

INTERAGENCY COOPERATION CONTRACT

HEALTH AND HUMAN SERVICES COMMISSION

CONTRACT No. CON0000524

THE HEALTH AND HUMAN SERVICES COMMISSION (HSSC) and the Texas Juvenile Justice Department, State Agency Number 644 ("TJJD"), each a "Party" and collectively the "Parties," enter into the following software License (the "License") pursuant to the provisions of "The Interagency Cooperation Act," Chapter 771 of the Texas Government Code.

I. CONTRACT REPRESENTATIVES

The following will act as the Representative authorized to act on behalf of their respective Party.

Health and Human Services Commission

Health and Human Services Commission

Mike Thomas

IT Manager - Enterprise Applications - Executive Systems - Facilities Applications

William B. Travis Building - Suite 6-122-D

1701 N. Congress Avenue, Mail Code 2984

Austin, TX 78701

Office 512-936-5510

Agency Cell 512-773-8226

Alt. 512-565-3749

Texas Juvenile Justice Department

Clayton Heald

Business Analyst

Information Technology Application Development and Support

Texas Juvenile Justice Department

Physical: 11209 Metric Blvd. Bldg. H, Ste. A

Mailing: P.O. Box 12757

Austin TX 78711

Ofc: 512-490-7772

Fax: 512-490-7252

II. Software to be Licensed

The Parties agree to cooperate to provide necessary and authorized resources in accordance with the terms of this Contract as described in **Attachment A – Health and Human Services Commission, HHSC Interagency Software License - State Governmental Body.**

III. CONTRACT PERIOD AND RENEWAL

The Contract is effective on the signature date of the latter of the Parties to sign this agreement, unless terminated pursuant to the terms and conditions of the License.

IV. AMENDMENT

The Parties to this Contract may modify this contract only through the execution of a written Amendment signed by both parties.

V. CONTRACT AMOUNT AND PAYMENT FOR SERVICES

The Software and Documentation subject to this License are licensed without any license fees, royalties, expenses or other payment requirements.

VI. LEGAL NOTICES

Legal notices under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

Health and Human Services Commission

Mike Thomas
IT Manager - Enterprise Applications - Executive Systems - Facilities Applications
William B. Travis Building - Suite 6-122-D
1701 N. Congress Avenue, Mail Code 2984
Austin, TX 78701
Office 512-936-5510
Agency Cell 512-773-8226
Alt. 512-565-3749

Texas Juvenile Justice Department

Clayton Heald
Business Analyst
Information Technology Application Development and Support
Texas Juvenile Justice Department
Physical: 11209 Metric Blvd. Bldg. H, Ste. A
Mailing: P.O. Box 12757
Austin TX 78711
Ofc: 512-490-7772
Fax: 512-490-7252

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

VII. CERTIFICATIONS

The undersigned Parties certify that:

- A. The Software resources developed by HSSC licensed herein is necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government;
- B. Each Party executing this License on its behalf has full power and authority to enter into this Contract;
- C. The proposed arrangements serve the interest of efficient and economical administration of state government; and
- D. The resources contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest responsible bidder.

The Texas Juvenile Justice Commission further certifies that it has statutory authority to contract for the resources described in this contract under Texas Government Code, sec. 771.003.

The Health and Human Services Commission further certifies that it has statutory authority to contract for the resources described in this contract under Texas Government Code, sec. 771.003

TEXAS JUVENILE JUSTICE DEPARTMENT

HEALTH AND HUMAN SERVICES COMMISSION

Signature

Signature

Printed Name

Bowden Hight
Printed Name

Title

4900 North Lamar Blvd.
Austin, TX 78751
Deputy Commissioner and CIO
Title

Date

Date

THE FOLLOWING ATTACHMENT TO ENTERPRISE AGENCY CONTRACT NO. * IS HEREBY INCORPORATED BY REFERENCE:**

ATTACHMENT A – Health and Human Services Commission, HHSC Interagency Software License - State Governmental Body



ATTACHMENT A

Health and Human Services Commission

HHSC Interagency Software License -

State Governmental Body

Version 2.12

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.01 Definitions

As used in this License, unless the context clearly indicates otherwise or defined in the Signature Document, the following terms and conditions have the meanings assigned below:

"Amendment" means a written agreement, signed by the parties hereto, which documents changes to the License other than those permitted by Technical Guidance Letters, as herein defined.

"Appendix" and "Appendices" means documents, terms, conditions, or additional information physically added to this License following the execution page or included by reference, as if physically, within the body of this License.

"Confidential Information" means, to the maximum extent permitted under the laws of the State of Texas, all information provided or made available to TJJJ by HHSC or any employee, agent, contractor or other representative of HHSC, that is designated as confidential by HHSC or characterized as confidential under the Texas Public Information Act, Texas Government Code, Chapter 552, and any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of or includes such information. Confidential Information also includes information concerning each Party's clients, applicants for or recipients of benefits or resources in connection with its Programs, including but not limited to Protected Health Information; information or records concerning HHSC or TJJJ and their finances, contracts, services or personnel; and information received from others that either Party is obligated to treat and maintain as confidential.

"Documentation" means the user information described in Appendix A, regardless of whether that documentation is provided in print, on a disk or other memory device or as an electronic download. "Effective Date" means the date agreed to by the Parties as the date on which the License takes effect.

"Health and Human Services Commission" or "HHSC" means the administrative agency established under Chapter 531, Texas Government Code or its designee.

"Intellectual Property" means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights and all applications and worldwide registration of such, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, and other intangible proprietary information.

"License" means the Signature Document, these license terms and conditions, along with any Appendices to them, and any Amendments that may be issued by HHSC to be incorporated by reference herein for all purposes if and when issued.

"Parties" means HHSC and TJJJ, collectively.

"Party" means either HHSC or TJJJ, individually.

"Public Information Act" or "PIA" means Chapter 552 of the Texas Government Code.

"Software" means the HHSC's Client Trust Fund software (in both source and object code) identified in Appendix A, subject to the following limitations and exclusions: (1) the term shall be

deemed to exclude all Third-party software products, documentation, databases and applications which are required for the use of the Software; (2) the term shall include only such software currently owned by HHSC; and (3) the term shall refer only to such Software and Documentation identified in Appendix A in the form that it existed as of the date specified in Appendix A and as contained in the storage medium or media used to deliver the Software to TJJJ on or after the Effective Date. The term shall not be deemed to include any revisions, modifications, improvements, derivative works or other versions of such Software or Documentation created by HHSC on or after the Effective Date.

"Signature Document" means the document executed by both Parties that specifically sets forth all of the documents that constitute the License.

"TJJJ" means the Texas Juvenile Justice Department

1.02 Interpretive Provisions

- A. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- B. The words "hereof," "herein," "hereunder," and similar words refer to this License as a whole and not to any particular provision, section, Appendix, or schedule of this License unless otherwise specified.
- C. The term "including" is not limiting and means "including without limitation" and, unless otherwise expressly provided in this License, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.
- D. Any references to "sections," or "Appendices" are references to sections, appendices, or Appendices of the License.
- E. Any references to agreements, contracts, statutes, or administrative rules or regulations in the License are references to these documents as amended, modified, or supplemented from time to time during the term of the License.
- F. The captions and headings of this License are for convenience of reference only and shall not affect the interpretation of this License.
- G. All Appendices within this License, including those incorporated by reference, and any Amendments are considered part of the terms of this License.
- H. This License may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each shall be performed in accordance with its terms.
- I. Unless otherwise expressly provided, reference to any action of the HHSC or by the HHSC by way of consent, approval, or waiver shall be deemed modified by the phrase "in its sole discretion."
- J. Time is of the essence in this License.

ARTICLE II. PURPOSE

2.01 Interagency Software License

HSSC and TJJJ are both agencies within the executive branch of the State of Texas. TJJJ has requested a license of the Software to assist it in accounting for monies it is legally authorized to manage. HHSC has agreed to license the Software to TJJJ on the terms described below.

ARTICLE III CONSIDERATION

3.01 Consideration; Payments and Expenses

This License is made in consideration of the reciprocal licensing commitments for the Software and Documentation contained in sections 4.01 and 4.02, below. The License granted by HHSC to TJJJ and any reciprocal license obtained by HHSC from TJJJ are not subject, now or in the future, to any license fees, royalties, expense reimbursements or other charges payable by either Party to the other Party.

ARTICLE IV SOFTWARE OWNERSHIP; WARRANTY AND SUPPORT; LIMITATIONS

4.02 License of Modifications, Enhancements and Derivative Works.

Any and all modifications, enhancements and derivative works of the Software shall, immediately upon their creation, be deemed to have been licensed back to HHSC without use restrictions or other limitations or restrictions of any kind and without the need for any further action by either of the Parties. Upon request and at least every six (6) months, TJJJ shall promptly deliver to HHSC, at no expense to HHSC, copies of any and all such modifications, enhancements and derivative works in source code and object code form, together with all associated documentation.

HHSC MAKES NO WARRANTIES OF ANY KIND REGARDING THE SOFTWARE, EITHER EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, TRADE, TITLE AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES. HHSC MAKES NO WARRANTIES THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET TJJJ'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. IN NO EVENT SHALL HHSC BE RESPONSIBLE FOR ANY DEFICIENCIES IN THE SOFTWARE, INCLUDING BUT NOT LIMITED TO THOSE CAUSED BY: (i) MODIFICATIONS MADE TO THE SOFTWARE, REGARDLESS OF WHETHER SUCH MODIFICATIONS WERE MADE BY HHSC, THE TJJJ, OR ANY OTHER PERSON; OR (ii) THE COMBINATION, OPERATION OR USE OF THE SOFTWARE WITH ANY OTHER HARDWARE, SOFTWARE, SERVICES OR PRODUCTS. THE SOFTWARE IS PROVIDED "AS IS" AND WITHOUT TECHNICAL SUPPORT. USE OF THE SOFTWARE IS STRICTLY AT TJJJ'S RISK.

4.04 Limitation of Liability

TJJJ ACKNOWLEDGES AND AGREES THAT IN NO EVENT WILL HHSC OR THE STATE OF TEXAS BE LIABLE FOR ANY LOSSES, EXPENSES, CLAIMS, OR DAMAGES OF ANY NATURE OR TYPE, DIRECT OR INDIRECT, THAT MAY BE INCURRED BY THE TJJJ OR BY ANY OTHER PERSON IN CONNECTION WITH THIS AGREEMENT OR THE SOFTWARE. WITHOUT LIMITING THE FOREGOING, TJJJ ACKNOWLEDGES AND AGREES THAT HHSC SHALL NOT BE LIABLE FOR LOST SAVINGS OR OTHER DIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES, EVEN IF HHSC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

4.05 Limitations on Disclosure

TJJD shall not at any time disclose, nor permit the disclosure, directly or indirectly, of the Software or any portion thereof, except as may be expressly authorized in advance in writing by HHSC. TJJD agrees to implement sufficient security measures to protect the Software against unauthorized disclosure, including maintaining the Software in a secured area accessible only to employees or authorized agents of TJJD who have a need and authorization to use the Software. .

ARTICLE V RECORDS, AUDIT, AND DISCLOSURE

5.01 Public Information and Confidentiality

Information related to the performance of this License may be subject to the Public Information Act and will be withheld from public disclosure or released to the public only in accordance therewith. TJJD shall make any information required under the Public Information Act available to HHSC in portable document file (".pdf") format or any other format agreed between the Parties.

To the extent permitted by law, TJJD and HSSC agree to keep all information confidential, in whatever form produced, prepared, observed, provided or received by TJJD each of them. The provisions of this section remain in full force and effect following termination or cessation of the License.

5.02 Software Security

Each Party and its Subcontractors will maintain reasonable and appropriate administrative, physical, and technical safeguards to ensure the integrity and confidentiality of the Software and Documentation subject to this License and protect it against any reasonably anticipated threats or hazards to its security or integrity and unauthorized use or disclosure of the Software in accordance with applicable federal and state laws, rules, and regulations.

Upon notice, either Party will provide, or cause its agents to provide, the other Party or its designee prompt access to any security records, books, documents, and papers that relate to this License.

ARTICLE VI TERM AND EARLY TERMINATION

6.01 License Term

The term of this Agreement shall be perpetual, unless terminated by HHSC in accordance with the provisions in this Article VI of the Agreement.

6.02 Termination for Convenience

HHSC may terminate the License at any time when, in its sole discretion, HHSC determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination.

6.03 Termination for Cause

The HHSC will have the right to terminate the License in whole or in part if the HHSC determines, at its sole discretion, that TJJD Agency has materially breached the License or has failed to adhere to any laws,

ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of TJJJ's duties under the License. In such case, HHSC shall notify TJJJ in writing of such breach and require TJJJ to cure such breach within 30 calendar days. If TJJJ fails to cure the breach within thirty (30) days, HHSC may provide written notice of cancellation to Licensee, whereupon this Agreement shall immediately terminate. In the event of termination, TJJJ will immediately discontinue use of the Software. Within one (1) month after termination of this License, TJJJ will certify in writing to HCCS that, through its best effort and to the best of its knowledge, the original and all copies, in whole or in part and in any form, of the Software have been destroyed.

ARTICLE VII MISCELLANEOUS PROVISIONS

7.01 No Support Provided.

Nothing contained herein obligates HSSC to provide TJJJ anything other than the Software and Documentation. HSS shall not provide installation, training, maintenance, technical support or other services in connection with the Software and Documentation

7.02 Survivability

All obligations and duties of the TJJJ not fully performed as of the expiration or termination of this License will survive the expiration or termination of the License.

7.03 No Waiver

Neither failure to enforce any provision of this License constitute waiver of any provision of the License.

7.04 Standard Terms and Conditions

- A. In the performance of this License, each Party shall comply with all applicable federal, state, and local laws, ordinances, and regulations. Each Party shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this License. Each Party will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.
- B. All records relevant to this License shall be retained for a minimum of seven (7) years. The period of retention begins at the date of termination of the License. The period of retention shall be extended for a period reasonably necessary to complete an audit or to complete any administrative proceeding or litigation that may ensue.
- C. TJJJ shall keep and maintain true, and complete records necessary to fully disclose to the HHSC, the Texas State Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine compliance with the terms and conditions of this License and all state and federal rules, regulations, and statutes.
- D. This License and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this License shall be in a court of competent jurisdiction in Travis County, Texas. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY EITHER PARTY .**

- E. If any provision contained in this License is held to be unenforceable by a court of law or equity, this License shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this License unenforceable.
- F. If either of the Parties, is prevented from complying with any express or implied covenant of this License by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected Party's obligation to comply with such covenant shall be suspended, and the affected Party shall not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure shall promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The Party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the HHSC may terminate this License immediately upon written notification to TJJJ Agency.
- G. This Interagency Contract and its integrated Attachments and Appendices constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in such Appendices and/or purchase order shall be harmonized with this License to the extent possible. Unless such integrated Appendix or purchase order specifically displays a mutual intent to amend a particular part of this License, general conflicts in language shall be construed consistently with the terms of this License.
- H. Pursuant to Chapter 2259 of the Texas Government Code entitled, "Self-Insurance by Governmental Units," Each Party is self-insured and, therefore, is not required to purchase insurance.

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APPENDIX A

SOFTWARE:

Client Trust Fund tracking software in source and object code
Associated database scheme (without data)

DOCUMENTATION

System Requirements Specification
Training Manual



TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: Kenneth Ming, Director of Business Operations KM date: 11/14/17
(Contract file Review)
Contracts Attorney [Signature]
Chelsea Buchholtz, Chief of Staff [Signature]
David Reilly, Executive Director [Signature]

From: Suzi Rowan, Contract Specialist

Subject: Contract Routing for Signature

Date: November 14, 2017

CON0000524, Health and Human Services Software License, is being routed for your signature. The final reviews and/or approvals have been obtained in CAPPs, as supported by the attached CAPPs printout of contract approvals. Please sign and return the original documents to my attention for further processing.

By approving and/or signing this contract, you hereby certify that you agree to the following:

- (1) You have no interest in, or connection with, the contract referenced herein;
- (2) You have not accepted or received, and will not accept or receive, from a person or entity to whom the contract has been awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation; and
- (3) You have disclosed any possible conflicts of interest to the Director of Contract Administration, Procurement & Facility Business Management.

Thank you.

[Signature]
Contract Specialist

Approval: REQ0036336