

Consideration of Selection of Vendor for Texas Peer Assistance Program for Nurses (TPAPN)
Services

Background: As the current contract with the Texas Nurses Foundation (“TNF”) for Texas Peer Assistance Program for Nurses (“TPAPN”) Services terminates on August 31, 2021, Board Staff was required to competitively bid the services for a new contract. Board Staff requested and received a delegation of purchasing authority from the Texas Comptroller of Public Accounts to purchase TPAPN Services. On May 17, 2021, Staff issued Request for Proposals No. 507-21-001 (the “RFP”) to procure TPAPN Services on the Electronic State Business Daily (“ESBD”). Board Staff also posted a solicitation announcement on the June 4, 2021 issue of the *Texas Register*. A copy of the RFP is attached as Attachment “A”.

The closing date for submitting responses was June 30, 2021. One response to the RFP was received. Staff reviewed the response in accordance with Texas Government Code Sections 2156.121 - 2156.125 and the State of Texas Procurement and Contract Management Guide. Staff also reviewed the response to ensure it met all of the requirements of the RFP. The RFP required, among other things, that the respondent be certified by the Texas Health and Human Services Commission as a peer assistance program under Texas Health and Safety Code Chapter 467; be able to provide statewide peer advocacy services to all nurses licensed to practice in Texas whose practice may be impaired by chemical dependency, certain mental illnesses, or diminished mental capacity; and have a statewide monitoring system to track nurses while preserving confidentiality. Staff has determined that the response submitted by the Texas Nurses Foundation meets all of the requirements of the RFP. TNF’s response is attached as Attachment “B” and is made available confidentially for Board review, as it may contain information that is confidential under the Texas Public Information Act.

Texas Government Code Section 2261.254(c) requires the governing body of a state agency to approve a contract that has a value exceeding \$1 million. Further, the 2022-2023 General Appropriations Act (“GAA”) requires that the Peer Assistance Program be approved by the agency’s governing board. Thus, Board Staff seeks the Board’s approval to contract with the Texas Nurses Foundation for TPAPN Services.

Staff’s Recommendation:

Staff recommends the Board approve the Texas Nurses Foundation as the awarded vendor of Request for Proposals No. 507-21-001 for Texas Peer Assistance Program for Nurses Services, and authorize the Executive Director of the Board to prepare and execute a new two-year contract, with the option to renew for one additional two-year period without the need for an additional re-bidding process.

REQUEST FOR PROPOSALS

FOR

TEXAS PEER ASSISTANCE PROGRAM FOR NURSES (TPAPN) SERVICES

Texas Board of Nursing

RFP No. 507-21-001

NIGP: 952-5, 952-6, 952-7, 952-21, 952-38, 952-58, 952-59, 952-62, 952-68, 952-74, 952-85

Posting Date: May 17, 2021

Proposal Due Date: June 30, 2021

Proposal Due Time: 5:00 PM

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1 General Information

1.1 Introduction.

The Texas Board of Nursing (the “Board” or “BON”), through the use of this Request for Proposals (“RFP”), is soliciting proposals (“Proposals”) from qualified programs that are certified by the Texas Health and Human Services Commission to provide peer assistance services (“Respondent” or “Program”). The Respondent must be an approved Program under Texas Health and Safety Code Chapter 467 and Title 26 Texas Administrative Code Chapter 8. Failure to obtain this certification will automatically disqualify the Respondent.

The selected Respondent (the “Contractor”) will provide statewide services to nurses licensed to practice in Texas whose practice may be impaired by chemical dependency, certain mental illnesses, or diminished mental capacity. Respondents must be able to meet all requirements and criteria listed in this RFP and all relevant laws and rules governing peer assistance programs.

This RFP and a resulting contract are contingent upon the availability of appropriated funds, as set out by the Texas General Appropriations Act, 87th Legislature, 2022-2023 Biennium.

1.2 Background

The BON is a State of Texas Agency, whose physical location is 333 Guadalupe Street, Austin, Texas. The mission of the BON is to protect and promote the welfare of the people of Texas by ensuring that each person holding a license as a nurse in the State of Texas is competent to practice safely.

The BON fiscal year is from September 1 through August 31 of each year.

1.3 Historically Underutilized Businesses (HUBs)

The BON endeavors to promote full and equal opportunity for businesses to supply the BON with goods and/or services that are necessary to support the BON’s mission. In this regard, the BON commits to select a Respondent in accordance with (i) BON needs, (ii) BON resources, (iii) HUB goals and guidelines established by the Texas Legislature and the Texas Comptroller of Public Accounts, and (iv) BON policies and procedures for contracting with Historically Underutilized Businesses.

1.4 BON’s Right to Reject

This RFP does not commit the BON to select a Respondent or to award a contract to any Respondent. The BON reserves the right to accept or reject, in whole or in part, any Proposal it receives pursuant to this RFP.

1.5 Schedule of Events

Issue Request for Proposals on the Electronic State Business Daily (ESBD)	May 17, 2021
Questions Due	May 31, 2021
Questions and Answers Posted	June 4, 2021
Closing Date	June 30, 2021
Anticipated Date of Award	July 23, 2021

The Texas Board of Nursing reserves the right to revise this schedule or any portion of this RFP by published Addendum on the Electronic State Business Daily (“ESBD”).

1.6 Construction of this RFP and the Contract

1.6.1 Global Drafting Conventions

The terms “include,” “includes,” and “including” are terms of inclusion and enlargement. When used in the RFP and Contract, these terms should be read as if followed by the phrase “without limitation.”

Unless explicitly stated otherwise, any references to “Sections,” “Articles,” “Exhibits,” or “Attachments” are deemed to be references to the Sections, Articles, Exhibits, and Attachments to this RFP and the resulting Contract.

1.6.2 Headings

The Article and Section headings in this RFP and the Contract are for reference and convenience only and may not be considered in the interpretation of this RFP or the Contract.

2 Program Specifications; Scope of Work

2.1 Scope of Work; Contractor’s Responsibilities.

The Respondent shall operate and provide services through the Texas Peer Assistance Program for Nurses. The Respondent will identify, assist, and monitor individuals experiencing mental health or substance use conditions that are, or are likely to be, job-impairing, so that the individuals may return to safe practice. Peer assistance programs offer support and assistance and have a rehabilitative emphasis rather than a disciplinary emphasis. *See* 26 Tex. Admin. Code § 8.105(8) (Definitions).

2.2 Compliance with Statutory and Legal Authorities.

The Respondent shall be knowledgeable of and comply with the following statutory and legal authorities concerning peer assistance programs:

1. Texas General Appropriations Act, 87th Legislature, 2022-2023 Biennium;
2. Texas Health and Safety Code Chapter 467, as amended;
3. Texas Occupations Code Chapter 301, as amended;
4. Title 26 of Texas Administrative Code Chapter 8, as amended; and
5. Title 22 of Texas Administrative Code Section 217.13, as amended.

The Board reserves the right to amend this RFP and any Contract resulting from this RFP due to a change in the above-mentioned laws concerning peer assistance programs.

2.3 Certification Required.

2.3.1 The Respondent must be certified by the Texas Health and Human Services Commission as meeting all rules and criteria for peer assistance programs. *See* 26 Tex. Admin Code § 8.107 and the Texas General Appropriations Act, 87th Legislature, 2022-2023 Biennium.

2.4 General Criteria for Board-Approved Peer Assistance Program.

2.4.1 The Respondent will provide statewide peer advocacy services to all nurses licensed to practice in Texas whose practice may be impaired by chemical dependency, certain mental illnesses, or diminished mental capacity. *See* 22 Tex. Admin. Code § 217.13(c)(1).

2.4.2 The Respondent shall have a statewide monitoring system that will be able to track the nurse while preserving confidentiality. *See* 22 Tex. Admin. Code § 217.13(c)(2).

- 2.4.3 The Respondent shall have a network of trained peer volunteer advocates located throughout the state of Texas. *See* 22 Tex. Admin. Code § 217.13(c)(3).
- 2.4.4 The Respondent shall have a written plan for the education and training of volunteer advocates and other Program personnel. *See* 22 Tex. Admin. Code § 217.13(c)(4).
- 2.4.5 The Respondent shall have a written plan for the education of nurses, other practitioners, and employers. *See* 22 Tex. Admin. Code § 217.13(c)(5).
- 2.4.6 The Respondent shall demonstrate financial stability and funding sufficient to operate the Program. *See* 22 Tex. Admin. Code § 217.13(c)(6).
- 2.4.7 The Respondent shall have a mechanism for documenting program compliance and for timely reporting of noncompliance to the board. *See* 22 Tex. Admin. Code § 217.13(c)(7).
- 2.4.8 The Respondent shall be subject to periodic evaluation by the board or its designee in order for the board to evaluate the success of the Program. *See* 22 Tex. Admin. Code § 217.13(c)(8).
- 2.5 Program Organization.
- 2.5.1 As required by 26 Tex. Admin Code § 8.109, the Respondent must have a governing body who is legally responsible for the management, services, and operations of the Program.
- 2.5.2 As required by 26 Tex. Admin Code § 8.109, the Respondent's governing body must designate or employ an administrator for the peer assistance program. The administrator is responsible for the day-to-day operations of the Program.
- 2.6 Program Staffing.
- 2.6.1 The Respondent must maintain 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. The Parties shall agree on any additional office closures, and the Respondent shall inform its participants of such office closures, i.e., by publicly posting office closures on its website.
- 2.6.2 As required by 26 Tex. Admin. Code § 8.111, the Respondent must have an adequate number of staff and staffing to effectively administer the Program and provide the services identified in the Program description. The Respondent's staffing must meet the requirements of 26 Tex. Admin. Code § 8.111.
- 2.6.3 The Respondent must employ a full-time Director, who shall be a licensed mental health professional as defined by 26 Tex. Admin. Code § 8.105 and preferably a registered nurse, who shall have primary responsibility for managing the Program. The Program Director must have knowledge of the Texas Nursing Practice Act, Texas Occupations Code Chapter 301, and applicable regulations of the BON, 22 Texas Admin. Code Chapter 213.
- 2.6.4 The Respondent must have sufficient administrative oversight and legal counsel to support Program administration.
- 2.7 Additional Program Requirements.
- 2.7.1 The Respondent must have a written Program description that meets all the requirements of 26 Tex. Admin. Code § 8.113. The Respondent must operate according to the Program description.

- 2.7.2 The Respondent must have a 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.
- 2.7.3 The Respondent must have the ability to ensure continuity of Programs for persons currently enrolled in the existing peer assistance program.
- 2.7.4 The Respondent must have an Advisory Committee consisting of volunteer stakeholders who serve to support the Program in carrying out its mission and vision. Committee members will be identified in collaboration with the Board, and shall include: one representative of the Board, who shall serve as an ex-officio member of the Advisory Committee; and may include individuals who represent stakeholder groups, such as: a participant who has completed the Program, a peer support partner, a representative from a peer assistance program for health professionals, an employer of nurses, an expert clinician, and a nurse faculty member.
- 2.7.5 The Respondent must be able 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.
- 2.7.6 The Respondent must have Texas licensed professionals, including registered nurses, who act as case managers to provide monitoring and support to all licensed nurses who enroll in the Peer Assistance Program, and a program to recruit and train peer support partners.
- 2.7.7 The Respondent must have volunteer licensed nurses trained as peer support partners.
- 2.7.8 The Respondent must have a system of promotion and publicity to encourage referrals.
- 2.7.9 The Respondent must contract in writing with eligible individuals, including contract terms that specify return to work agreements and the individual's treatment and rehabilitation program.
- 2.7.10 The Respondent must facilitate appropriate assessment of the severity of an individual's mental health and/or substance use condition 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 Respondent must be able to satisfactorily address the various diagnoses within the Manual, paying special attention to the spectrum of substance abuse disorders (mild, moderate, and severe). The Respondent 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 Respondent must be able to monitor LVNs and RNs for a period of at least three years, monitor APRNs for a period of at least five years, and monitor participants with mental health issues for a period of at least one year. The Respondent must be able to monitor compliance with the mental-health professional recommendations.
- 2.7.11 The Respondent must be able to provide an extended evaluation period which includes monitoring for a period of one year through voluntary abstinence of participant with random drug screening.

- 2.7.12 The Respondent must be able 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, preferably computer randomization of drug screens). The Respondent must be able to customize drug screen panels at the request of the BON. The Respondent must also maintain regular visits with participating individuals. The Respondent may subcontract to a third party for drug screening services provided that the third party meets all drug screening services requirements under this RFP and subsequent contract.
- 2.7.13 The Respondent must have procedures to refer to the Board all eligible individuals, as required by the Texas Nursing Practice Act, or those who have not complied with the terms of the Peer Assistance Program.
- 2.7.14 The Respondent must maintain effective controls to comply with applicable confidentiality requirements under Texas law.
- 2.7.15 The Respondent must provide education to licensed nurses and nursing programs regarding substance abuse and the Peer Assistance Program.
- 2.8 Financial and Audit Requirements.
- 2.8.1 As required by 26 Tex. Admin. Code § 8.109, the Respondent must use and maintain adequate financial records according to generally accepted accounting principles. Financial records must include an annual budget and records of income and expenditures.
- 2.8.2 The Respondent 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 Respondent must maintain documentation showing ongoing compliance with all statutory and contract criteria. Further, the Respondent 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 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 Respondent 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 mission, as determined by the Board of Nursing.

2.8.3 The Respondent must have an itemized annual operating budget based on the Board's fiscal year, 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. Respondent must comply with Sections 4.1 (Funding) and 4.2 (Accounting for State Funds) of the Contract.

2.9 Policies and Procedures.

2.9.1 The Respondent shall maintain a Policy and Procedure manual that includes the following:

1. Statement of purpose and service responsibility to the public, the nursing profession and the BON;
2. Explanation of the rehabilitative nature of the Program;
3. Procedural outline for operating the Program, stressing the need for early identification and intervention;
4. Approaches used by the Program to facilitate identification, intervention, and referral;
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.

2.9.2 In accordance with 26 Tex. Admin. Code § 8.115, the Respondent's written policies and procedures must state philosophy and methods for program operation, including:

1. The Board's role in the process and the Respondent's relationship to the Board;
2. Procedures for maintaining confidentiality;
3. Compliance with applicable state and federal legal authority and regulations;
4. Eligibility criteria for participants;
5. The circumstances under which an individual will be accepted as a participant in the Program;
6. All formal agreements (including consents for disclosure) required of participants;
7. A description of the following processes, including, where applicable, how they apply to self-referrals and participants:
 - A. referral;
 - B. assessment;
 - C. intervention;
 - D. drug testing;
 - E. treatment;
 - F. return to work;
 - G. crisis and relapse;
 - H. participant noncompliance with intervention, drug testing, or treatment;

- I. participant dismissal from the program;
- J. participant who moves out of state; and
- K. participant program completion.

3 Contractor's Reporting Requirements

3.1 General.

The selected Respondent (the "Contractor") will be required to submit reports to the Board on a quarterly, annual, and on an as-requested basis. The Contractor's quarterly reports, annual reports, and annual budget it submits to the Board must match the Board's fiscal year, which is September 1st through August 31st.

3.2 Quarterly Reports.

The Contractor shall submit quarterly reports, which are due on the 22nd day of the month immediately following the last day of the Board's quarter.

3.2.1 Progress Reports.

The quarterly reports shall include: (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.

3.2.2 Financial Statements.

Contractor shall submit financial statements to the Board at such intervals as requested by the Board. These statements shall be prepared in accordance with generally accepted accounting principles. In addition to providing financial statements, the Contractor shall submit reports covering each quarter of the Board's fiscal year.

3.2.3 Statistical Information.

In accordance with 22 Texas Administrative Code § 217.13, and as amended, the Contractor shall submit the following statistical information to the Board:

1. Number and source of referral and type of referral, i.e., substance use disorder, dual diagnosis, mental disorder, extended evaluation monitoring;
2. Number of nurses who sign participation agreements;
3. Type of participation agreement signed, i.e., Extended Evaluation Program, substance abuse or dependency, mental illness;
4. Number of cases referred to the Program by the Board. This number should include all third party referrals that are reported to the Board, but remain in participation pending Board review;
5. Number of participants referred to the Program by Board order;
6. Number of self-referred cases closed and reasons for closure;
7. Number of active cases;
8. Number of participants employed in nursing;
9. Number of participants completing the Program;
10. Number of participants who are reported back to the Board for failing to comply with the participation agreement;

11. Monitoring activities, including number of drug screens requested, conducted, and the results of these tests;
12. All applicable performance measures required by the Legislative Budget Board;
13. Any other pertinent information requested by the State Auditor’s Office or the Legislative Budget Board, as mutually agreed to by the Board and the Contractor; and
14. Any other information which may be requested under Sections 3.3 (Annual Reports), 3.4 (Program Success Measures), Attachment A, Section I (State Auditor’s Right to Audit), and Attachment A, Section L (Agency’s Right to Audit) of the Contract.

3.2.4 Historically Underutilized Businesses Usage.

Contractor agrees to make a good faith effort to award any necessary subcontractors to Historically Underutilized Businesses (“HUB”), as defined in 34 Tex. Admin. Code § 20.282. Contractor will report HUB usage in its quarterly report to the Board. If the HUB goal is not being met, Contractor will provide reasons for not meeting the goal in its quarterly report to the Board.

3.3 Annual Reports.

3.3.1 Annual Budget. Contractor shall submit an annual budget prior to the first day of the Board’s fiscal year.

3.3.2 Annual Report. Contractor shall submit an annual report showing compliance with contract terms, as designated by the Board, by September 30th following the end of the preceding fiscal year. Such reports shall include Legislative Budget Board performance measure information, including: recidivism rate, one-year completion rate, percent of non-board referrals reported to the BON, and number of eligible individuals participating in the Program.

3.4 Program Success Measures.

The following factors will be used to measure Program success:

- The number of nurses who sign Participation Agreements, broken down by quarter and by fiscal year;
- The number of nurses who complete the Program, broken down by quarter and by fiscal year;
- The average time (days, weeks, months) it takes for a nurse to sign a Participation Agreement after being referred to by the Board;
- The three-year trend of the number of licensed individuals participating in the Program (RN);
- The three-year trend of the number of licensed individuals participating in the Program (LVN);
- and
- The recidivism rate compared to completion rate, broken down by quarter and by fiscal year. The Contractor shall include definitions and explanations of how it is calculating recidivism rate.

4 Contract Amount; Funding; and Expenditures

4.1 Funding.

As proposed in the Texas General Appropriations Act, 87th Legislature, 2022-2023 Biennium, the selected Respondent (the “Contractor”) will be funded with monthly transfers from fees collected by the BON not to exceed the appropriated amount of \$1,005,458.00 per fiscal year unless, future approved appropriations

for this Program exceed this amount. Funds will be awarded for a period through August 31, 2023 coinciding with the fiscal biennium. Contingent upon the amount collected and the number of participants, funding could be less than the line-item appropriation and is subject to legislative restraints and/or limitations on the BON's appropriation for the fiscal year.

It is understood by the Parties that the terms of the Contract are subject to modification if either the income realized by the Board from the surcharge on license renewal fees or funds appropriated by the Texas Legislature are insufficient to pay the Contractor the monthly fee or the number of nurse participants significantly varies from the number anticipated. In the event of a significant change in the funds available to pay Contractor or in the number of participants in the Program, the Board and the Contractor shall negotiate in good faith an appropriate adjustment in the fee paid or in the services provided. As used herein, significant shall mean either a reduction in the fees paid that averages 15% or more for any six-month period or a 15% or more change in the number of nurse participants in the Program as of September 1, 2021. The term *nurse participant* shall have the meaning assigned by the Texas Legislative Budget Board in its output measure for the number of licensed individuals participating in a peer assistance program.

4.2 Accounting for State Funds.

Contractor shall maintain separate ledgers/books for: revenue, expenditures, and lapsed funds transferred to other accounts, that come from Board funding. Additionally, Contractor must be able to identify and account for the source of funding for revenue, expenditure, and lapsed funds transferred to other accounts. *Lapsed funds* means funds appropriated by the Texas Legislature to the Board, for use by the Contractor per fiscal year, but not spent by the Contractor during that same fiscal year.

4.3 Contract Pricing and Billing.

Contractor shall be paid in monthly installment transfers from fees collected from each nurse who renews his or her license during each month of the Contract, not to exceed the appropriated amount per fiscal year. It is understood that the Board will pay this amount from a surcharge it collects pursuant to Section 467.004, Texas Health & Safety Code, from each nurse who renews his or her license. In no event shall the Board be obligated to pay Contractor more than the total amount collected by the Board through this surcharge.

4.4 Refund.

Contractor will promptly refund or credit within thirty (30) calendar days any funds erroneously paid by the Board, which are not expressly authorized under the Contract.

5 **Term; Termination**

5.1 Term.

The term of a Contract resulting from this RFP shall begin on September 1, 2021, and shall terminate on August 31, 2023. The Contract may be renewed for an additional two-year period following the initial two-year contracting period without the need for an additional re-bidding process. For the avoidance of doubt, a Contract resulting from this RFP will have the following contract term and optional contract renewal term:

Initial contract term: September 1, 2021 through August 31, 2023

Optional contract renewal term: September 1, 2023 through August 31, 2025

5.2 Termination.

The Contract may be terminated upon thirty (30) calendar days' advance written notice of either Party based upon any of the following events:

1. By mutual written agreement between the Board and the Contractor;
2. If the Board withdraws recognition of Contractor as an approved peer assistance program under Texas Health and Safety Code Chapter 467;
3. If the Texas Department of State Health Services withdraws certification granted to Contractor under Texas Health and Safety Code Chapter 467;
4. If the Contractor voluntarily ceases to operate as an approved peer assistance program under Texas Health and Safety Code Chapter 467;
5. By the Board, if the Texas Legislature does not appropriate funds necessary for the Board to meet its obligations under the Contract, unless a new fee has been negotiated under Article VIII; or
6. By the Board, for unsatisfactory completion of all services and obligations required under the Contract.

Should the Contract be terminated, the Board shall be liable only for the portion of work the Board authorized in writing and which Contractor has completed, delivered to the Board, and which has been accepted by the Board prior to the effective date of termination. The decision of the Board with respect to the amount due to the Contractor shall be final and conclusive unless, within thirty (30) calendar days from the date of receipt of a written copy of the Board's decision, the Contractor notifies the Board of its dissent from its decision. If the Contractor's dissent cannot be resolved, the matter shall be resolved through the Dispute Resolution process, as specified in Attachment A, Section D of this RFP.

In order to facilitate the final termination or satisfactory completion of all services and obligations under the Contract, the Board and the Contractor may provide for a winding down period as part of the termination of the Contract. The date of termination of the Contract shall be the last day of such winding down period. The winding down period may run after the natural expiration of the Contract.

Termination is not an exclusive remedy, but will be in addition to any other rights and remedies as provided in equity, by law or under the Contract. The Board may exercise any other right, remedy, or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless the Board notifies the Contractor in writing prior to the exercise of such remedy. The Contractor shall be liable for all costs and expenses, including court costs, incurred by the Board with respect to the enforcement of any of the remedies listed herein.

The termination of the Contract shall extinguish all rights, duties, obligations, and liabilities of the Board and the Contractor under the Contract.

5.3 Contractor's Continued Performance.

Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the Texas Board of Nursing, Contractor must continue performance and will not be excused from performance during the period any breach of contract claim, dispute or mediation is pending under

either of the above processes. However, Contractor may suspend performance during the pendency of such claim or dispute if Contractor has complied with all provisions of Section 2251.051 of the Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

6 Corrective Action Plan

In accordance with Texas Government Code Section 2261.254, but without waiving the Board's termination rights as specified in Section 5 of the Contract, the Parties agree to the following corrective action plan in the event of a contract breach, or an alleged contract breach, committed by the Contractor.

1. The Board shall notify the Contractor, in writing, of the alleged contract breach. This notification shall:
 - a. Be dated;
 - b. Identify the portion of the Contract at issue;
 - c. Identify the alleged deficiency;
 - d. Outline how the deficiency can be cured, and clearly state the desired outcome;
 - e. The appropriate time frame to reach the desired outcome; and
 - f. Be delivered in a manner where receipt of this notification can be clearly established.
2. Within ten (10) business days of the receipt of this notification, the Contractor shall respond to the notification, in writing, explaining how it intends to cure the alleged breach; how the alleged breach has been cured; or that there is no contract breach.
3. After notification is provided, the Parties may agree to discuss these matters in person or over the phone. The Parties shall document, in writing, the results of these discussions and the outcome of the alleged breach.
4. If the Parties are unable to reach a resolution pursuant to this corrective action plan, the Board may terminate the Contract pursuant to Section 5 of the Contract.

7 Contract Management

7.1 Enhanced Contract and Performance Monitoring Plan.

The Contractor must comply with the Board's enhanced contract and performance monitoring plan. Enhanced contract and performance monitoring will include: site visits, contractor meetings, and other documentation and reporting requirements.

7.2 Notices and Liaisons

Delivery of Written Notices

Both Parties must deliver any required notice in writing to the other Party and to the addresses specified in this Section and the Respondent's Proposal. The Parties deem the notice to have been given immediately if delivered in person to the receiving Party's address. The Parties deem notice to have been given on the date of certified receipt, if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving Party at its specified address.

Notice to Contractor

Within 10 days of the issuance of the Notice of Award, Contractor must send the Texas Board of Nursing written notice of the address and contact person for legal notice and Controlled Correspondence purposes. If there is any change to this information during the term of the Contract, Contractor must notify the Texas Board of Nursing by Controlled Correspondence.

Notice to the Texas Board of Nursing

Texas Board of Nursing's address for all purposes under the Contract other than Controlled Correspondence is as follows:

Mailing Address/E-mail Address

Texas Board of Nursing
ATTN: Legal Department, April Liwanag
333 Guadalupe 3-460
Austin, Texas 78701
April.Liwanag@bon.texas.gov

Physical Address

Texas Board of Nursing
ATTN: Legal Department, April Liwanag
333 Guadalupe, Tower 3, Suite 460
Austin, Texas 78701

8 Proposal Information

8.1 Responsiveness Screening

The Texas Board of Nursing will perform an initial responsiveness screening of the Proposal to verify completion and signature of all required documentation. Proposals determined not to be responsive will be disqualified.

Respondents are to provide their best response to the specifications and terms and conditions contained in the RFP. Based upon the Texas Board of Nursing's evaluation of the Respondents' responses to this RFP, the Texas Board of Nursing shall determine if there is a need to solicit a "Best and Final Offer". A request for a "Best and Final Offer" shall be at the sole discretion of the Texas Board of Nursing and shall be requested in writing from the Texas Board of Nursing's Purchasing Division. Any unsolicited Respondent's request for a "Best and Final Offer" shall not be considered.

8.2 Compliance with RFP Requirements.

By submission of a Proposal, Respondent agrees to be bound by the requirements set forth in this RFP. The BON, at its sole discretion, may disqualify a Proposal from consideration, if the BON determines a Proposal is non-responsive and/or non-compliant, in whole or in part, with the requirements set forth in this RFP.

8.3 Binding Effect of Proposal.

Unless otherwise agreed in writing signed by the Executive Director or Designee, each Respondent agrees to and shall be bound by the information and documentation provided with the RFP, including prices quoted for services.

8.4 Signature and Certification of Respondent.

The Proposal must be signed and dated by the Respondent who is authorized to bind the Respondent to the terms and conditions contained in this RFP, and who can verify compliance with the information submitted in the Proposal. Each Respondent submitting a Proposal certifies to both (a) the completeness, veracity,

and accuracy of the information provided in the Proposal, and (b) the authority of the individual whose signature appears on the Proposal to bind the Respondent to the terms and conditions set forth in this RFP. Proposals submitted without the required signature shall be disqualified.

8.5 Subcontracting Plan.

Respondents must complete and return the HUB Subcontracting Plan (HSP) documentation with the Proposal to be considered responsive. The HSP can be found on the Comptroller's website at <https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>. The Texas Board of Nursing will reject responses received without the HSP as a material failure to comply with the requirements of this RFP.

For assistance with the HSP, obtaining HUB lists if web access is not possible, or for further explanation of the Texas Board of Nursing HUB program, please contact:

Kizzie Gonzales
333 Guadalupe, Tower 3, Suite 460
Austin, Texas 78701
Email: Kizzie.Gonzales@bon.texas.gov

8.6 Requirements for Submission.

- A. Hard Copy Submission Required.** Each Respondent shall submit one (1) original -- which must be clearly defined as the ORIGINAL -- and two (2) copies of the Proposal. The original shall be prepared and formatted in at least 10-point-font that is clearly readable. The copies shall be of good, readable quality. The original and each copy shall be submitted in a three-ring binder, on three-hole-punch, letter-size (8.5" x 11") paper. Both the cover and the spine of each binder shall reflect the name of the Respondent. The binder cover shall also reflect the subject matter of the Proposal as follows: RFP 507-21-001 FOR PEER ASSISTANCE PROGRAM SERVICES.
- B. Electronic Copy Submission Required.** Each Respondent shall also submit one (1) electronic copy of the Proposal, in the format described above, in a compact disk (CD) or jump drive. The electronic copy should be submitted in Microsoft Office® Formats (Word® and Excel®) or in a format that may be read by Microsoft Office® Software. Any documents with signatures shall be submitted as an Adobe® Portable Document Format (PDF) file.

The Texas Board of Nursing is not responsible for documents that cannot be read or converted. Unreadable Proposals may be, in the Texas Board of Nursing's discretion, rejected as nonresponsive.

The hard copies of the Proposal (3) and electronic copy of the Proposal (1) shall be submitted in a sealed box, clearly labeled as follows:

RFP #507-21-001

**TEXAS BOARD OF NURSING
ATTN: KIZZIE GONZALES
333 Guadalupe Street, 3-460**

Austin, TX 78701

8.7 Use and Disclosure of Information.

If a Proposal includes proprietary data, trade secrets, or information the Respondent wishes to except from public disclosure, then the Respondent must specifically label such data, secrets, or information as follows: "**PRIVILEGED AND CONFIDENTIAL -- PROPRIETARY INFORMATION.**" To the extent permitted by law, information labeled by the Respondent as proprietary will be used by the BON only for purposes related to or arising out of the (a) evaluation of Proposals, (b) selection of a Respondent pursuant to the RFP process, and (c) negotiation and execution of a Contract, if any, with the Respondent selected. Additionally, Respondent must include a statement on company letterhead identifying all Proposal section(s) and page(s) that have been marked as confidential.

Without prior written notice to the awarded Respondent, a redacted version of the Proposal submitted under this section may be posted on the Texas Board of Nursing's website as part of the Contract, in accordance with section 2261.253(a) of the Texas Government Code. The Board's website can be accessed online at https://www.bon.texas.gov/about_contracts.asp.

8.8 Confidentiality, Proprietary Information, and the Texas Public Information Act

The Texas Board of Nursing is a governmental body and therefore, is subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552, as interpreted by judicial opinions and the opinions of the Office of the Attorney General; as well as contract reporting requirements. The Proposal and other submitted information is presumed subject to disclosure unless a specific exception to disclosure under the PIA applies.

Responses to requests for Respondents' information shall be handled in accordance with the provisions of the Public Information Act. If a Respondent's confidential or proprietary information is requested pursuant to the Public Information Act, the Board will notify the Respondent not later than the tenth business day after the date the Board receives the request for information. Respondents have the right to object to the release of their records by submitting written arguments to the Office of the Texas Attorney General that one or more exceptions apply to the records. The Attorney General is generally required to issue a decision within 45 business days.

Respondent will be required to make any information created or exchanged with a state governmental entity, and not otherwise excepted from disclosure under the Texas Public Information Act, available in at least one of the following formats that is accessible by the public at no additional charge to the State of Texas, and the Texas Board of Nursing: portable document format (pdf) compatible with the latest version of Adobe Acrobat®; Microsoft Word®; Microsoft Excel®; or, hard copy (paper).

By submitting a Proposal, each Respondent agrees to reproduction by the State of Texas, the Texas Board of Nursing, and other State agencies, without cost or liability, of any copyrighted portions of Respondent's Proposal or other information submitted by Respondent, in order to comply with any Legislative Budget Board reporting requirements or other reporting requirements mandated by law.

8.9 Terms and Conditions Attached to Proposal.

Any terms and conditions attached to a Proposal will not be considered unless specifically referred to in the Proposal.

8.10 Risk of Loss, Damage, and Delay.

Respondent acknowledges and agrees to release and hold harmless the BON's officers, employees, agents, and personnel, from and against any and all claims, liability, damages, and costs, including court costs and attorneys' fees, arising out of or pursuant to delivery of the Proposal or failure to deliver the Proposal to the BON. The BON will not be liable for late delivery of Proposals by the carrier.

8.11 Ownership of Proposals.

All Proposals become the physical property of the BON upon receipt.

8.12 Costs of Participation.

The BON specifically disclaims responsibility and/or liability for any and all costs, expenses, or claims related to or arising out of the Respondent's participation in this RFP process, including but not limited to, costs incurred as a result of preparing, copying, shipping, presenting, and/or clarifying the Proposal and the information relevant to the Proposal.

8.13 Compliance with Applicable Laws, Regulations, Ordinances, Policies, and BON Policies and Procedures.

By submitting a Proposal, the Respondent agrees to and shall comply with all applicable local, state and federal laws and regulations, as well as with all applicable policies and procedures of the BON. BON policies and procedures may be accessed on the BON's website.

9 RFP PROCEDURES

9.1 Deadline for Proposals.

Proposals must be received in the BON Purchasing Office, in the manner and to the address specified in Section 8.6 of this RFP, no later than 5:00 p.m., Central Standard Time, on **June 30, 2021**.

ANY PROPOSAL RECEIVED AFTER THE DEADLINE WILL BE IMMEDIATELY DISQUALIFIED FROM CONSIDERATION, AND WILL BE RETURNED UNOPENED TO THE RESPONDENT.

9.2 Right to Modify, Rescind, or Revoke RFP

The BON reserves the right to modify, rescind, or revoke this RFP, in whole or in part, at any time prior to the date on which the authorized representative of the BON executes a contract with the selected Respondent.

9.3 Reservation of Rights

The rights of the Texas Board of Nursing include, but are not limited to:

1. Rejection of any and all offers received.
2. Cancellation of the RFP at its sole discretion.

3. Suspension of the procurement process.
4. Request Respondents to clarify their offer and/or submit additional information pertaining to the offer, including issuance of RFP addenda.

This RFP does not commit the Texas Board of Nursing to make an award, nor does it obligate it to pay any costs incurred in preparation and submission of offers or in anticipation of a Contract.

Should an award be made, a Contract/Purchase Order will be issued. The resulting Contract is binding and will be inclusive of the RFP (with all supplements, terms and conditions, appendix, or other attachments), any Addenda to the RFP, and the awarded Respondent's Proposal.

9.4 Changes

Subsequent to an award, the Texas Board of Nursing, at any time by written Addendum, make changes within the general scope of this procurement, including, but not limited to, changes in the specifications, the manner of performance of the work, or directing acceleration in the performance of the work.

Except as provided in this RFP, no order, statement, or conduct of the Texas Board of Nursing shall be treated as a change under this section or entitle the awarded Contractor to an equitable adjustment.

9.5 Rescission of Proposal.

A Proposal may be withdrawn from consideration at any time prior to expiration of the Deadline for Proposals, pursuant to a written request sent to the BON.

9.6 Request for Electronic Copy.

Requests for electronic copies of the RFP will be referred to the link on the Electronic State Business daily (ESBD): <http://www.txsmartbuy.com/esbd>.

9.7 Request for Clarification.

The BON reserves the right to request clarification of any information contained in a Respondent's Proposal.

9.8 Questions by Respondents.

The deadline for questions submitted by Respondents is May 31, 2021. The BON will not accept any questions after this date. Questions must be submitted in writing. All questions must include the identity of the sender, the sender's title, company name, mailing address, telephone number, and facsimile number, as applicable.

Respondents must reference the appropriate RFP page and section number in its questions. The question, written BON response(s), and addenda, if any, related to the RFP will be distributed to all Respondents via the link on the Electronic State Business Daily. If the BON determines a question has been sufficiently answered in the RFP, the inquiring Respondent will be referred to the relevant section of the RFP.

Questions may be emailed to: Kizzie.Gonzales@bon.texas.gov

Respondents must notify the Texas Board of Nursing of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error in the RFP in the manner required and by the deadline for submitting questions. If a Respondent fails to notify the Texas Board of Nursing of such issues, Respondent submits its Proposal at its own risk, and if awarded a Contract: (1) waives any claim of error or ambiguity in the RFP or resulting Contract, (2) will not contest the Texas Board of Nursing’s interpretation of such provision(s), and (3) is not entitled to additional compensation, relief, or time by reason of ambiguity, error, or later correction.

9.9 Addenda to the RFP.

The Texas Board of Nursing will post any amendment to this solicitation as an Addendum on the ESBD. Interested parties are responsible for periodically checking the ESBD for updates to the RFP prior to submitting a Proposal. Respondent’s failure to check the ESBD will in no way release the selected Contractor(s) from the requirements of “addenda or additional information” nor will any resulting additional costs to meet the requirements be allowed after award(s).

Each Respondent will be provided with the website link for the approved addenda, including amendments to the RFP via the ESBD. If, and as necessary, as determined by the BON, Respondents will, in turn, be allowed time to revise or supply additional information in response to such addenda.

9.10 Communications with BON Personnel.

The Board adopts the Texas Comptroller of Public Accounts’ Vendor Communication Policy. Respondents must direct all inquiries and communications concerning this RFP to the Point-of-Contact listed below.

Respondents may communicate solely with the Texas Board of Nursing Point-of-Contact, except as expressly approved in advance by the Texas Board of Nursing’s Point-of-Contact.

Failure to comply with these requirements and communications with anyone other than the Point-of-Contact without express prior approval may result in disqualification of a Response.

Respondents may not use the e-mail address listed below for submission of a Response. Follow the instructions outlined in Sections 8.6 for proper submission.

Mailing Address/E-mail Address

Texas Board of Nursing
Attn: Kizzie Gonzales
333 Guadalupe, Suite 3-460
Austin, Texas 78701
Email: Kizzie.Gonzales@bon.texas.gov

Physical Address

Texas Board of Nursing
Attn: Kizzie Gonzales
333 Guadalupe, Tower 3, Suite 460
Austin, Texas 78701

After award of any Contract resulting from this RFP, all requests for Contract changes and all communications relating to the Contract will be processed through the Texas Board of Nursing’s Legal Department.

9.11 Media Releases.

Respondents shall not use the Board's name, logo, or other likeness in any press release, marketing material, or other announcement without the Board's prior written approval. The Board does not endorse any vendor, commodity, or service. Respondent is not authorized to make or participate in any media releases or public announcements pertaining to this procurement and the Respondent or the services to which they relate without the Board's prior written consent, and then only in accordance with explicit written instructions from the Board.

10 PROPOSAL ORGANIZATION

Proposals shall include all information required in this RFP and shall be in the format described in this RFP. The Respondent is solely responsible for thoroughly understanding the RFP and its attachments, exhibits, and forms. Any questions concerning this RFP should be directed to the Point-of-Contact by the Deadline for Proposals. The Respondent is solely responsible for its Proposal and all documentation submitted.

10.1 Proposal Organization.

- A. Include the Respondent's Name, Contact Information, and the Name and Contact Information of an Authorized Representative of the Respondent who can be contacted about the Proposal.
- B. Provide a copy of the Respondent's certification from the Texas Health and Human Services Commission.
- C. Describe and provide examples/evidence of how your Program meets each requirement in Section 2 of this RFP, Program Specifications; Scope of Work. Examples and evidence should include training materials, employees' resumes and certifications, policies and procedures, budgets and expenditures, and any other relevant information showing the Respondent meets the requirements.
- D. Describe and provide examples of how your Program would be able to satisfy the requirements of Section 3 of this RFP, Contractor's Reporting Requirements.
- E. Describe and provide examples/evidence of how your Program responsibly and appropriately uses state funds, i.e., by providing copies of annual budgets and expenditures.
- F. Attachment B – Certifications and Execution of Proposal.
- G. Attachment C – Historically Underutilized Businesses Subcontracting Plan.

A Proposal constitutes a binding offer by the Respondent. **The Texas Board of Nursing will disqualify any response to this RFP that includes any type of disclaimer or other statement indicating that the Response does not constitute a binding offer.**

Respondent must be as precise, accurate, and succinct in its Proposal as possible. Respondent must provide detailed descriptions of how they will fulfill each requirement. Evaluators may consider the clarity and completeness of a Proposal as part of the selection process.

10.2 HUB Subcontracting Plan

The Respondent must fill out the HUB Subcontracting Plan (HSP) and submit it with the Proposal to be considered responsive. The Texas Board of Nursing will reject responses received without the HSP as a material failure to comply with the requirements of this RFP.

10.3 Assumptions and Exceptions

No assumptions should be included in a Proposal. All issues or questions that might be advanced or addressed by way of assumption should be submitted to the Texas Board of Nursing pursuant to Section 9.8 of this RFP. **The inclusion of assumptions in a Proposal may result in a Respondent not being awarded a contract.**

Respondents are encouraged, in lieu of including exceptions in their Proposals, to address all issues that might be advanced by way of exception by submitting such issues to the Texas Board of Nursing pursuant to Section 9.8 of this RFP. Any exception included in a Proposal may result in a Respondent not being awarded a contract. However, if a Respondent includes exceptions in its Proposal, the Respondent shall clearly identify each exception it takes, noting the specific RFP section number, section title, detailed description of exception taken, and Respondent's proposed language advanced in lieu of the language to which exception is taken. If there are no exceptions, the Respondent shall explicitly state that the Respondent takes no exception to any part of this RFP.

The Texas Board of Nursing is prevented by the Texas Constitution from indemnifying vendors. The Respondent is discouraged from including a term in its Proposal that requires the Texas Board of Nursing to indemnify it. Such a term may result in the Proposal being deemed non-responsive.

Any exception that does not provide all information required (e.g., the specific RFP section number, section title, detailed description of exception taken, and Respondent's proposed language advanced in lieu of the language to which exception is taken) in the format set forth above will be rejected without consideration.

10.4 Texas Ethics Commission Disclosure of Interested Parties (Form 1295)

Respondent understands that if awarded the Contract, the Respondent will be required to complete the Form 1295 Certificate of Interested Parties, which must be filed on the Texas Ethics Commission's website at: <https://www.ethics.state.tx.us/filinginfo/1295/>. Before the Contract is awarded, the Respondent must submit to the Board a completed and signed form with the certificate of filing number and date.

10.5 Conflict of Interest Disclosure

By signing Attachment B – Certifications and Execution of Proposal, Respondent affirms that the execution of a Contract between Respondent and the State will not create a conflict of interest or cause an appearance of a conflict of interest. In its Proposal, Respondent must disclose any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to Respondent's (and its proposed subcontractors') submission of a Proposal and possible selection as Contractor or its performance of the Contract.

If the circumstances certified by Respondent change or additional information is obtained subsequent to submission of Proposals, by submitting a response, Respondent agrees that it is under a continuing duty to supplement its response under this provision, and Respondent shall submit updated information as soon as reasonably possible upon learning of any change to Respondent's affirmation.

10.6 Financial Responsibility/Stability

Respondent must provide evidence of financial responsibility and stability for performance of providing the goods and services for which Respondent is submitting a Proposal. Respondent must disclose the source of any outside financial resources that Respondent will utilize to enable it to perform any Contract awarded pursuant to the RFP. Respondent must show financial capability, demonstrate financial solvency, and verify the capacity to fulfill the requirements of the RFP. The Texas Board of Nursing reserves the right to determine the financial integrity and responsibility of a Respondent and to reject a Proposal on the grounds of Respondent's financial soundness.

Respondent must submit copies of the following documentation, as applicable. If not applicable, Respondent must provide an explanation.

1. Two of the most recent audited financial statements, including financial statements with all sub-schedules and footnotes, to include balance sheet, profit and loss statements, change in financial position and management letters, with findings and responses to findings
2. For privately and singularly owned business where audited financial statements are not required, unaudited financials will suffice.
3. At least one rating from organizations such as Dunn & Bradstreet or Fitch Ratings
4. A document with the following information:
 - a. Gross Revenues
 - b. Net Income
 - c. Current Ratio
 - d. Contingent liabilities to the extent that they would materially affect gross revenues, materially affect net income, or reduce the current ratio below 1.0.

10.7 Signed Addenda to RFP

Respondent must submit signed addenda, if any, with its Proposal.

11 **EVALUATION, SELECTION, AWARD**

The Texas Board of Nursing reserves the right to award a contract(s) without any negotiations and reserves the right to not make awards.

11.1 Modification of Proposals.

All Eligible Respondents will be afforded the opportunity to submit Best and Final Offers if (a) negotiations with any other Respondent result in a material alteration to the RFP and (b) such material alteration has a cost consequence that could alter the Respondent's quotations regarding rates for services.

11.2 Selection of Respondent.

The Respondent selected for the Contract will be the Respondent whose Proposal, as presented in response to this RFP, and as determined by the BON, in accordance with the evaluation criteria set forth in Section 11.4, to be the most advantageous to the BON.

11.3 Evaluation of Proposals.

BON personnel, including personnel who serve on the Evaluation Committee, will evaluate Proposals. Proposals that are (i) incomplete; (ii) not properly certified and signed; (iii) not in the required format; or (iv) otherwise non-compliant, in whole or in part, with any of the requirements set forth in this RFP, may be disqualified by the BON. Submission of a Proposal indicates the Respondent's acceptance of the evaluation process set forth in this RFP and the Respondent's acknowledgement that subjective judgments must be made by the BON in regard to the evaluation process.

11.4 Evaluation Criteria.

The Respondent must be an approved Program under Texas Health and Safety Code Chapter 467 and Title 26 Texas Administrative Code Chapter 8. Failure to obtain this certification will automatically disqualify the Respondent.

The award will be made to the Respondent whose Proposal provides the best value for the state and is in the state's best interest. The Texas Board of Nursing will do an initial responsiveness screening of the Proposals to verify compliance with the requirements of this RFP, which includes signature on all required documentation. The remaining responsive Proposals will be evaluated to determine which one offers the best value and is in the state's best interest. In determining which Proposal provides the best value and is in the state's best interest, the Texas Board of Nursing will consider the criteria listed below. The relative weights of each criterion will be as listed.

Criteria	Weight (%)
Past Performance <ul style="list-style-type: none">• Vendor Performance Tracking System ("VPTS") Grade(s)• Years of Experience Performing the Requested Work• If previously contracted with the Board, compliance with contract terms	30%
Qualifications and Ability to Satisfy Regulatory needs <ul style="list-style-type: none">• Whether the Respondent can meet all of the requirements as outlined in Sections 2 (Program Specifications; Scope of Work) and 3 (Contractor's Reporting Requirements) of this RFP	70%

11.5 Consideration of Additional Information.

The BON reserves the right to ask for and consider any additional information deemed beneficial to the BON in evaluation of the Proposals.

11.6 Best Value

The Texas Board of Nursing will consider best value for the state as directed by Texas Gov't Code § 2155.074 when awarding a Contract to a Respondent.

11.7 Award Notice

If the RFP is awarded, the Texas Board of Nursing will issue a notice of award to the successful Respondent in response to this RFP. However, there is no guarantee that an award or any Contract will result from this solicitation.

12 **INSURANCE**

12.1 Required Coverage.

For the duration of any Contract entered into as a result of this RFP, for all renewal terms, and for purposes of indemnification obligations that are specified to survive termination or expiration of the Contract, Respondent shall obtain, at its sole expense and at no cost to the BON, the following coverage and shall maintain such coverage in full force and effect:

- A. Worker's Compensation. Contractor must maintain Workers' Compensation insurance coverage in accordance with applicable statutory limits.

Workers' Compensation: Statutory Limits

Employers Liability: Each Accident \$1,000,000

Disease: Each Employee \$1,000,000

Disease: Policy Limit \$1,000,000

- B. Commercial General Liability. Commercial General Liability, including operations, Contractual liability, and products liability in a combined single limit if applicable.

Occurrence based:

Bodily Injury and Property Damage

Each occurrence limit: \$1,000,000

Aggregate limit: \$2,000,000

Medical Expense each person: \$5,000

Personal Injury and Advertising Liability: \$1,000,000

Products /Completed Operations Aggregate Limit: \$2,000,000

Damage to Premises Rented to You: \$50,000

- C. Employer's Legal Liability. Employer's Legal Liability must be maintained while performing the duties prescribed per this RFP if applicable.

12.2 Effect of Indemnification Obligations.

No provision, term, or condition in this RFP or in a Contract issued as a result of this RFP regarding indemnification obligations shall be construed to limit the application of insurance procured by the Respondent in accordance with requirements set forth in the RFP or resulting Contract.

12.3 Additional Named Insured, Subrogation.

With the exception of the Workers' Compensation policy, the BON shall be an additional-named insured on all policies, and subrogation against the BON must be waived.

12.4 Certificates of Coverage.

At least thirty (30) days prior to the Effective Date of the Contract awarded as a result of this RFP, and at least thirty (30) days prior to the commencement of any renewal term of the awarded Contract, the Respondent shall furnish the BON with certificates of insurance in a form acceptable to the BON certifying that the Respondent carries the required insurance policies and coverage. The certificates shall be sent to the BON, at the address listed in this RFP.

12.5 Notification of Cancellation.

Each insurance policy shall contain a covenant by the insurance company issuing the policy that the policy will not be modified or canceled unless thirty (30)-days' prior written notice of modification or cancellation is given to the BON. In the event the Respondent receives notice of modification or cancellation of any of the policies required under this RFP or a Contract awarded as a result of this RFP, then, prior to the effective date of modification or cancellation of the policy, the Respondent shall obtain a policy of insurance affording the required coverage from an insurance carrier acceptable to the BON. If the Respondent fails to obtain such an insurance policy, the BON may immediately terminate the Contract without further notice to the Respondent.

The Proposal in the following pages was prepared by the Texas Nurses Foundation (TNF) in response to the Texas Board of Nursing's Request for Proposal No. 507-21-001 (RFP). This cover sheet is provided to assist in identifying the portions of the Proposal that meet the Board's requirements in the RFP.

Requirement in the Board's RFP	Documentation that the Texas Nurses Foundation's Proposal Meets the RFP's Requirements
<p>A. Include the Respondent's Name, Contact Information, and the Name and Contact Information of an Authorized Representative of the Respondent who can be contacted about the Proposal.</p>	<p>TNF's Cover Sheet</p>
<p>B. Provide a copy of the Respondent's certification from the Texas Health and Human Services Commission.</p>	<p>TPAPN Texas Health and Human Services Commission Certification Letter</p>
<p>C. Describe and provide examples/evidence of how your Program meets each requirement in Section 2 of the RFP, Program Specifications; Scope of Work. Examples and evidence should include training materials, employees' resumes and certifications, policies and procedures, budgets and expenditures, and any other relevant information showing the Respondent meets the requirements.</p>	<p>2.1 Scope of Work; Contractor's Responsibilities TPAPN Program Description</p> <p>2.2 Compliance with Statutory and Legal Authorities TPAPN Policy #3 Organization</p> <p>2.3 Certification Required TPAPN Texas Health and Human Services Commission Certification Letter</p> <p>2.4 General Criteria for Board-Approved Peer Assistance Program</p> <p>2.4.1 TPAPN Policy #3 Organization</p> <p>2.4.2 Affinity eHealth, Inc. and TPAPN Service Agreement</p> <p>2.4.3 TPAPN Peer Support Handbook</p> <p>2.4.4 TPAPN Peer Support Partner education and trainings and other Program personnel education and trainings</p> <p>2.4.5 TPAPN Policy # 3 Organization TPAPN Employer Guide, TPAPN Overview Presentation</p> <p>2.4.6 Texas Nurses Foundation Audit Report</p> <p>2.4.7 TPAPN Policy # 25 Discharge from TPAPN for Non-Adherence TPAPN Non-Adherence Intervention Matrix</p>

2.4.8 TPAPN Policy # 31 Program Evaluation

2.5 Program Organization

2.5.1 TPAPN Organization Chart

2.5.2 TPAPN Policy #3 Organization

2.6 Program Staffing

2.6.1 TPAPN publicized business location, TPAPN 2021 Holiday Schedule

2.6.2 TPAPN Organization Chart, TPAPN Staff Directory

2.6.3 Program Director license, certification, resume and knowledge of the Texas Nursing Practice Act, Texas Occupations Code Chapter 301 and applicable regulations of the BON, 22 Texas Admin. Code Chapter 213

2.6.4 Texas Nurses Association Family of Corporations Operational Structure

2.7 Additional Program Requirements

2.7.1 TPAPN Program Description

2.7.2 TPAPN 1st – 4th Quarter 2020 Report to BON, TPAPN 1st – 3rd Quarter 2021 Report to BON, TPAPN Weekly Report to BON 6/7/2021 to 6/11/2021, TPAPN Annual Report 2020, (see TPAPN Annual Report 2020, provided separately)

2.7.3 TNF Business Continuity Plan

2.7.4

TPAPN Advisory Committee Policy

TPAPN Advisory Committee Roster

2.7.5 TPAPN Policy # 6 Referrals to TPAPN, TPAPN Policy # 4 Confidentiality of Nurses

2.7.6 TPAPN Case Manager resumes, licenses and certifications, TPAPN Peer Support Partner Application, TPAPN Overview Peer Support Partner Workshop Presentation, Peer Support Partner Workshop Presentation, Motivational Interviewing Presentation, Peer Support Partner Informational Session Presentation

2.7.7 TPAPN Peer Support Partner Information

2.7.8 TPAPN Campaign Strategy, TPAPN Messaging Strategy, TPAPN Overview Presentation, TPAPN Lunch and Learn

	<p>Presentation, TPAPN Outreach Education Coordinator Job Description</p> <p>2.7.9 TPAPN Participation Agreement</p> <p>2.7.10 TPAPN Policy # 11 Mental Health/Substance Use Evaluations TPAPN Participation Guideline Matrix, TPAPN Sample of Monitoring Data</p> <p>2.7.11 Extended Evaluation section of the TPAPN Participation Guideline Matrix</p> <p>2.7.12 TPAPN Policy # 19 Toxicology</p> <p>2.7.13 TPAPN Policy # 25 Discharge from TPAPN for Non-Adherence</p> <p>2.7.14 TPAPN Policy # 4 Confidentiality of Nurses Referred to and Participating in TPAPN</p> <p>2.7.15 TPAPN Substance Use Disorder and Mental Health in Nursing Presentation, TPAPN Education and Outreach information</p> <p>2.8 Financial and Audit Requirements</p> <p>2.9 Policies and Procedures</p>
<p>2. Describe and provide examples of how your Program would be able to satisfy the requirements of Section 3 of the RFP, Contractor’s Reporting Requirements.</p>	<p>3 Contractor’s Reporting Requirements</p>
<p>3. Describe and provide examples/evidence of how your Program responsibly and appropriately uses state funds, i.e., by providing copies of annual budgets and expenditures.</p>	<p>Financial Responsibility/Stability</p>
<p>4. Attachment B – Certifications and Execution of Proposal.</p>	<p>Attachment B</p>
<p>5. Attachment C – Historically Underutilized Businesses Subcontracting Plan.</p>	<p>Attachment C</p>