

Subaward Agreement

By and between:

Pass-through Entity ("PTE"):
TORCH FOUNDATION

& Subcontractor:

Prime Award:

Award Title: COVID-19 Vaccine Outreach and Education Program
 Prime Sponsor: Texas Department of State Health Services
 Grant/Contract No: HHS001274300001

Subaward Details

Subaward Period of Performance: Start: _____ End: June 30, 2024
 Funding Eligible to Subcontractor: Up to \$ _____

Terms & Conditions

1) **Subcontractor's Work.** PTE hereby awards a cost reimbursable subaward, up to the amount described above, to Subcontractor for its Allowable Costs. The statement of work and budget template for this are as shown in Attachment 3. Subcontractor shall supply all personnel, equipment, and materials necessary to accomplish the tasks set forth in its statement of work, as detailed on Attachment 3.

2) **Limitation on Costs.** Subcontractor is authorized under this Subaward Agreement only for the funding amount listed above and as allotted and detailed in Attachment 3.

3) **Payment.** PTE shall reimburse Subcontractor not more often than monthly for Allowable Costs and provided that PTE has received all required documentation from Subcontractor and payment from the Texas Department of State Health Services ("DSHS") for such Allowable Costs. Subcontractor shall submit monthly invoices for Allowable Costs incurred. All invoices must: (1) be prepared using the sample monthly invoice (Attachment 4) and timesheet attached as Attachment 5, (2) be signed and certified to by an Authorized Official of Subcontractor, (3) certify that all payments requested are for appropriate purposes and in accordance with the agreements set forth herein, (6) itemize the costs by budget category, and (8) provide supporting receipt/invoice-paid documentation for all charges requesting reimbursement. PTE, at any time, may request supporting documentation, including, but not limited to, travel receipts, purchase orders, invoices for services or supplies, time records, contracts, or general ledger reports originating directly from the Subcontractor's financial record keeping system. All supporting documentation shall be retained by Subcontractor and provided promptly to PTE upon request. Payment is contingent upon PTE's receipt of funds for Allowable Costs from DSHS, and receipt of all required documentation from Subcontractor. PTE shall have no liability or responsibility to Subcontractor for any failure by DSHS to provide PTE with the Allowable Costs. Reimbursement does not constitute acceptance of the invoiced activities, nor does it constitute a waiver of any claims of PTE. PTE reserves the right to reject any and all monthly invoices.

4) **Allowable Costs.** Allowable Costs are restricted to costs included in the statement of work and budget template submitted by Subcontractor (Attachment 3) and that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws, and the criteria for Allowable Costs as set forth in Attachment 2, COVID-19 Vaccine Outreach and Education Grant Program Contract Affirmations and Uniform Terms and Conditions (the "Project Grant"). PTE will reimburse Subcontractor for actual, allowable, and allocable costs incurred by Subcontractor in performing the Project Grant, provided the costs are sufficiently documented. Subcontractor must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Subaward Agreement. At its sole discretion, PTE will determine whether costs submitted by Subcontractor are allowable and eligible for reimbursement. Subcontractor and all payments received by Subcontractor under this Subaward Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS. In the event that any payments are disallowed by DSHS, Subcontractor shall repay PTE, on demand, the amount of any disallowed items or, at the discretion of PTE, PTE may deduct such amounts from

subsequent payment to be made to the Subcontractor hereunder. Travel Costs of Subcontractor shall be reimbursed in accordance with Attachment 6.

5) **Intellectual Property.**

- (a) All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by DSHS. Subcontractor and Subcontractor's employees will have no rights in or ownership of the Work Product or any other property of DSHS. "Work Product" means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Subcontractor in connection with Subcontractor's performance of its duties under the Subaward Agreement or through use of any funding provided under this Subaward Agreement. "Intellectual Property Rights" means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in: (i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement; (ii) any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work; (iii) any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights.
- (b) Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by DSHS, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Subcontractor hereby irrevocably assigns and transfers to DSHS, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- (c) Subcontractor agrees to execute all papers and to perform such other acts as DSHS may deem necessary to secure for DSHS or its designee the rights herein assigned.
- (d) In the event that Subcontractor has any rights in and to the Work Product that cannot be assigned to DSHS, Subcontractor hereby grants to DSHS an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
- (e) The foregoing does not apply to Incorporated Pre-existing Works or Third-Party IP that are incorporated in the Work Product by Subcontractor. Provided, however, Subcontractor hereby grants to DSHS an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product. Subcontractor shall provide DSHS access during normal business hours to all Subcontractor materials, premises, and computer files containing the Work Product.
- (f) To the extent that any Third Party IP is included or incorporated in the Work Product by Subcontractor, Subcontractor hereby grants to DSHS, or shall obtain from the applicable third party for DSHS's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for DSHS's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to DSHS in conjunction with the Work Product, and to authorize others to do any or all of the foregoing. Subcontractor shall obtain DSHS's advance written approval prior to incorporating any Third Party IP into the Work Product, and Subcontractor shall notify DSHS on delivery of the Work Product if such materials include any Third Party IP.

6) **Termination.**

- (a) **Termination for Convenience.** PTE may terminate the Subaward Agreement, in whole or in part, at any time when, in its sole discretion, PTE determines that termination is in the best interests of PTE. The termination will be effective on the date specified in PTE's notice of termination.

(b) **Termination for Cause.** Either Party may terminate the Subaward Agreement if the other Party has materially breached the Subaward Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of that Party's duties under the Subaward Agreement.

(c) **Remedies.** To ensure Subcontractor's full performance of the Subaward Agreement and compliance with applicable law, PTE reserves the right to hold Subcontractor accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following: (i) temporarily withholding cash disbursements or reimbursements pending correction of the deficiency; (ii) disallowing or denying use of funds for the activity or action deemed not to be in compliance; (iii) disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements; (iv) suspending all or part of the Subaward Agreement; (v) requiring the Subcontractor to take specific actions in order to remain in compliance with the Subaward Agreement; (vi) recouping payments made by PTE to the Subcontractor found to be in error; and/or (vii) imposing any other remedies, sanctions or penalties authorized under this Subaward Agreement or permitted by federal or state statute, law, regulation or rule.

7) **Insurance.** Unless otherwise specified in this Subaward Agreement, Subcontractor shall acquire and maintain, for the duration of this Subaward Agreement, insurance coverage necessary to ensure proper fulfillment of this Subaward Agreement and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by DSHS. Subcontractor shall provide evidence of insurance as required under this Subaward Agreement, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of DSHS the nature and extent of coverage granted by each such policy, upon request by DSHS. In the event that any policy is determined by DSHS to be deficient to comply with the terms of this Subaward Agreement, Subcontractor shall secure such additional policies or coverage as DSHS may reasonably request or that are required by law or regulation. If coverage expires during the term of this Subaward Agreement, Subcontractor must produce renewal certificates for each type of coverage. In addition, if required by DSHS, Subcontractor must obtain and have on file a blanket fidelity bond that indemnifies DSHS against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals.

8) **Indemnification.** **SUBCONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS PTE, AND/OR ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF SUBCONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE SUBAWARD AGREEMENT AND ANY ALLOWABLE COSTS ISSUED UNDER THE SUBAWARD AGREEMENT.**

9) **Terms and Condition of the Prime Award.** Applicable terms and conditions from the Project Grant are incorporated and made binding upon Subcontractor and are listed in full text or by reference in Attachment 2.

10) **Record Maintenance and PTE's Right to Audit.**

(a) Subcontractor shall keep and maintain under Generally accepted accounting principles ("GAAP") or Governmental Accounting Standards Board ("GASB"), as applicable, full, true, and complete records necessary to fully disclose to PTE and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Subaward Agreement and all state and federal rules, regulations, and statutes. Subcontractor shall maintain and retain legible copies of this Subaward Agreement and all records relating to the performance of the Subaward Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable law requirements. These records shall be maintained and retained by the Subcontractor for a minimum of seven (7) years after the Subaward Agreement expiration date or seven (7) years after all audits, claims, litigation or disputes involving the Subaward Agreement are resolved, whichever is later.

(b) Subcontractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Subcontractor pertaining to the Subaward Agreement for purposes of inspecting, monitoring, auditing, or evaluating by PTE.

11) **Negotiation and Mediation.** In the event of any dispute between Subcontractor and PTE pertaining solely to this Subaward Agreement, the parties shall promptly and in good faith attempt to resolve such dispute through negotiations. A disputing party shall give written notice of the dispute to the other party that shall contain a brief statement of the nature of the dispute. If the parties are unable to resolve the dispute within fifteen (15) days of receipt by the adverse party of the

written notice of a dispute, then the parties agree to submit the dispute to mediation in Austin, Texas with a mediator selected and paid for evenly by the parties who has experience in mediation of commercial disputes prior to bringing any legal action to interpret, construe or enforce this Subaward Agreement. This provision shall not prohibit either party from seeking any necessary injunctive relief prior to conducting mediation.

12) **Applicable Law; Venue.** This Subaward shall be construed and performance hereunder shall be determined according to the laws of the State of Texas. The venue of any suit arising under the Subaward Agreement is fixed in any court of competent jurisdiction of Travis County, Texas.

13) **Confidentiality.** Subcontractor shall maintain as confidential and shall not disclose to third parties without DSHS's prior written consent, any DSHS information including but not limited to DSHS's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Subaward Agreement.

14) **Amendments.** This Subaward Agreement may only be amended by a written amendment executed by Subcontractor and PTE.

15) **Independent Contractor.** Subcontractor and Subcontractor's employees, representatives, agents, subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Subaward Agreement. Neither Subcontractor or PTE is an agent of the other and neither may make any commitments on the other party's behalf. Subcontractor shall have no claim against PTE for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Subaward Agreement shall not create any joint venture, partnership, agency, or employment relationship between Subcontractor and PTE.

16) **Severability.** If any provision contained in this Subaward Agreement is held to be unenforceable by a court of law or equity, such construction will not affect the legality, validity, or enforceability of any other provision or provisions of this Subaward Agreement. It is the intent and agreement of the Parties this Subaward Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Subaward Agreement will continue in full force and effect.

17) **Entire Agreement.** The Subaward Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof.

18) **No Third-Party Beneficiaries.** The Subaward Agreement is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Subaward Agreement as a third-party beneficiary or otherwise.

19) **Counterparts.** This Subaward Agreement may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Subaward Agreement.

20) **Incorporation of Attachments.** Attachments (a)-(g), as listed below, and any terms and conditions therein are hereby made a part of this Subaward Agreement.

- (a) Attachment 1, Certifications and Assurances;
- (b) Attachment 2, COVID-19 Vaccine Outreach and Education Grant Program Contract Affirmations and Uniform Terms and Conditions;
- (d) Attachment 3, Statement of Work and Budget Template;
- (e) Attachment 4, Sample Monthly Invoice;
- (f) Attachment 5, Timesheet;
- (f) Attachment 6, COVID-19 Vaccine Outreach and Education Grant Travel Reimbursement Policy; and
- (g) Attachment 7, Subcontractor Agreement Form – Data Use Agreement (DUA).

[SIGNATURE PAGE TO FOLLOW]

In witness whereof, the parties hereto have executed this Subaward Agreement as of the day and year last written.

TORCH FOUNDATION

By _____
Printed Name: _____
Its: _____
Date _____

By _____
Printed Name: _____
Its: _____
Date _____

Approved:

DEPARTMENT OF STATE HEALTH SERVICES

By: _____
Printed Name: _____
Its: _____

Attachment 1 Certifications and Assurances

By Signature of this Subaward Agreement, Subcontractor affirms, understands, certifies and agrees that:

1. If a Subcontractor is a facility providing women's health services, Subcontractor certifies that it meets the eligibility requirements defined in Texas Administrative Code (TAC) Title 1, Part 15, Chapter 382, Subchapter A, Healthy Texas Women and the requirements under 1 TAC § 382.17(b)-(d).
2. It will share activities and information obtained through outreach efforts with community partners and/or trusted messengers to assist with outreach and educational messaging.
3. No funds received under this Subaward Agreement will be used for: (a) publicity or propaganda purposes, including for the preparation, distribution, or use of any material designed to support or defeat the enactment of legislation before any legislative body; or (b) the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative act, or executive order proposed or pending before any legislative body.
4. All statements and information provided to PTE, Health and Human Services Commission (HHSC) and the DSHS (collectively, "HHS") are current, complete, and accurate. This includes all statements and information in this Subaward Agreement, its Application submitted to PTE and any other documents provided in connection therewith.
5. That HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Subaward 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, Subcontractor is required to make any information created or exchanged with the State pursuant to the Subaward 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.
6. It will comply with all requirements and obligations under local, state, and federal law, including but not limited to 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules (including Uniform Grant and Contract Standards set forth in Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code); the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds.
7. It will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Subaward Agreement and the Subcontractor agrees that the Subaward Agreement can be terminated if the Subcontractor knowingly or intentionally fails to comply with a requirement of that subchapter.
8. It will not assign its rights under the Subaward Agreement or delegate the performance of its duties under the Subaward Agreement without prior written approval from PTE, HHSC, or DSHS. Any attempted assignment in violation of this provision is void and without effect.

9. HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Subaward Agreement as HHS deems necessary to complete the procurement process or comply with state or federal laws.
10. It releases from liability and waives all claims against any party providing information about the Subcontractor at the request of HHSC or DSHS.
11. It has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Subaward Agreement.
12. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Subcontractor certifies that the individual or business entity named in this Subaward Agreement is not ineligible to receive this Subaward Agreement and acknowledges that this Subaward Agreement may be terminated, and payment withheld if this certification is inaccurate.
13. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Subcontractor certifies that the individual or business entity named in this Subaward Agreement is not ineligible to receive this Subaward Agreement and acknowledges that this Subaward Agreement may be terminated, and payment withheld if this certification is inaccurate.
14. Under Section 231.006(d) of the Texas Family Code regarding child support, Subcontractor certifies that the individual or business entity named in this Subaward Agreement is not ineligible to receive the specified payment and acknowledges that the Subaward Agreement may be terminated, and payment may be withheld if this certification is inaccurate.
15. 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. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this Project Grant.
16. It is not listed in the prohibited vendors list authorized by Executive Order 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.'
17. It is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
18. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Subaward Agreement was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.
19. Under Section 2155.0061 of the Texas Government Code, it is not ineligible to receive this Subaward Agreement and acknowledges that this Subaward Agreement may be terminated, and payment withheld if this certification is inaccurate.

20. It is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
21. That payments to Subcontractor and Subcontractor's receipt of appropriated or other funds under this Subaward Agreement are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).
22. It will comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
23. Upon request of PTE, HHSC or DSHS, Subcontractor shall provide copies of its most recent business continuity and disaster recovery plans.
24. If Subcontractor has access to any state computer system or database, Subcontractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.
25. Pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Subcontractor may not accept employment from Subcontractor before the second anniversary of the date the Subaward Agreement is signed, or the procurement is terminated or withdrawn.
26. (a) It has no actual or potential conflicts of interest in providing the requested goods or services to PTE, HHSC or DSHS under this Subaward Agreement and that Subcontractor's provision of the requested goods and/or services under this Subaward Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety; and (b) if after execution of the Subaward Agreement, Subcontractor discovers or is made aware of a Conflict of Interest, Subcontractor will immediately and fully disclose such interest in writing to PTE, HHSC or DSHS (in addition, Subcontractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Subcontractor or by HHSC or DSHS as a potential conflict).
27. Subcontractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Subcontractor officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Subcontractor agrees to comply with all applicable laws, rules, regulations, and DSHS policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027. A report to the SAO must be made through one of the following avenues:
 - 1-800-TX-AUDIT
 - <http://sao.fraud.state.tx.us/>All reports made to the OIG must be made through one of the following avenues:
 - OIG Toll Free Hotline: 1-800-436-6184
 - OIG Website: ReportTexasFraud.com
 - Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us

- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us
- OIG Mailing Address: Office of Inspector General
Attn: Fraud Hotline
MC 1300
P.O. Box 85200
Austin, Texas 78708-5200

28. Subcontractor affirms under penalty of perjury of the laws of the State of Texas that: (a) in connection with this Subaward Agreement, neither Subcontractor nor any representative of the Subcontractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (b) in connection with this Subaward Agreement, neither Subcontractor nor any representative of the Subcontractor has violated any federal antitrust law; and (c) neither Subcontractor nor any representative of the Subcontractor has directly or indirectly communicated any of the contents of this Subaward Agreement to a competitor of the Subcontractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Subcontractor.
29. It is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Subcontractor within the five (5) calendar years immediately preceding execution of this Subaward Agreement that would or could impair Subcontractor's performance under this Subaward Agreement, relate to the contracted or similar goods or services, or otherwise be relevant to PTE, HHSC or DSHS's consideration of entering into this Subaward Agreement. If Subcontractor is unable to make the preceding representation and warranty, then Subcontractor instead represents and warrants that it has provided to PTE, HHSC or DSHS a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Subcontractor's performance under this Subaward Agreement, relate to the contracted or similar goods or services, or otherwise be relevant to PTE, HHSC or DSHS's consideration of entering into this Subaward Agreement. In addition, Subcontractor acknowledges this is a continuing disclosure requirement. Subcontractor represents and warrants that Subcontractor shall notify PTE, HHSC or DSHS in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update PTE, HHSC or DSHS shall constitute breach of contract and may result in immediate contract termination.
30. Neither Subcontractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Subcontractor has fully advised PTE, DSHS, and HHSC in writing of the facts and circumstances surrounding the convictions.
31. It has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Subcontractor has not been found to be liable for such practices in such proceedings. Subcontractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.
32. (a) It does not and shall not for the duration of the Subaward Agreement, boycott Israel or (b) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Subaward Agreement, Subcontractor shall promptly notify PTE, HHSC and DSHS.
33. It shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Subaward Agreement to determine the eligibility of: (a) all persons employed by Subcontractor to

perform duties within Texas; and (b) all persons, including subcontractors, assigned by Subcontractor to perform work pursuant to this Contract within the United States of America.

34. If this Subaward Agreement is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Subcontractor represents and warrants that neither Subcontractor nor any of Subcontractor's employees including, but not limited to, those authorized to provide services under the Subaward Agreement, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Subaward Agreement.
35. Neither Subcontractor nor any individual employed by Subcontractor was employed by HHSC, DSHS, or any other State of Texas agency at any time during the two years preceding the submission of Subcontractor's offer to provide services under the Subaward Agreement.
36. Pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act: (a) performs an abortion procedure that is not reimbursable under the state's Medicaid program; (b) is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or (c) is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program. The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.
37. Pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Subcontractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.
38. The individual or business entity named in this Subaward Agreement is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.
39. Pursuant to Texas Health and Safety Code, Section 161.0085(c), Subcontractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Subcontractor's business. Subcontractor acknowledges that such a vaccine or recovery requirement would make Subcontractor ineligible for a state-funded contract.
40. In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Subcontractor represents and warrants that: (1) it does not, and will not for the duration of the Subaward Agreement, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Subaward Agreement. If circumstances relevant to this provision change during the course of the Subaward Agreement, Subcontractor shall promptly notify PTE, DSHS, and HHSC.
41. In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Subcontractor verifies that: (1) it does not, and will not for the duration of the Subaward Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Subaward Agreement. If

circumstances relevant to this provision change during the course of the Subaward Agreement, Subcontractor shall promptly notify PTE, DSHS, and HHSC.

42. In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Subcontractor understands, acknowledges, and agrees that if, pursuant to this Subaward Agreement, Subcontractor is or will be authorized to access, transmit, use, or store data for HHSC or DSHS, Subcontractor is required to meet the security controls the HHSC or DSHS determines are proportionate with HHSC and DSHS's risk under the Subaward Agreement based on the sensitivity of HHSC and DSHS's data and that Subcontractor must periodically provide to HHSC or DSHS evidence that Subcontractor meets the security controls required under the Subaward Agreement.
43. In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 531.102(m-1)(2) is applicable to this Subaward Agreement, Subcontractor affirms that it possesses the necessary occupational licenses and experience.
44. In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Subaward Agreement, Subcontractor affirms that it possesses the necessary occupational licenses and experience.
45. If Texas Government Code, Section 2274.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Subaward Agreement, pursuant to Government Code Section 2274.0102, Subcontractor certifies that neither it nor its parent company, nor any affiliate of Subcontractor 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.
46. For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Business and Commerce Code, Subcontractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Subcontractor will notify DSHS before entering into any subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.
47. In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Subcontractor, Subcontractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.
48. Pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Subcontractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Subaward Agreement, to receive appropriated funding pursuant to Article II.

49. Subcontractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Subcontractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Subaward Agreement.
50. All statements and information prepared and submitted by Subcontractor in this Subaward Agreement and any related attachments are current, complete, true, and accurate. Subcontractor acknowledges any false statement or material misrepresentation made by Subcontractor during the performance of this Subaward Agreement or any related attachment is a material breach of contract and may void this Subaward Agreement. Further, Subcontractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Subcontractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Subaward Agreement.
51. It will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Subaward Agreement.
52. Subcontractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.
53. All articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).
54. In addition to any right of access arising by operation of law, Subcontractor and any of Subcontractor's affiliate or subsidiary organizations, shall permit DSHS or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Subaward Agreement. If the Subaward Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: DSHS, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by DSHS or any duly authorized authority, for the purpose of investigation or hearing, Subcontractor shall produce original documents related to this Subaward Agreement.
55. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subcontractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subcontractor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. This statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required

statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

56. It will comply with all applicable terms and condition set forth in Attachment 2, COVID-19 Vaccine Outreach and Education Grant Program Contract Affirmations and Uniform Terms and Conditions.
57. It will execute Attachment 7, Subcontractor Agreement Form – Data Use Agreement (DUA).
58. The individual signing this Subaward Agreement is authorized to sign on behalf of Subcontractor and to bind the Subcontractor.

Attachment 2
COVID-19 Vaccine Outreach and Education Grant Program Contract Affirmations and
Uniform Terms and Conditions

See *Attachment 2* at <https://www.torchnet.org/availablegrants.html>

**Attachment 3
Subcontractor Statement of Work & Budget Template**

See Attachment 3 at <https://www.torchnet.org/availablegrants.html>

**Attachment 4
Sample Monthly Invoice**

See Attachment 4 at <https://www.torchnet.org/availablegrants.html>

**Attachment 5
Timesheet**

See Attachment 5 at <https://www.torchnet.org/availablegrants.html>

Attachment 6
COVID-19 Vaccine Outreach and Education Grant Travel Reimbursement Policy

See *Attachment 6* at <https://www.torchnet.org/availablegrants.html>

Attachment 7
Subcontractor Agreement Form – Data Use Agreement (DUA)

See *Attachment 7* at <https://www.torchnet.org/availablegrants.html>