any fees, costs, compensation or other amounts in excess of the amount expressly set forth herein in accordance with the terms, conditions, limitations, and requirements of this Agreement, unless CPA otherwise agrees to pay such fees, costs, compensation other amounts pursuant to a written amendment to this Agreement executed by CPA.

IX. Records

A. Grantee shall maintain accurate financial, management, programmatic and other records, including those pertaining to subawards and subcontracts, of the Grantee, of all transactions relating to the receipt and

expenditure of the Grant and administration of the Project (collectively, "Records") in compliance with the records retention requirements of Texas Grant Management Standards. The Records shall be in a commercially reasonable form acceptable to CPA. Grantee shall retain the Records for the later of (a) Five (5) years following the date CPA approves the Final Report described in Part VI., Section E.3. (Final Report); or (b) if any litigation, claim, or audit is started, or any open records request is received, before the expiration of the five-year records retention period, one year after the completion of the litigation, claim, or open records request and resolution of all issues which arise from it.

- B. Grantee shall give the Auditor of the State of Texas, CPA, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by Grantee pertaining to this Agreement. Such rights to access shall continue as long as the records are retained by Grantee. Grantee shall cooperate with auditors and other authorized representatives of CPA and the State of Texas and shall provide them with prompt access to all such property as requested by CPA or the State of Texas. By example and not as exclusion to other breaches or failures, the Grantee's failure to comply with this Section shall constitute a material breach of this Agreement and shall authorize CPA to immediately terminate this Agreement. Grantee agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552 of the Texas Government Code.

X. Right to Audit

CPA may require, at Grantee's sole cost and expense, independent audits by a qualified certified public accounting firm of Grantee's books and records or the State's property. The independent auditor shall provide CPA with a copy of such audit at the same time it is provided to Grantee. CPA retains the right to issue a request for applications for the services of an independent certified public accounting firm under this Agreement. In addition to and without limitation on the other audit provisions of this Agreement, pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of Grantee or any other entity or person receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by Grantee or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Grantee or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This Agreement may be amended unilaterally by CPA to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code. Grantee shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors or sub-grantees through the Grantee and the requirement to cooperate is included in any awarded subcontract or subaward. The state auditor shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the Grantee relating to this Agreement.

XI. Monitoring

- A. **Monitoring and Review.** In addition to any other terms and conditions hereunder of or related to auditing, verifying, or ensuring Grantee's compliance with the terms, conditions, requirements, or limitations of this Agreement, CPA shall monitor and review Grantee's performance under this Agreement to ensure compliance with this Agreement, the NOFA, and Applicable Laws. Such review and monitoring shall include CPA's assessment of any claims or invoices and any reports furnished by Grantee pursuant to this Agreement. CPA reserves the right to monitor Grantee performance through site visits, reports, or other means deemed necessary by CPA. The Grantee agrees that CPA may conduct during regular business hours site visits to review contract compliance, assess management controls, and assess relevant services and activities. Grantee agrees to ensure the cooperation of Grantee personnel in such efforts and to provide to CPA all information requested in the manner determined by CPA, including allowing CPA to inspect Grantee's, subgrantee's, or subcontractor's facilities and books and records in order to monitor and evaluate performance of this Agreement.
- B. **Corrective Action.** Following each site visit or review of requested information, CPA may submit a written report to the Grantee that identifies CPA's findings. A corrective action plan with a timetable to address any deficiencies or problems noted in the report may be requested. The corrective action plan shall be submitted to CPA for approval within the timelines outlined in the written report. The Grantee shall implement the plan after it is approved by CPA. Failure to do so may result in suspension or termination of the Agreement, without penalty or liability to CPA or the State of Texas. Grantee shall not impose any charge or fee in connection with any review or monitoring conducted by CPA hereunder.
- C. The requirements of this Part shall apply to Grantee, Grantee's subcontractors and subgrantees, and Grantee shall require and cause any subcontractor or subgrantee used by Grantee in connection with this Agreement to agree to and be subject to and bound by such terms and provisions.
- D. Any and all of the rights granted to CPA by this Part or otherwise referred to in this Part, or duties or obligations of Grantee under this Part or otherwise referred to in this Part, may be exercised or invoked by CPA or any other entity designated by CPA, including contractors hired by CPA for such purpose.

XII. Default; Remedies; Termination

- A. **Default.** One or more of the following constitutes a default:
- the breach by Grantee of any term, condition, covenant, agreement, or certification contained in this Agreement;
 - the expenditure of Grant funds for any use other than as provided in the Project Budget or in the approved scope of work for the Project;
 - the failure to commence or complete the Project by the dates set forth in the Agreement, or otherwise unsatisfactory performance or completion of the Project, in CPA's sole determination;
 - Grantee's bankruptcy, insolvency, or the dissolution or liquidation of Grantee's business organization or assets; and/or
 - a change in Grantee's staffing capacity or personnel that adversely affects Grantee's ability to carry out the Project, in CPA's sole discretion.
- B. **Right to Cure and Termination for Cause.** If a default occurs, CPA shall give Grantee written notice of default, and Grantee shall have thirty (30) calendar days from the date of such notice to cure the default. If Grantee has not cured the default to the satisfaction of CPA by the conclusion of the 30-day period, this Agreement shall terminate at the end of the 30-day period and CPA may demand immediate repayment of the Grant. Notwithstanding the above, upon the occurrence of a default under this Agreement involving Grantee's bankruptcy, insolvency, or the dissolution or liquidation of Grantee's business organization or assets, CPA's right to terminate this Agreement shall be immediate, without a notice and cure period.
- C. **Remedies for Noncompliance.** If CPA finds that Grantee has failed to comply with any term or condition of the Agreement or any Applicable Laws, CPA may:
1. Require Grantee to repay part or all of the Grant funds disbursed to Grantee, plus all costs and reasonable attorneys' fees incurred by CPA in recovery proceedings;

2. Require Grantee to repay any portion of the Grant funds that CPA, in its sole discretion, determines were not expended in accordance with this Agreement, plus all costs and reasonable attorneys' fees incurred by CPA in recovery proceedings;
 3. Withhold awarded Grant funds pending correction of the deficiency;
 4. Disallow part or all of the cost of the activity or action that is not in compliance;
 5. Terminate the Agreement in whole or in part;
 6. Bar Grantee from future consideration for grant awards offered by or through CPA, OAFC or the State; or
 7. Exercise any other legal remedies available at law.
- D. **Termination for Convenience.** CPA may terminate this Agreement, in whole or in part, for convenience without the payment of any penalty or incurring any further obligation or liability to Grantee. Termination for convenience may be for any reason or no reason at all.
- E. **Termination for Cause by Grantee.** Grantee may only terminate this Agreement upon written notice of the breach by CPA of any material term, condition, or provision of this Agreement, if such breach is not cured within sixty (60) days of CPA's receipt of Grantee's written notice of breach.
- F. **Return of Unspent Funds Upon Termination.** Grantee agrees to return any remaining proceeds of the Grant to CPA upon termination of the Agreement, whether due to default, completion of the Project, or for any other reason.
- G. **Rescission.** If after making an award CPA determines that at the time of making the award a project was not eligible to receive funding for any reason, CPA may rescind the award and Grantee shall be required and agrees to return any Grant funds that were awarded. CPA shall reduce the amount required to be returned under this subsection if CPA determines, in its sole discretion, that the Grant funds or any portion thereof were expended in good faith.
- H. **Remedies Not Exclusive.** In addition to exercising any or all of the rights and remedies contained in this Agreement, CPA at any time may proceed to protect and enforce all rights available to CPA by suit in equity, action at law, or by any other appropriate proceedings, all of which shall survive the termination of this Agreement.

XIII. Liability.

Grantee releases CPA and the State of Texas from, and agrees that CPA and the State of Texas, shall not have any liability for, any and all suits, actions, claims, demands, losses, expenses, and costs of every kind and nature, including reasonable attorneys' fees, incurred by, or asserted or imposed against CPA and the State of Texas, as a result of or in connection with the Project, except for the gross negligence or willful misconduct of CPA. This Section shall survive the term of this Agreement.

XIV. Indemnification

GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND CPA, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM, ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT, INCLUDING ANY PURCHASE ORDERS ISSUED UNDER THE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. GRANTEE AND CPA AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

XV. Insurance

- A. **Coverages Required.** Grantee shall obtain and maintain throughout the Agreement the insurance coverages listed below:
1. **Worker's Compensation Insurance.** Coverage to secure the payment of compensation to injured employees as defined in the Texas Worker's Compensation Act.
 2. **Employer's Liability Insurance.** Coverage in the following minimum amounts:
 - Bodily Injury, \$500,000 per accident;
 - Disease, \$500,000 per employee;
 - Aggregate policy limit of \$1,000,000.
 3. **Commercial Automobile Liability Insurance.** Coverage in the following minimum amounts for owned, hired, and non-owned vehicles for claims of automobile bodily injury and property damage that may arise in the performance of the Agreement:
\$500,000 per person;
\$500,000 per occurrence for bodily injury; and
\$1,000,000 per occurrence for property damage; or
\$1,000,000 per occurrence if the policy is issued for bodily injury and property damage combined.
 4. **Commercial General Liability Insurance.** Coverage for claims of personal injury and bodily injury, including accidental death, and property damage which may arise from the performance of the Agreement. The types of coverage required are: Blanket, Broad Form Property Damage, Premises and Operations Hazards, Products and Completed Operations Hazards, Independent Grantee's, and Contractual Liability in the minimum amounts of:
\$1,000,000 per occurrence for bodily injury; and
\$1,000,000 per occurrence for property damage; or
\$2,000,000 per occurrence if the policy is issued for bodily injury and property damage combined.
 5. **Excess Liability Insurance (Umbrella).** Additional coverage for all liability policies required for this Agreement (excluding Worker's Compensation and Employer's Liability Insurance, which are not liability insurance) in an amount not less than \$1,000,000 in the aggregate.
 6. **Requirements for Subcontractors.** All requirements listed in 1. through 5. of this Part XV., Section A. will also apply to subcontractors and subgrantees.
- B. **Minimum Insurance Rating.** The Grantee will obtain all required policies from insurers licensed, eligible or registered under Texas law with a rating of A- or better in a financial size category of IV or higher according to A.M. Best Company.
- C. **Notices of Change.** The Grantee's insurance policies must require the insurer or the insurer's authorized agent to notify CPA of any cancellation, or material change, other than for non-payment, at least 30 days in advance. The Grantee's insurance policy must require the insurer or the insurer's authorized agent to notify CPA of any cancellation or material change due to non-payment at least 10 days in advance. These notices of changes must reference the CPA contract number and be made in writing by certified mail to CPA contact at the address shown in this Agreement.
- D. **Insurance Certificate.** No later than five (5) business days following execution of this Agreement, and on an annual basis thereafter so long as this Agreement is in force, Grantee shall furnish proof to CPA of such coverage in the form of a Certificate of Insurance from Grantee's insurance carrier(s) indicating the required coverages. The certificate shall be addressed to CPA as the certificate holder. Grantee shall submit proof of required insurance coverage via email, referencing the purchase order number, to the following address: contract.administration@cpa.texas.gov. Certificates must bear the CPA contract number of this Agreement. If Grantee changes insurers, Grantee shall give CPA a new certificate of insurance within ten days. The certificate of insurance shall set out any deductible or self-insured retention amounts for each coverage required.
- E. **Required Additional Provisions.** All policies of insurance shall include the following provisions:
1. OAFc and its members and CPA and its officers and employees are named additional insureds to the Commercial General Liability Insurance, Excess Liability Insurance (Umbrella), and Excess Liability Insurance (Other than Umbrella);
 2. Waiver of subrogation in favor of OAFc and its members and CPA, its officers and employees for bodily injury (including death), property damage or any other loss arising from this Agreement, except for the Professional Liability Insurance; and

3. The Grantee's insurance is primary insurance with respect to OAFc and its members and CPA and its officers and employees.
- F. **Self Insurance.** Grantee must disclose on its insurance certificate if any of the coverage required under the Agreement is being satisfied with a Self-Insured Retention (SIR) and list the amount of the SIR. If Grantee is a Local Government, the insurance requirements contained herein may be satisfied through evidence of a self-insurance program satisfactory to CPA.

XVI. Transfer of Interest

- A. **Transfer of Interest in Grant Agreement.** Grantee shall not assign, transfer or delegate, in whole or in part, any of its interest in, or rights or obligations under, the Agreement, by forced or voluntary sale, merger, consolidation, receivership, or other means without the prior consent of CPA, and then only under such conditions as CPA may establish; however, consent shall not be unreasonably withheld. Any attempted or purported assignment, transfer or delegation thereof without such consent of CPA shall be null and void and constitute default by Grantee.
- B. **Ownership or control.**
1. Grantee shall promptly notify CPA of any proposed change in, or transfer of, or acquisition by any other party of control of the Grantee or its interest in the Agreement. For the purpose of determining whether CPA shall consent to such change, transfer, or acquisition of control, CPA may inquire into the qualifications of the prospective controlling party, and Grantee shall assist CPA in any such inquiry.
 2. In seeking CPA's consent to any change in ownership or control, Grantee shall have the following responsibility:
 - a. To show to the satisfaction of CPA whether the proposed purchaser, transferee, or assignee (hereafter referred to as the "proposed transferee"), meets, at a minimum, the same requirements imposed upon Grantee as a condition of entering into this Agreement; and
 - b. To establish to the satisfaction of CPA that the financial and technical capability of the proposed transferee is such as to enable it to complete, maintain and/or operate the Project for the remaining term of this Agreement and subsequent time period pursuant to this Agreement.
- C. **Waiver.** The consent or approval of CPA to any transfer of the Agreement by Grantee shall not constitute a waiver or release of the rights of CPA under this Agreement.
- D. **Survival.** The consent or approval of CPA to any transfer of the Agreement by Grantee shall not release Grantee from any liability or obligation set forth in the Agreement that is expressly stated to survive any termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding ongoing Project conformance with specifications, confidentiality, indemnification, records, audit, property rights, dispute resolution, and reimbursement verification.
- E. **Prohibition on Early Transfer.** In the absence of extraordinary circumstances, CPA will not approve any transfer or assignment of Grantee's interest in, or rights or obligations under, the Agreement prior to Grantee's expenditure of 80% of the regional allocations as required by Part VII., Section D. (Project Budget).
- F. **Acceptance.** In no event shall a transfer or assignment of this Agreement be approved without the successor in interest accepting, in writing, this Agreement.

XVII. Equipment

Title to equipment acquired under this Agreement vests in the Grantee upon acquisition, and Grantee shall comply with the use, management and disposition requirements of Texas Grant Management Standards related to equipment.

XVIII. Notices.

All notices, requests, approvals, and consents of any kind made pursuant to this Agreement shall be in writing. Any such communication, unless otherwise specified, shall be deemed effective as of the date it is mailed, postage prepaid, addressed as follows:

A. Communications to CPA shall be mailed to:

Texas Comptroller of Public Accounts
Attn: Texas Opioid Abatement Fund Council Program
111 E. 17th St., Suite 610
Austin, Texas 78701

With an electronic courtesy copy to: O AFC.nofa@cpa.texas.gov

B. Communications to Grantee shall be mailed to:

[Grantee's mailing address]

XIX. Audit and Other Flowdown Terms and Conditions

- A. **Flowdown Requirements.** The requirements of this Part shall apply to Grantee, subgrantees, and subcontractors. Grantee shall require and cause any subcontractor or subgrantee used by Grantee in connection with this Agreement to agree to and be subject to and bound by such terms and provisions.
- B. **Necessary and Allowable Expenditures.** Grantee represents and warrants that the funds from this grant shall only be used for Allowable Expenditures as defined in this Agreement.
- C. **Audit Requirements.** Funds allocated in connection with the Agreement are considered to be state financial assistance subject to the audit requirements of Texas Grant Management Standards. To the extent required to comply with audit requirements of Texas Grant Management Standards, Grantee shall complete an audit at the end of the Grantee's fiscal year ending after December 30 each year, if required. Grantee agrees that in the event of any audit findings related to state awards provided by CPA, Grantee will inform CPA within two (2) business days following Grantee's receipt of any written audit findings or reports (whether in draft or final form), and thereafter submit any documentation related to the audit findings upon CPAs request (including, but not limited to, a copy of the final audit report, a response to the current status of the prior year's questioned costs, copies of management letters written as a result of the audit, and action plans, if any).
1. Grant funds distributed hereunder count toward the \$750,000 or more threshold applicable to state awards spent during the fiscal year, which triggers the audit requirements for nonprofits or governmental entities. Nonprofit and local government subgrantees that expend \$750,000 or more in a year in state awards (from all sources) shall have a Financial Audit or Program-Specific Audit conducted for that year in accordance with the provisions of Texas Grant Management Standards. A copy of the final audit report shall be submitted to CPA if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to state awards provided by CPA. The audit report, if required, shall include a schedule of the prior year's questioned costs (to the extent applicable), along with a response to the current status of the prior year's questioned costs. Copies of all management letters written as a result of the audit shall also be forwarded to CPA within one (1) month of the time of receipt by the Grantee accompanied by an action plan, if applicable, for each. Grantee shall provide CPA with a copy of any written audit findings or reports, whether in draft or final form, required to be submitted to CPA per the criteria above within two (2) business days following receipt by the Grantee. If an audit report is not required

to be submitted per the criteria above, the subgrantee must provide written notification to CPA that the required audit was conducted in accordance with Generally Accepted Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to state awards provided by CPA. See Texas Grant Management Standards, Sub-grantee and Contractor Determination, for a discussion of subgrantee versus contractor (vendor) relationships.

2. These audit requirements do not generally apply to a for-profit business; however, CPA remains responsible for ensuring compliance with the Agreement and requirements of Texas Grant Management Standards through the implementation of audit and monitoring controls. These requirements are addressed in the Project certification, monitoring, review, status, and recoupment provisions in Parts VI. (Project Commencement and Completion), VIII. (Payment), IX. (Records), and X. (Right to Audit).

- D. **Cost Principles.** To the extent applicable, in addition to any other terms, conditions, restrictions, or limitations applicable to Allowable Expenditures or reimbursable expenses or costs under the Agreement, the costs or expenses charged, paid, or reimbursed under the Agreement shall be determined as allowable under the cost principles detailed in Texas Grant Management Standards. To the extent that indirect costs qualify as Allowable Expenditures under the Agreement and Grantee does not have an indirect cost rate, the de minimis rate shall apply.
- E. **Restriction on Leveraging Funding.** No portion of the funds received under the Agreement may be used for the purpose of obtaining additional State funds under any other law, except if authorized under that law.
- F. **Recovery of Funds.** If a State audit takes exception to the Project(s) provided under the Agreement for which State funds have been paid or reimbursed, or if State funds are deferred and/or disallowed as a result of any audits (or expended in violation of the laws applicable to the expenditure of such funds), Grantee will be liable to CPA and the State or Texas for the full amount of any such payment, reimbursement, or any claim disallowed (or the amount of funds expended in violation of Applicable Laws or requirements) and for all related penalties incurred. If CPA concludes that Grantee has been paid for any cost that is unallowable, unallocable, or unreasonable under the Agreement, Grantee will be liable to CPA and the State of Texas for such cost. Grantee shall pay to CPA or State of Texas all amounts for which the Grantee is liable under this section within ten (10) business days of receiving a written demand or written notice. CPA may withhold any payment under the Agreement if Grantee fails to timely make any payment required by this Section. The requirements of this Section shall apply to Grantee and subgrantees and subcontractors. Grantee shall require and cause any subcontractor or subgrantee used by Grantee in connection with the Agreement to agree to and be subject to and bound by such terms and provisions.

XX. Certifications, Representations, and Warranties.

Each of the following required certifications, representation, and warranties set forth below is a material representation of fact upon which reliance is placed by CPA prior to distributing grant funds. In addition to any criminal penalties authorized by the Texas Penal Code that may result from any false statements of material fact made herein or any other remedies available at law, equity, or otherwise, a Grantee that is subsequently determined to have made a statement, representation, warranty, certification, or attestation herein that is later proven untrue in any material respect shall be obligated to repay CPA the entire amount of any grant funds previously distributed by CPA to Grantee under the Agreement. By signing the Agreement, Grantee's authorized representative who must be expressly authorized to make the below certifications on behalf of Grantee, under penalty of perjury and pursuant to the laws of the State of Texas, certifies and attests to Grantee's compliance with the following. The following certifications shall apply to Grantee and its subcontractors or subgrantees. Grantee shall require and cause any subcontractor or subgrantee used by Grantee in the performance of the Agreement to certify, agree to, and be subject to and bound by each of the following certifications. Grantee may be required to provide any information identified or required in connection with the below certifications as a precondition to receiving funds under the Agreement. Further, if Grantee is a Local Government, Grantee specifically assures its compliance with the provisions of Appendix 6 (Uniform Assurances by Local Governments) of Texas Grant Management Standards that are applicable to this Agreement.

- A. Grantee certifies that the acceptance of the Grant and the entering into of the Agreement have been duly authorized, executed, and delivered by Grantee, and are the valid and legally binding acts and agreements of Grantee.
- B. Grantee certifies that it is duly organized and validly existing under the laws of the jurisdiction of which Grantee is a part and has all the requisite power and authority to enter into and carry out the transactions contemplated by this Agreement, including, but not limited to, legal capacity and authority to own and operate the Project, to enter into contracts, and to otherwise comply with applicable statutes and regulations.
- C. Grantee represents and warrants that it is fully aware of the terms, conditions, and requirements of this Agreement, the NOFA, and Applicable Laws, and intended outcomes of any Project(s) to be delivered hereunder, and that any such Project(s) shall satisfy such requirements in all material respects and are fit for such intended purposes and uses.
- D. Grantee represents, warrants, and covenants that the Project(s) will at all times meet, conform to and comply with: (1) this Agreement; (2) any and all representations or assurance made, directly or implicitly, in the Application; and (3) Applicable Laws.
- E. Grantee represents and warrants that it is not in arrears with respect to the payment of any monies due and owing the State or any department, agency, office, or any other governmental entity, unit, or subdivision thereof, including but not limited to the payment of taxes and employee benefits. Grantee represents that its accounting system is adequate to comply with this Agreement.
- F. Grantee certifies that prior to commencement of the Project, Grantee has obtained or will obtain all federal, state, and local government approvals, permits, and licenses that may be required to accomplish the Project scope of work.
- G. Grantee represents, warrants, and covenants that all Projects(s) be performed or provided under this Agreement shall be performed or provided in a professional, competent, diligent and workmanlike manner by knowledgeable, trained and qualified personnel, all in accordance with the terms of this Agreement and the highest standards of performance applicable to service providers in the industry for similar tasks and projects. In the absence of a specification for the performance of any portion of this Agreement, the Parties agree that the applicable specification shall be the generally accepted industry standard. So long as CPA notifies Grantee of any aspects of any Project(s) performed in violation of this standard, Grantee shall re-perform the relevant aspects of the Project(s) at no additional cost to CPA or impacted consumers, such that the Project(s) are rendered in the above-specified manner, or if the Grantee is unable to perform the Project(s) as warranted, Grantee shall reimburse CPA any fees or compensation paid to Grantee for the unsatisfactory performance.
- H. Grantee certifies that it shall comply with all applicable laws, regulations, terms, and conditions established by CPA and the State of Texas with respect to the use of Grant funds.
- I. Grantee represents and warrants that it will include the following clause in the award documents for every subaward and subcontract and will require subgrantees and subcontractors to certify accordingly: “Under Section 231.006 of the Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application.”
- J. Grantee represents and warrants that it will comply, and assure the compliance of all its subgrantees and subcontractors, with all applicable federal and state laws, rules, regulations, and policies in effect or hereafter established. In addition, Grantee represents and warrants that it will comply with all requirements imposed by the awarding agency concerning special requirements of law, program requirements, and other administrative requirements. In instances where multiple requirements apply to Grantee, the more restrictive requirement applies.
- K. Grantee represents and warrants that it will maintain oversight to ensure that subcontractors and subgrantees perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- L. If Grantee has access to any state computer system or database, Grantee shall complete cybersecurity training and verify completion of the training program to CPA pursuant to and in accordance with Section 2054.5192 of the Government Code.
- M. If Grantee is a “local government” as defined under Section 2054.003(9) of the Texas Government Code or a “state agency” as defined under Section 2054.003(13) of the Texas Government Code, Grantee represents

and warrants its compliance with Section 2054.5191 of the Government Code relating to the cybersecurity training program for local government or state agency employees who have access to a local government or state agency computer system or database, respectively.

- N. Grantee acknowledges it has been advised that the dispute resolution process provided in Chapter 2009 of the Texas Government Code is available to the parties to resolve any dispute arising under the agreement.
- O. Grantee certifies that it and its principals are not suspended or debarred from doing business with the State or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration.
- P. Grantee certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.
- Q. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Grantee certifies that it is not (1) the executive head of CPA, (2) a person who at any time during the four years before the date of the Agreement or grant was the executive head of CPA, or (3) a person who employs a current or former executive head of CPA.
- R. Grantee acknowledges and agrees that appropriated funds may not be expended in the form of a grant to, or contract with, a unit of local government unless the terms of the grant or contract require that the funds received under the grant or contract will be expended subject to the limitations and reporting requirements similar to those provided by the following: Parts 2 and 3 of the Texas General Appropriations Act, Art. IX, except there is no requirement for increased salaries for local government employees; Sections 556.004, 556.005, and 556.006 of the Texas Government Code; and Sections 2113.012 and 2113.101 of the Texas Government Code.
- S. Grantee represents and warrants that payments to Grantee and Grantee's receipt of appropriated or other funds under the contract or grant are not prohibited by Sections 403.1067 or 556.0055 of the Texas Government Code which restrict lobbying expenditures.
- T. If the Grantee is a governmental entity, Grantee represents and warrants its compliance with Chapter 551 of the Texas Government Code which requires all regular, special or called meetings of a governmental body to be open to the public, except as otherwise provided by law.
- U. Grantee represents and warrants that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity which performs political polling.
- V. Grantee represents and warrants that it will submit timely, complete, and accurate reports in accordance with the grant and maintain appropriate backup documentation to support the reports.
- W. Grantee represents and warrant that it will monitor the activities of any subgrantee as necessary to ensure that subawards are used for authorized purposes, in compliance with applicable statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.
- X. The representations, statements, and other matters contained in the Application are and remain true and complete in all material respects.
- Y. Pursuant to Section 2271.002 of the Texas Government Code, Grantee certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Grantee shall state any facts that make it exempt from the boycott certification in its Offer.
- Z. Pursuant to Section 2274.0102 of the Texas Government Code, Grantee certifies that neither it nor its parent company, nor any affiliate of Grantee or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.
- AA. If Grantee is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Grantee verifies that Grantee does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Grantee does not make that verification, Grantee must so indicate in its Application and state why the verification is not required.
- BB. If Grantee is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Grantee verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. If Grantee does not make that verification, Grantee must so indicate in its Application and state why the verification is not required.

- CC. If Grantee is required to make a certification pursuant to Section 2252.906 of the Texas Government Code, Grantee represents and warrants that it will comply with Section 2252.906 of the Texas Government Code relating to disclosure protections for certain charitable organizations, charitable trusts, and private foundations.
- DD. All representations, warranties, and covenants made by Grantee in this Agreement, whether or not this Agreement specifically denominates Grantee's promise as a warranty or whether the warranty is created only by Grantee's affirmation or promise, or is created by a description of the Project(s) or related outcomes to be provided or that will result, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Agreement are intended to modify the warranties implied by law only to the extent that they expand those warranties. Grantee's warranties provided in this Section XVIII are in addition to and not in lieu of any other warranties provided in this Agreement. All warranties provided for in this Agreement shall be cumulative, shall be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to give the broadest warranty protection to CPA, the State of Texas, and any and all consumers intended to benefit from such warranties, this Agreement, or the Project(s) resulting herefrom.

XXI. General Terms and Conditions

- A. **Time Limits.** Time is of the essence in the performance of this Agreement and accordingly all time limits shall be strictly construed and rigidly enforced.
- B. **Funding Limitation.** This Agreement shall not be construed as creating a debt on behalf of CPA in violation of Article III, Section 49a of the Texas Constitution. Grantee understands that all obligations of CPA under the Agreement are subject to the availability of grant funds.
- C. **No Waiver.** This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to CPA or otherwise available to CPA or Grantee. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to CPA or Grantee under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. CPA or Grantee do not waive any privileges, rights, defenses, or immunities available to them by entering into this Agreement or by their conduct prior to or subsequent to entering into this Agreement. The modification of any privileges, rights, defenses, remedies, or immunities available to CPA or Grantee must be in writing, must reference this Section, and must be signed by CPA and Grantee to be effective, and such modification of any privileges, rights, defenses, remedies, or immunities available to CPA shall not constitute waiver of any subsequent privileges, rights, defenses, remedies, or immunities under this Agreement or under applicable law.
- D. **No Liability upon Termination.** If this Agreement is terminated for any reason, CPA and the State of Texas shall not be liable for any damages, claims, losses, expenses, costs or any other amounts arising from or related to any such termination.
- E. **Independent Contractor Status.** Grantee, subgrantees, subcontractors, and Grantee personnel are independent contractors and shall not be construed as, nor hold themselves out as, an employee or agent of the CPA or the State of Texas. Grantee, subgrantees, or subcontractors shall be responsible for maintaining and furnishing a place of work, and any tools, supplies, apparel, facilities, equipment, and appropriate communications devices and services required for Grantee personnel to perform and complete the Project(s). Grantee shall be responsible for paying any taxes (including sales taxes, excise taxes, use taxes, income taxes or property taxes) incurred by Grantee in the performance of this Agreement.
- F. **Third Party Beneficiaries.** Except as otherwise expressly stated herein, there are no third party beneficiaries to this Agreement. This Agreement is intended only to benefit CPA, OAF, the State of Texas, CPA's respective successors and permitted assigns, and Grantee.
- G. **Obligations of Joint Entities.** If Grantee is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Agreement, and for any default with respect to such activities and obligations.
- H. **Limitation on Authority; No Other Obligations.** Nothing in this Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, or other association of any kind or agent/principal relationship between the Parties hereto. Grantee shall have no authority to act for or on behalf

of CPA or the State of Texas except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. Grantee may not incur any debts, obligations, expenses or liabilities of any kind on behalf of CPA.

I. **No Other Benefits.** Grantee shall have no exclusive rights or benefits other than those set forth herein.

J. **Conflict of Interest.**

1. Grantee shall have a policy governing disclosure of actual and potential conflicts of interests. Specifically, for work performed under this Agreement by Grantee or any related entity or individual, Grantee shall promptly disclose in writing to CPA any actual, apparent, or potential conflicts of interest, including but not limited to disclosure of:

- a. Any consulting fees or other compensation paid to employees, officers, agents of Grantee, or members of their immediate families, or paid by subcontractors or subgrantees; or
- b. Any organizational conflicts of interest between Grantee and its subcontractors or subgrantees under a subaward.

2. No entity or individual with any actual, apparent, or potential conflict of interest will take part in the performance of any portion of this Agreement, nor have access to information regarding any portion of this Agreement, without CPA's written consent in the form of a unilateral amendment. Grantee agrees that CPA has sole discretion to determine whether a conflict exists, and that a conflict of interest is grounds for termination of this Agreement.

K. **Force Majeure.** Except as otherwise provided, neither Grantee nor CPA shall be liable to the other for any delay in, or failure of performance, of any requirement contained in this Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, terrorist attacks, fires, explosions, earthquakes, hurricanes, floods, failure of transportation, pandemic, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.

L. **Public Information Act.** Notwithstanding any provisions of this Agreement to the contrary, Grantee understands that CPA will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code), as interpreted by judicial opinions and opinions of CPA and of the Texas Attorney General. Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Grantee is required to make any information created or exchanged with the State of Texas pursuant to the Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State. Specific formats acceptable to CPA include Word, Excel, and pdf. All Applications become the property of CPA and may be subject to release to any requester under the provisions of the Texas Public Information Act. After the award and execution of this Agreement, Applications submitted shall be presumed to be public information and subject to disclosure unless such information is conspicuously marked as confidential and a specific exception to disclosure under the Texas Public Information Act applies. CPA advises each Grantee to consult with its legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or other proprietary information. CPA assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Grantee.

M. **Information Security Requirements.** Grantee shall comply with all applicable state and federal laws and regulations regarding confidentiality, privacy, and security pertaining to confidential CPA information. If communications with Grantee necessitate the release of confidential CPA information, each individual who will require access to or may be exposed to that information must sign the CPA Confidential Treatment of Information Acknowledgement (CTIA) form. See Attachment D for the CTIA.

N. **Debts or Delinquencies to State.** Grantee acknowledges and agrees that, to the extent Grantee owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Grantee is otherwise owed under or related to this Agreement may be applied toward any debt Grantee owes the State of Texas until the debt is paid in full. These provisions are effective at any time Grantee owes any such debt or delinquency.

- O. **Local Government Waiver of Sovereign Immunity.** If Grantee is a “local government entity” as defined under Section 271.151 of the Texas Local Government Code, Grantee acknowledges and agrees that this Agreement is a written contract stating the essential terms for providing services to Grantee, and therefore, this Agreement is subject to Chapter 271, Subchapter I, of the Local Government Code which waives sovereign immunity for certain breach of contract claims.
- P. **Actual or Potential Conflicts of Interest Prohibited.** Grantee represents and warrants that performance under this Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. Further, Grantee represents and warrants that in the administration of the Project, it will at all times comply with all conflict-of-interest prohibitions and disclosure requirements required by applicable law, rules, and policies, including the provisions under Chapters 171 and 176 of the Local Government Code and Chapter 573 of the Texas Government Code.
- Q. **Report of Fraud, Waste and Abuse.** Grantee represents and warrants that it has read and understood and shall comply with CPA’s Anti-Fraud Policy located on CPA’s website at <https://comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of this Agreement. If the administrative head of a department or entity that is subject to audit by the Texas State Auditor has reasonable cause to believe that money received from the State by the Grantee or by a client or contractor of the Grantee may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Grantee, the administrative head shall report the reason and basis for the belief to the Texas State Auditor. The Texas State Auditor may investigate the report or may monitor any investigation conducted by the Grantee. See <http://sao.fraud.state.tx.us/>.
- R. **Media Releases.** Grantee shall not use CPA’s name, logo or other likeness in any press release, marketing material or other announcement without CPA’s prior written approval. CPA does not endorse any vendor, commodity or service. Grantee is not authorized to make or participate in any media releases or public announcements pertaining to this Agreement or the Grant without CPA’s prior written consent, and then only in accordance with explicit written instructions from CPA.
- S. **CPA/OAFC Signs.** If requested by CPA, Grantee agrees to display one or more signs identifying the Project as a recipient of financial assistance under the Program if CPA furnishes such sign(s). Grantee shall be responsible for the installation of the signs. In the event that a license, permit, or other permission is required from a local jurisdiction in order to display said signs, Grantee agrees to pay all requisite license or permit fees.
- T. **Amendment.** Other than as set forth in the Agreement, this Agreement may not be amended except by a written instrument executed by CPA and Grantee.
- U. **Execution.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or by electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic transmission shall be deemed to be their original signatures for all purposes.
- V. **Governing Law and Venue.** This agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under this agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute that directly names or otherwise identifies its applicability to the contracting state agency.
- W. **Further Assurances and Corrective Instruments.** Grantee agrees that it will, from time to time, execute and deliver, or cause to be delivered, such amendments hereto and such further instruments as may be required for CPA to comply with any existing or future State regulations, directives, policies, procedures, and other requirements, or to further the general purposes of this Agreement.
- X. **Technical Assistance.** If the Project is not being completed or performed in a manner satisfactory to CPA, Grantee has violated a provision of this Agreement, prior to CPA declaring a default, CPA may request that Grantee accept technical assistance CPA feels is necessary for the Project to proceed in a manner acceptable to CPA.
- Y. **Cumulative Remedies.** No Remedy referred to in this Agreement is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to in this Agreement or otherwise available under Applicable Laws.

- Z. **Survival of Terms.** Termination of the Agreement for any reason shall not release Grantee from liability or obligation set forth in the Agreement that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding ongoing Project conformance with specifications, confidentiality, indemnification, records, audit, property rights, dispute resolution, and reimbursement verification.
- AA. **Entire Agreement.** This Agreement, and its accompanying attachments, contain the entire agreement between the parties relating to the rights granted and the obligations assumed in it and supersedes all prior oral and written agreements between the parties hereto with respect to the Grant. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent writing, signed by both parties.

XXII. Order of Precedence

In the case of conflicts between this Agreement (excluding Attachments) and any of the Attachments or documents incorporated by reference, the following shall control in the following order of priority:

1. Attachment A of this Agreement – Special Terms and Conditions
2. This Agreement (excluding Attachments)
3. The NOFA
4. Attachment D – Confidential Treatment of Information Acknowledgement (CTIA) Form
5. Attachment E – Nondisclosure Agreement
6. Attachment F – Conflict of Interest/Disclosure Statement
7. Attachment B - Application
8. Attachment C - Project Budget

XXIII. Signatories

The undersigned signatories represent and warrant that they have full authority to enter into this Agreement on behalf of the respective parties. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the parties.

TEXAS OPIOID ABATEMENT FUND COUNCIL GRANTEE

By: Texas Comptroller of Public Accounts

By: _____

Lisa Craven
Deputy Comptroller
Date: _____

By: _____

Name
Title
Date: _____

**ATTACHMENT A
SPECIAL TERMS AND CONDITIONS**

1. Reserved.

**ATTACHMENT B
APPLICATION**

Grantee's Application dated [insert date], is incorporated by reference for all purposes into this Agreement as Attachment B of this Agreement.

**ATTACHMENT C
PROJECT BUDGET**

Grantee's Project Budget dated [insert date], is incorporated by reference for all purposes into this Agreement as Attachment C of this Agreement.

ATTACHMENT D



Comptroller
of Public
Accounts
FORM

70-223
(Rev.10-14/11)

**Texas Comptroller of Public Accounts
Confidential Treatment of Information Acknowledgement (CTIA)**

I have read and understand the Comptroller’s Summary Public Information Disclosure Manual, a copy of which has been made available to me. I understand that confidential information made available to me by the Comptroller’s office may include the Comptroller’s own information and information held by the Comptroller’s office from other entities. I understand that confidential information is to be held in strictest confidence, and I will act in accordance with applicable federal and state laws, regulations and Comptroller policy with regard to the safekeeping and disclosure of confidential information. I understand that I am not to use such information to the detriment of the Comptroller’s office or the State of Texas.

I understand that it is my responsibility to consult with the Comptroller’s office and obtain approval to disclose confidential information made available to me, and to ensure that any and all disclosures I make are made to people or entities authorized to receive such information.

I understand that I shall either return to the Comptroller’s office or destroy any confidential information in my possession according to Comptroller guidelines, when I no longer require such information for authorized purposes.

I understand that computer system password(s) I receive or devise to access computer systems, which may be made available to me for my use by the Comptroller’s office, are confidential. I will not disclose to any unauthorized person any password(s) which I am given or devise, and I will not write such password(s) or post them where they may be viewed by unauthorized people. I understand that I am responsible for any computer transactions performed as a result of access authorized by use of my password(s). I understand that use of a password not issued specifically to me, or to a group of which I am a member, is expressly prohibited.

I understand that criminal and/or civil penalties and/or civil damages may apply if I obtain unauthorized access to, or make an unauthorized disclosure or inspection of, certain types of confidential information (e.g., IRS Federal Taxpayer Information, Protected Health Information, Sensitive Personal Information). Such penalties and/or damages may include, but are not limited to, the following:

- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$4,000 fine (Texas Labor Code §301.085);
- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$1,000 fine (Texas Tax Code §171.361);
- a misdemeanor, punishable by up to 180 days in jail and/or up to a \$2,000 fine (Texas Tax Code §22.27(c));
- a felony, punishable by up to 5 years in prison and/or a fine of up to \$5,000 (26 USC. §7213);
- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$1,000 fine (26 USC §7213A);
- civil damages equal to sum of the greater of \$1,000 for each unauthorized inspection/disclosure or sum of actual damages sustained plus punitive damages for gross negligence, and the cost of action (26 USC §7431); and
- civil and criminal penalties related to criminal justice information (28 CFR §20.25).

I understand that an attempt to circumvent any computer security system or other security control by any means is a violation of Comptroller policy. I also understand that failure to observe these restrictions may constitute a "Breach of Computer Security" as defined in Texas Penal Code, Section 33.02(b), and that such an offense constitutes a Class B misdemeanor, a state jail felony, or a felony of the first, second or third degree.

I understand that any copyrighted material including, but not limited to, commercial computer software, which may be made available to me for my use by the Comptroller’s office, is protected by copyright laws and is not to be copied for any reason without permission from the copyright owner. I understand that the violation of copyright laws, including computer software, may result in fines and/or imprisonment.

By my signature hereon, I acknowledge my understanding of the contents of this form and the continued applicability of these provisions after my access to confidential information and computer systems has been terminated.

| | | |
|--|-------------------|--|
| Printed name of person requesting access | Name of employer | |
| Signature of person requesting access | Date | |
| Work phone (Area code and number) | ork email address | |

For general questions regarding this form, contact the Comptroller’s Information Security Office by calling 512-936-5671.

Under Ch. 559, Government Code, you are entitled to review, request and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at 1-800-531-5441, ext. 6-6057.

ATTACHMENT E

NONDISCLOSURE AGREEMENT

In consideration of Texas Comptroller of Public Accounts (“CPA”) communicating with the undersigned Grantee regarding this Agreement and because of the sensitivity of certain information provided to Grantee, both parties agree that all information regarding CPA or gathered, produced, collected or derived from or related to the Agreement, or provided to Grantee under the Agreement (“Confidential Information”) must remain confidential subject to release only upon prior written approval of CPA, and more specifically agree as follows:

1. The Confidential Information may be used by Grantee only to assist Grantee in connection with the business relationship contemplated in the solicitation or performance of a contract with CPA resulting from the solicitation.
2. Grantee shall not, at any time, use the Confidential Information in any fashion, form, or manner except in its capacity as proposed consultant or independent contractor to CPA.
3. Unless otherwise provided in the solicitation or resulting contract, Grantee agrees to maintain the confidentiality of all Confidential Information in the same manner that it protects the confidentiality of its own materials of like kind, but in no event less than reasonable care. Grantee shall take reasonable precautions to protect the Confidential Information including, but not limited to, not disclosing Confidential Information in any manner to any person, firm, or entity, except for authorized employees, agents, or contractors of Grantee with a need to know who are bound by confidentiality obligations at least as stringent as those contained in this agreement prior to any disclosure of such Confidential Information.
4. The Confidential Information may not be copied, reproduced, disclosed, distributed, or otherwise divulged without CPA's prior written approval. Confidential Information and any copies thereof shall be CPA’s exclusive property.
5. All Confidential Information made available to Grantee, including copies thereof, must be returned to CPA upon the first to occur of (a) expiration or termination of any contract resulting from the solicitation, or (b) request by CPA.
6. The foregoing does not prohibit or limit Grantee’s use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, provided such prior knowledge was not subject to a confidentiality obligation, (b) independently developed by it, (c) acquired by it from a third-party under no obligation of confidentiality to CPA, (d) which is or becomes part of the public domain through no breach by Grantee of this nondisclosure agreement or other contractual obligations to CPA, or (e) approved by CPA in writing for unrestricted disclosure.
7. If Grantee is required by applicable law, regulation, or legal process to disclose any Confidential Information, then Grantee shall provide CPA with prompt notice of any such requirement prior to delivery of the Confidential Information to allow CPA a reasonable opportunity to seek a protective order or equivalent.
8. This nondisclosure agreement shall become effective as of the date Confidential Information is first made available to Grantee and shall survive the expiration or termination of any contract resulting from the solicitation and be a continuing requirement.
9. The breach of this nondisclosure agreement by Grantee shall entitle CPA to immediately terminate any contract with Grantee resulting from the solicitation upon written notice to Grantee for such breach. The parties acknowledge that the measure of damages in the event of a breach of this nondisclosure agreement may be difficult or impossible to calculate, depending on the nature of the breach. Regardless of whether CPA elects to terminate any contract with Grantee resulting from the solicitation upon the breach hereof, CPA may require Grantee to pay to CPA the sum of \$5,000 for each breach as liquidated damages. This amount is not intended to be in the nature of a penalty, but is intended to be a reasonable estimate of the amount of damages to CPA in the event of a breach hereof by Grantee of this nondisclosure agreement. CPA does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this nondisclosure agreement.
10. This nondisclosure agreement is governed by and construed under the laws of the State of Texas. Any and all obligations of this agreement are due in Travis County, Texas and venue is proper in only such county.

Signature of Authorized Representative

Date Signed

Printed Name & Title of Authorized Representative

Entity Name (“Grantee”)

ATTACHMENT F

CONFLICT OF INTEREST/DISCLOSURE STATEMENT

- A. Disclosures. Provide the requested information in the space provided; indicate “N/A” as appropriate.
1. Grantee must disclose any proposed personnel who are current or recent former employees of CPA or the State of Texas.

2. Grantee must disclose the following:
 - a. any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to Grantee’s and its proposed subcontractors’ and subgrantees’ submission of an Offer, possible selection as Successful Grantee, or its performance of the contract.

- b. all past and present contractual, business, financial or personal relationships between Grantee and CPA or any member of the Texas Opioid Abatement Fund Council (established by Texas Government Code, Section 403.503) and between Grantee’s proposed subcontractors or subgrantees, if any, and CPA or any member of the Texas Opioid Abatement Fund Council.

For each item, Grantee must also provide a detailed explanation of why Grantee does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety issue relative to Grantee’s application, possible selection for award, or its performance of the Agreement.

- B. Defined Terms. For purposes of the disclosure statements required by this solicitation, the terms below are defined as follows:

- “past” is defined as within the two (2) calendar years prior to the deadline for submission of Grantee’s Application.
- “CPA” is defined as the statewide elected official who heads the agency as well as the agency’s employees or recent former employees.
- “recent former employees” are defined as those CPA employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of Grantee’s Application.
- “personal relationship” is defined as a current or past connection other than a clearly contractual, business, financial or similar relationship and includes family relationships or other connections outside simply providing a response to the NOFA. For this purpose, “family relationship” means a relationship within the third degree of consanguinity or second degree of affinity; see Chapter 573 of the Texas Government Code, which defines these degrees of consanguinity and affinity. Connections other than such family relationships fall within this definition and must be disclosed if:
 - (a) a reasonable person could expect the connection to diminish Grantee’s independence of judgment or effectiveness in the performance of the Grantee’s responsibilities to CPA or the State under the Agreement;
 - (b) a reasonable person could expect the connection, within the overall context of Grantee’s submission of an Application, selection of Grantee or its performance of the Agreement, to create an issue for the agency’s consideration relative to a potential appearance of impropriety or conflict of interest; or
 - (c) the relationship is with a member of the Texas Opioid Abatement Fund Council or a CPA or other State of Texas employee with authority to make decisions or recommendations on state contracting or procurement or this solicitation. For purposes of this provision, those persons with authority to make decisions or recommendations are those persons who fall within the definition of “purchasing personnel” in Section 2262.004(a)(2) of the Texas Government Code.

- C. Continuing Duty to Disclose. If circumstances change or additional information is obtained subsequent to Grantee’s submission of its Application or selection for Award, Grantee’s duty to disclose under these provisions continues under the term of the Agreement and does not end with receipt of grant award.

D. Disclosures under these provisions are information that will be evaluated by CPA; however, all information provided will not necessarily lead to a restriction or disqualification. Issues will be considered on a case-by-case basis in the best interests of the State of Texas. If Grantee is in doubt about whether information should be disclosed, Grantee should consult with its legal counsel. Failure to disclose any required information under these provisions may be cause award rescission or termination of the Agreement. CPA reserves the right, in its sole discretion, to determine if an issue should result in award rescission or termination of the Agreement.

Signature of Authorized Representative

Date Signed

Printed Name & Title of Authorized Representative

Entity Name (“Grantee”)

Appendix B: Definitions

The following words and terms, when used in this NOFA, shall have the following meanings, unless the context clearly indicates otherwise.

Comptroller or CPA—The Texas Comptroller of Public Accounts. A reference in this NOFA to the CPA includes the director and program staff members of the OAFAC unless the provision indicates otherwise.

Grant Agreement—A legal agreement executed by a Grant Recipient and the director, on behalf of the OAFAC, setting forth the terms and conditions for a Grant Award.

Grant Applicant—A person or entity that has submitted a Grant Application through an authorized official.

Grant Application—A written proposal submitted by a Grant Applicant to the OAFAC director in the form required by the OAFAC that, if successful, will result in a Grant Award.

Grant Award—Funding awarded by the OAFAC pursuant to a Grant Agreement providing money to the Grant Recipient to carry out a grant project in accordance with statutes, rules, regulations and guidance provided by the OAFAC.

Grant Management System—The electronic platform hosted by Salesforce on the Comptroller’s website available at <https://comptroller.texas.gov/programs/opioid-council/grants/> .

Grant Recipient—A Grant Applicant that receives a Grant Award.

Naloxone – An overdose reversal medication that has been approved by the federal Food and Drug Administration.

NOFA—Notice of funding availability.

OAFAC –The Texas Opioid Abatement Fund Council established by Texas Government Code, §403.503, to manage the distribution of money allocated to the OAFAC from the Opioid Abatement Trust Fund, established by Texas Government Code, §403.506 in accordance with a statewide opioid settlement agreement.

Peer Review—The review process performed by the Peer Review Panel and used to provide guidance and recommendations to the OAFAC in making decisions for Grant Awards. The process involves the consistent application of standards and procedures to produce a fair, equitable and objective evaluation of Grant Applications, based on the evidence-based opioid abatement strategies developed by the OAFAC under Texas Government Code, §403.509, as well as other relevant requirements of the NOFA and the Grant Application.

Peer Review Panel—A group of experts in the field of opioid abatement who are selected to conduct a peer review of Grant Applications.