

Enhanced Contract and Performance Monitoring of the Contract between the Texas Board of Nursing and the Texas Nurses Foundation

Background: Pursuant to Section 2261.254(a) of the Texas Government Code, state agencies are required to develop and implement contract reporting requirements for each contract for the purchase of goods or services that has a value exceeding \$1 million. Further, Board rule section 211.9(f) states that contracts that have a value exceeding \$1 million are subject to enhanced contract or performance monitoring. The contract between the Texas Board of Nursing and the Texas Nurses Foundation (“TNF”) for the Texas Peer Assistance Program for Nurses (“TPAPN”) is the Board’s only contract that exceeds \$1 million; therefore, it is subject to contract reporting requirements and enhanced contract or performance monitoring.

As part of the enhanced contract and performance monitoring plan for this contract, Board Staff implemented a Contract and Performance Monitoring Report, which requires TNF to submit specified documentation to the TPAPN Contract Manager on either a quarterly or annual basis. The Contract and Performance Monitoring Report outlines TNF’s responsibilities under the terms of the contract, and requires TNF to provide the documents under the column, “Documentation of Contractor’s Compliance.” The TPAPN Contract Manager is responsible for compiling and reviewing the documents TNF provides, and presenting the Contract and Performance Monitoring Report to the Board. The Contract and Performance Monitoring Report is a tool to document TNF’s compliance with contract terms and to ensure that the Board is effectively managing the contract.

The following Contract and Performance Monitoring Reports are documented reviews of the Texas Peer Assistance Program for Nurses’ 1) Fiscal Year 2019, 4th Quarter Report, as well as its 2) Fiscal Year 2019 Annual Report, as submitted by the Texas Nurses Foundation. While the Board is already familiar with TPAPN’s Quarterly Report and Board Staff’s review of the Quarterly Report, the Annual Report is a new type of report that TPAPN is required to submit. As requested in the Board’s Contract and Performance Monitoring Report, TPAPN’s Annual Report includes additional information, such as the program’s: certification letter, policies and procedures, job descriptions and training material, organizational charts, promotional material, yearly calendar, annual budget, closeout/continuity plan should the contract terminate, and total number of program completions by RN, LVN, and APRN. TPAPN’s Annual Report, and Board Staff’s review of the Annual Report, will be presented to the Board on an annual basis (following the end of the Board’s fiscal year).

The Annual Report is attached as Attachment “A” and is made available confidentially for Board review, as it may contain information that is confidential under the Texas Public Information Act.

Staff’s Recommendation:

This item is for informational purposes only. No action is required.

**CONTRACT BETWEEN THE TEXAS BOARD OF NURSING
AND THE TEXAS NURSES FOUNDATION
FOR THE TEXAS PEER ASSISTANCE PROGRAM FOR NURSES (TPAPN)**

Contract and Performance Monitoring Report

Fiscal Year 2019, Quarter 4

Activity Period Covering June 1, 2019 through August 31, 2019

Background: The following Contract and Performing Monitoring Report is a documented review of the Quarterly Report submitted by the Texas Nurses Foundation, Texas Peer Assistance Program for Nurses (TPAPN) for the 2019 Fiscal Year, 4th Quarter. This Report requests specified documentation from the TNF/TPAPN to ensure compliance with contract terms.

SOURCE OF AUTHORITY	CONTRACTOR'S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR'S COMPLIANCE	BON COMMENTS
RFP 507-16-001 Section Four, 3.8	An advisory committee to oversee the Peer Assistance Program, which shall be composed of statewide nursing organization and health related entities involved in substance use disorder and mental health and one representative of the Board of Nursing who shall serve as an ex-officio member of the Advisory Committee.	Administration, Enforcement	✓ Provide the agenda and minutes of the advisory committee.	
RFP 507-16-001 Section Four, 3.11	A statewide program, which includes volunteer licensed nurses trained as advocates according to Texas Department of State Health Services criteria.	Administration, Legal, Enforcement	✓ Provide total number of peer support partners (f/k/a volunteer advocates).	

SOURCE OF AUTHORITY	CONTRACTOR'S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR'S COMPLIANCE	BON COMMENTS
RFP 507-16-001 Section Four, 3.20	A program, which uses financial accounting procedures that, adhere to generally acceptable accounting principles.	Administration, Operations	✓ Provide a financial report that clearly shows how funds are being spent.	MM- All revenue is accurate. The financial documents are based on TPAPN fiscal year. Per new agreement, TPAPN will prepare financial documents based on the BON fiscal year and separate expenditures state funds from other accounts.
RFP 507-16-001 Section Four, 3.21	The program must submit to financial and/or performance audit(s) at the discretion of the Board of Nursing, State Auditor's Office, or Legislative Budget Board. The audit may be performed by the Board of Nursing, the Board of Nursing's designee, the State Auditor's Office, or the Legislative Budget Board. The program must maintain documentation showing ongoing compliance with all statutory and contract criteria. Further, the program must be able to demonstrate sufficient managerial control over the program; an ability to construct, produce, and maintain meaningful performance measures for the program; an ability to meet and adjust to the changing	Administration, Operations, Legal, Enforcement	<ul style="list-style-type: none"> ✓ Cooperate with audit requests and maintain documentation, such as meeting notes and summaries. ✓ Provide a summary of how the program has implemented agreed upon findings of the audit. 	

SOURCE OF AUTHORITY	CONTRACTOR'S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR'S COMPLIANCE	BON COMMENTS
	<p>needs of the participants; a commitment to providing non-punitive, rehabilitative services to participants; an ability to construct budgetary constraints designed to sustain and enhance the longevity of the program; an ability to timely enroll new participants in the program, minimize attrition, and incentivize completion of the program. A program may, as part of an audit, be required to produce evidence of the program's overall performance under the contract, whether the program is performing as expected and whether it is in the public interest to continue the contract. The audit should review all internal performance metrics, the existence of and adherence to internal guidelines and policies, adherence to the policies of the Board of Nursing, consistency and fairness in the treatment of participants, the program's method(s) of internal record keeping, the appropriateness of fees paid by participants, enrollment trends, including waiting period(s) for enrollment into the program and the program's sustained enrollment rate(s), satisfaction ratings of participants who complete and/or do not complete the program, the completion rate of participants, and any other factor relevant to the furtherance of the Board of Nursing's</p>		<p>✓ Provide records of any audits performed.</p>	

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	mission, as determined by the Board of Nursing.			
RFP 507-16-001 Section Four, 3.23	<p>An active plan for ongoing program evaluation including a definition or criteria for program success, and the submission of quarterly reports to the Board of Nursing reflecting:</p> <ol style="list-style-type: none"> 1. Number of individuals referred and those who have signed participation agreements with the program. 2. Details on each referred individual, including demographic information; referral source (board, self, other); number referred to the Board; number closed, no action; number of active cases; number employed in nursing; significant activities, accomplishments or changes in program staff or key processes. 3. Monitoring activities, including the number of drug screens requested, conducted and results of these tests; 4. Any other pertinent information requested by the BON, the State Auditor, or the L.B.B. including the items listed in Section 3.21 of the RFP. 	Administration, Legal, Enforcement, Operations	✓ Provide reports containing this information.	

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RFP 507-16-001 Section Four, 3.24	Maintenance of records regarding performance data and submission of an annual report providing a summary of program activities. Such reports shall include Legislative Budget Board performance measure information such as: recidivism rate, one year completion rate, percent of non-board referrals reported to the BON, and number of eligible individuals participating in program.	Administration, Legal, Enforcement, Operations, Board Members	✓ Provide reports containing this information.	
2017 Contract Renewal; State of Texas Procurement and Contract Management Guide	Financial Reports. Provide financial statements to the Board at such intervals as requested by the Board. These statements should be prepared in accordance with generally accepted accounting principles.	Administration, Operations, Board Members	✓ Provide a financial report that clearly shows how funds are being spent.	MM- All revenue is accurate. The financial documents are based on TPAPN fiscal year. Per new agreement, TPAPN will prepare financial documents based on the BON fiscal year and separate expenditures state funds from other accounts.
22 TAC § 217.13; 2017 Contract Renewal; State of Texas Procurement and Contract	Board Reports. Provide Board reports covering each quarter of the Board's fiscal year. These reports are due on the 15 th day of the month immediately following the last day of the quarter. <u>Progress Reports</u> shall include:	Administration, Operations, Board Members	✓ Provide progress and activity reports containing this information. ✓ Provide an explanation or breakdown of how	

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Management Guide	<p>(1) Progress/status of major projects; (2) Progress on meeting short and long range objectives; (3) Minutes of the TPAPN Advisory Committee; (4) Delays or problems encountered; (5) Activities and accomplishments; (6) Changes in key personnel; and (7) Changes in program design.</p> <p><u>Activity Reports</u> shall include:</p> <p>(1) Number and source of referrals and type of referral (i.e., substance use disorder, dual diagnosis, mental disorder, extended evaluation monitoring); (2) Number of nurses signing participation agreements; (3) Type of participation agreement signed, i.e., chemical dependency, dual diagnosis, mental disorder, extended evaluation monitoring; (4) Number of nurses referred to TPAPN including demographic information and referral source (Board, self, other); (5) Number of self-referral cases closed, no action (breakdown by reason); (6) Number of active cases;</p>		<p>completion is defined or calculated. Indicate the number of individual re-starts of a participant, as well as the number of times a participant has entered the program. Provide any other factors that may be helpful in understanding participant completion rate.</p>	

SOURCE OF AUTHORITY	CONTRACTOR'S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR'S COMPLIANCE	BON COMMENTS
	<p>(7) Number of participants employed in nursing;</p> <p>(8) Number of participants completing the program;</p> <p>(9) Monitoring activities, including number of drug screens requested, conducted, and results of these tests;</p> <p>(10) All applicable performance measures required by the Legislative Budget Board;</p> <p>(11) Any other pertinent information requested by the State Auditor or the Legislative Budget Board as mutually agreed to by the Board and the Contractor; and</p> <p>(12) Any information which may be requested under the audit section of the contract.</p>			

Version: June 11, 2019

BOARD STAFF REVIEW

Reviewed by:	April Liwanag, Assistant General Counsel and Contract Manager – reviewed 10/4/2019 Mark Majek, Director of Operations – reviewed 9/30/2019
Comments:	TNF/TPAPN submitted the quarterly report by e-mail on 9/20/2019, as agreed to by the parties.
Date Review Completed:	10/4/2019

**CONTRACT BETWEEN THE TEXAS BOARD OF NURSING
AND THE TEXAS NURSES FOUNDATION
FOR THE TEXAS PEER ASSISTANCE PROGRAM FOR NURSES (TPAPN)**

Contract and Performance Monitoring Report

Fiscal Year 2019 Annual Report

Background: The following Contract and Performance Monitoring Report is a documented review of the Annual Report submitted by the Texas Nurses Foundation, Texas Peer Assistance Program for Nurses (TPAPN) for the 2019 Fiscal Year. A copy of the Annual Report is attached as Attachment “A”. This Report requests specified documentation from the TNF/TPAN to ensure compliance with contract terms.

SOURCE OF AUTHORITY	CONTRACTOR’S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR’S COMPLIANCE	FREQUENCY AND DEADLINE
RFP 507-16-001; 2015 Contract, and 2017 Contract Renewal	Operate and provide services through the Texas Peer Assistance Program for Nurses (TPAPN).	Administration, Legal, Enforcement	Ongoing	Ongoing
RFP 507-16-001 Section Four, 2.0; 2015 Contract, and 2017 Contract Renewal	Maintain certification as approved peer assistance program, as required by Chapter 467 of the Texas Health and Safety Code.	Legal	✓ Provide certification letter from the Department of State Health Services/Health and Human Services Commission.	Yearly; due by September 30, 2019

SOURCE OF AUTHORITY	CONTRACTOR'S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR'S COMPLIANCE	FREQUENCY AND DEADLINE
RFP 507-16-001 Section Four, 3.1	Employment of a full-time Director of the Peer-Assistance Program, who shall be a licensed mental health professional as defined by 25 TAC § 451.106 and preferably a registered nurse, who shall have primary responsibility for managing the program.	Administration, Legal, Enforcement	✓ Provide proof that Director of the Program is a licensed mental health professional, as defined by 25 TAC § 451.106.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.2	Director must have knowledge of the Nursing Practice Act and applicable regulations of the BON.	Administration, Legal, Enforcement	✓ Provide a written summary of how Director demonstrates knowledge of the Nursing Practice Act and applicable regulations of the BON. Alternatively, provide proof of Director's attendance at a CNE relating to nurse jurisprudence and nursing ethics.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.3	Program must have sufficient administrative oversight and legal counsel to support program administration.	Administration, Legal, Enforcement	✓ Provide an organizational chart of TPAPN within the TNA/TNF structure.	Yearly; due by September 30, 2019.

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RFP 507-16-001 Section Four, 3.4	Program must have an adequate number of staff and staffing as defined by 25 TAC § 451.108.	Administration, Legal, Enforcement	<ul style="list-style-type: none"> ✓ Provide an organizational chart of program personnel. ✓ Provide job descriptions of each staff position that specifies duties and responsibilities, and minimum qualifications, in accordance with 25 TAC § 451.108(b). ✓ Provide copies of training material given to staff, in accordance with 25 TAC § 451.108(f). ✓ Provide policies and procedures documenting how program is in compliance with 25 TAC § 451.108(c), (d), (e), and (g). 	Yearly; due by September 30, 2019.

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RFP 507-16-001 Section Four, 3.5	Maintenance of a permanent, publicized business address within Texas, which shall be open for business between 8:00a.m. and 5:00p.m Monday through Friday, except Federal holidays.	Administration, Legal, Enforcement	✓ Provide a yearly calendar, including information such as when the office is open and closed.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.6	Documented history of intervention, assessment/initial evaluation, referral, and monitoring of impaired health-care professionals (preferably in the nursing profession) impaired by a substance use disorder and mental illness including diagnoses of major depression, bipolar disorder, anxiety disorder, schizophrenia, and schizoaffective disorder.	Administration, Legal, Enforcement	<ul style="list-style-type: none"> ✓ Provide an overview of the program, which includes important information such as the program's mission statement, and general policies and procedures. ✓ Include an overview of the types of diagnoses accepted. 	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.7	Ability to ensure continuity of programs for persons currently enrolled in the existing Peer Assistance Program.	Administration, Legal, Enforcement	✓ Provide a participant continuity/closeout plan should the contract terminate.	Yearly; due by September 30, 2019.

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RFP 507-16-001 Section Four, 3.9	A program to accept self-referrals and third party referrals of nurses impaired by a substance use disorder, specific mental illnesses, from any person and from the BON.	Administration, Legal, Enforcement	✓ Provide relevant policies and procedures.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.10	A statewide intervention program where Texas licensed Nurses act as case managers to provide assistance to all licensed nurses referred to the Peer Assistance Program and a program to recruit and train case managers.	Administration, Legal, Enforcement	✓ Provide relevant policies and procedures. ✓ Provide a list of the current case managers.	Yearly; due by September 30, 2019
RFP 507-16-001 Section Four, 3.12	An ongoing program for promotion and publicity to encourage referrals.	Administration, Legal, Enforcement	✓ Provide copies of promotional and outreach material, or access to these items.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.13	A program to contract in writing with eligible individuals, including contract terms that specify return to work agreements and the individual's treatment and rehabilitation program.	Administration, Legal, Enforcement	✓ Provide copy of a template participation agreement.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.14	A program to assess the severity of a mental health and/or substance use disorder using the criteria and diagnoses listed in the Diagnostic and Statistical Manual of Mental Health Disorders V (Manual) and its successor(s), if any. The program must be able to satisfactorily address the various	Administration, Legal, Enforcement	✓ Provide relevant policies and procedures. ✓ Provide the total number of program completions by RN,	Yearly; due by September 30, 2019.

SOURCE OF AUTHORITY	CONTRACTOR'S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR'S COMPLIANCE	FREQUENCY AND DEADLINE
	<p>diagnoses within the Manual, paying special attention to the spectrum of substance abuse disorders (mild, moderate, and severe). The program must be able to monitor the eligible individuals after intervention or referral, including monitoring compliance with the terms of the participation contract and a treatment/rehabilitation program for mental health and/or substance use disorders. The program must be able to monitor LVN's and RN's for a period of at least three years, monitor APRN's for a period of at least five years, and monitor participants with mental health issues for a period of at least 1 year. The program must be able to monitor compliance with the mental-health professional recommendations.</p>		<p>LVN, and APRN, and by track, per fiscal year (September 1st through August 31st). Include the length of time from enrollment to completion.</p>	
<p>RFP 507-16-001 Section Four, 3.15</p>	<p>A program that can provide an extended evaluation period which includes monitoring for a period of one year through voluntary abstinence of participant with random drug screening.</p>	<p>Administration, Legal, Enforcement</p>	<p>✓ Provide relevant policies and procedures.</p>	<p>Yearly; due by September 30, 2019.</p>

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RFP 507-16-001 Section Four, 3.16	A program to conduct random and discretionary urinalysis or other types of drug analyses including comprehensive Health professional panel for testing; chain of custody assurance and documentation, testing in a federally certified laboratory, and timely reporting and monitoring of results; (prefer computer randomization of drug screens). The program must be able to customize drug screen panels at the request of the BON. The program must also maintain regular telephone visits with participating individuals. The program may subcontract to a third party for drug screening services provided that the third party meets all drug screening services requirements under the RFP and subsequent contract.	Administration, Legal, Enforcement	✓ Provide copy of contract with the subcontractor, and relevant policies and procedures.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.17	Procedures to refer to the Texas State Board of Nursing all eligible individuals, as required by the Nursing Practice Act, or those who have not complied with the terms of the Peer Assistance Program.	Administration, Legal, Enforcement	✓ Provide relevant policies and procedures.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.18	A program to maintain effective controls to comply with applicable confidentiality requirements under Texas law.	Administration, Legal, Enforcement	✓ Provide relevant policies and procedures.	Yearly; due by September 30, 2019.

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RFP 507-16-001 Section Four, 3.19	A program to provide education to licensed nurses and nursing programs regarding substance abuse and the Peer Assistance Program.	Administration, Legal, Enforcement	✓ Provide relevant policies, procedures, and a list of the education/training performed.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.22	An itemized annual operating budget not to exceed contract limits, which shall include but not be limited to all Peer Assistance Program expenditures and an arrangement for routine financial audits to be conducted by the State Auditor and/or a qualified accounting firm designated by the BON. The results of such audits shall be submitted to the BON.	Administration, Operations, Board Members	✓ Provide a comprehensive annual budget that clearly shows how funds are being spent. Include donations received and other sources of funding.	Yearly; due by September 30, 2019.
RFP 507-16-001 Section Four, 3.25	Maintenance of Policy and Procedure manual to include policies that are at least as rigorous as those set forth in 25 TAC § 451.110, and which shall include: 1. Statement of purpose and service responsibility to the public, the nursing profession and the BON; 2. Explanation of preventive and rehabilitative nature of the program; 3. Procedural outline for operating the program, stressing the need for early identification and intervention; 4. Procedures used by the program for identification, intervention, referral and follow-up;	Administration, Legal, Enforcement, Operations	✓ Provide relevant policies and procedures, in accordance with 25 TAC § 451.110.	Yearly; due by September 30, 2019.

SOURCE OF AUTHORITY	CONTRACTOR'S RESPONSIBILITIES	BOARD STAFF RESPONSIBLE FOR OVERSIGHT	DOCUMENTATION OF CONTRACTOR'S COMPLIANCE	FREQUENCY AND DEADLINE
	5. Information about re-entry into the nursing profession and relapse potential; 6. Information about aftercare programs, and ways in which aftercare, if appropriate will be encouraged; 7. Information about criteria for evaluation of referral and evaluation services, treatment programs and aftercare programs; 8. Information about return to work agreements and conditions of participation; 9. Information about evaluating the success of the program; 10. Policies and procedures for scheduling and conducting advisory committee meetings and training events for case managers and advocates including the policies regarding the frequency and content of meetings and training events. 11. Samples of forms and/or form letters.			
RFP 507-16-001 Section Four, 3.26	Provide a comprehensive annual operating budget for the program.	Administration, Operations	✓ Provide a comprehensive annual budget that clearly shows how funds are being spent. Include donations received and other sources of funding.	Yearly; due by September 30, 2019.

Version: June 11, 2019

BOARD STAFF REVIEW

Reviewed by:	April Liwanag, Assistant General Counsel/Contract Manager for the TNF/TPAPN Contract
Comments:	TNF/TPAPN submitted the Annual Report for FY 2019 on September 30, 2019.
Date Review Completed:	10/7/2019