

**ALABAMA DEPARTMENT OF PUBLIC HEALTH
CONTRACT FOR BREAST AND CERVICAL CANCER
SCREENING AND DIAGNOSTIC SERVICES
FOR THE
ALABAMA BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM**

This Contract entered into by and between the State of Alabama Department of Public Health, hereinafter referred to as "Department", and _____, hereinafter referred to as "Contractor", is effective _____ and terminates _____.

WHEREAS, the purposes of this Contract are to provide early detection of breast and cervical cancer to women and/or colorectal cancer in men and women in the State of Alabama through the above named Contractor; and

WHEREAS, funding for activities performed under this Contract was provided by the Department, through a cooperative agreement with the Centers for Disease Control and Prevention being grant number _____ (National Cancer Prevention & Control Program—National Breast and Cervical Cancer Early Detection Program) and DP002055 (Integrating Colorectal Cancer Screening within Chronic Disease Programs) for grant budget period _____ through _____. The program is authorized under sections 1501-1510 [42 U.S.C. 300k, 42 U.S.C. 300l, 42 U.S.C. 3001-1, 42 U.S.C. 300m, 42 U.S.C. 300n, 42 U.S.C. 300 n-1, 42 U.S.C. 300 n-2, 42 U.S.C. 300 n-3, 42 U.S.C. 300 n-4, 42 U.S.C. 300 n-5] of the Public Health Service Act, as amended and under section 301(a) of the Public Health Service Act, [42 U.S.C. section 241(a)], as amended; and.

WHEREAS, this Contract is except from the competitive none bidding requirements of Code of Alabama 1975, §41-16-78 because the contractor provides direct hand-on health care to the Department's patients.

NOW THEREFORE, in consideration of the mutual covenants herein below specified and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties herein agree to provide one or more of the following:

_____ Breast & Cervical Cancer screening

_____ Colorectal Cancer screening

services to Alabama Breast and Cervical Cancer Early Detection Program (ABCCEDP) eligible women and men as follows:

1. _____ A **Primary Provider** agrees to provide comprehensive cancer screening as indicated above and education services according to program guidelines, which may also include diagnostic services and consultation to the eligible population as deemed necessary by the physician. If appropriate, the patient may be referred to another participating physician for some of these examinations. The primary provider will have the sole responsibility of determining patient eligibility for services. A Primary Provider is also responsible for timely and properly enrolling eligible women and men in the ABCCEDP web based enrollment system.

_____ An **OB/GYN** agrees to provide the necessary consultation and appropriate diagnostic test for procedures as listed in the reimbursement schedule and agreed to by both parties. The referring primary provider will have the responsibility of determining patient eligibility for services.

_____ A **Surgeon** agrees to provide the necessary consultation and appropriate

diagnostic tests or procedures to determine diagnosis of cancer as indicated above. The referring primary provider will have the responsibility of determining patient eligibility for services.

_____ A **Mammography Facility** agrees to provide breast cancer services to include screening and diagnostic mammograms and other related diagnostic procedures listed in the reimbursement schedule as agreed to by both parties.

_____ A **Hospital/Outpatient Surgery Facility** agrees to provide outpatient diagnostic services as listed in the reimbursement schedule and agreed to by both parties.

_____ A **Radiologist** agrees to provide services for cancer indicated above that may include interpretation.

_____ A **Laboratory Facility** agrees to provide related diagnostic lab services as listed in the reimbursement schedule as agreed to by both parties.

_____ An **Anesthesiologist** agrees to provide anesthesiology services to outpatient surgery patients as listed in the reimbursement schedule as agreed to by both parties.

_____ A **Certified Registered Nurse Anesthetist (CRNA)** agrees to provide anesthesia services under the direction of a physician licensed to practice medicine. The nurse anesthetist is qualified in accordance with section 27-46-3 of the Code of Alabama 1975 and must be licensed by the Alabama Board of Nursing.

_____ A **Gastroenterologist** agrees to provide services as listed in the reimbursement schedule as agreed to by both parties.

2. CASE MANAGEMENT

If Contractor is the primary care physician, consultant, or specialist, Contractor agrees to provide timely and appropriate client follow-up, which may include case management or referral to ABCCEDP for case management, and arrangements for diagnostic services and treatment as appropriate.

3. STANDARDS OF CARE

Contractor agrees to follow the minimum clinical elements as the standard of care (as stated in the ABCCEDP protocol manual). Clinical guidelines may be modified by the program with notification of changes being sent to affected providers.

4. REFERRAL PATIENTS

Clients may be referred by other participating physicians and may be served by Contractor who will invoice the Department for services rendered.

5. LABORATORIES

A Primary Provider / Surgeon / Surgical Facility agrees to obtain results of laboratory services, to include pathology, from a Clinical Laboratory Improvement Act (CLIA) certified laboratory.

6. PATIENT RECORDS

All patient records generated by and as a result of this contract shall be deemed to be confidential and safeguarded in accordance with the general confidentiality standards within the profession.

7. STAGING OF CANCER DIAGNOSIS

If a breast or cervical cancer is found, the Primary Provider and Surgeon agree to provide the Department with clinical and histological staging information. The stage of cancer will be reported using Tumor Node Metastasis (TNM) classification system as developed by the American Joint Committee on Cancer (AJCC). The provider agrees to share necessary information related to the diagnosis and treatment of the breast, cervical or colorectal cancer with the ABCCEDP.

8. SUBMISSION OF INVOICES, PROGRAM FORMS AND REPORTS

Contractor agrees to submit an invoice and the completed medical report (results) for the reimbursable medical procedure performed or service provided within sixty (60) days of the date of services, with the exception of the end of the fiscal year. Contractor acknowledges that under the terms of the grant received by the Department from federal sources including general federal grants practices and procedures, the Contractor herein must submit all invoices or other demands for payment hereunder by a date which allows the Department to finalize and submit a financial status report to the granting federal agency. For purposes of this Contract, that date is _____ for year one of the Contract and _____ for year two of the Contract. Invoices or demands for payment received after this date for work and labor done cannot be paid and are forfeited.

With the exception of laboratories, Contractor will complete all necessary forms applicable to services provided and required by the ABCCEDP to include: Screening/Billing Form, Mammogram Voucher, Breast Follow-Up, Cervical Follow-Up and Colorectal Follow-Up. Contractor will provide referring agency and the Department with the results of all screens, tests, pathological procedures, surgical procedures and recommendations for follow-up. Contractor will maintain such documentation in the client's medical record. Client notification will be made by the primary provider, consulting physician and/or screening facility as appropriate.

9. DISCRIMINATION CLAUSE

Contractor will comply with Titles IV, VI, and VII of the Civil Rights Act of 1964, the Federal Age Discrimination and Employment Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and all applicable federal and state laws, rules, and regulations implementing the foregoing statutes with respect to nondiscrimination on the basis of race, creed, color, religion, national origin, age, sex, or disability, as defined in the above laws and regulations. Contractor shall not discriminate against any otherwise qualified disabled applicant for, or recipient of aid, benefits, or services or any employee or person on the basis of physical or mental disability in accordance with the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

10. PAYOR OF LAST RESORT

The Department is the payer of last resort and all third party sources must be billed before billing Department for program services.

11. RATE OF REIMBURSEMENT

Contractor agrees to accept a rate of reimbursement for approved procedures, not to exceed the current Medicare part B rate, as payment in full with no balance billed to the client. Medicare rates are re-evaluated and updated annually. The Medicare rate current as of the date of service will be paid.

Contractor agrees not to bill women and men participating in the ABCCEDP for any difference between provider fees for ABCCEDP covered services and the amount reimbursed by the ABCCEDP. Contractor shall have the right to bill women for services related to breast, cervical or colorectal cancer screenings which are not covered under this agreement, but must notify women of their financial responsibility prior to delivering the service.

12. MAXIMUM AMOUNT

Under no circumstances shall the maximum amount payable under this Contract exceed

\$ _____ for the stated period of time.

13. CONTRACTOR CREDENTIALS

Prior to provision of services and upon renewal of required licenses and/or certifications, Contractor must provide evidence of a current Alabama license to practice medicine. A mammography facility must be currently accredited by the American College of Radiology (ACR) and in compliance with the Mammography Quality Standards Act (MQSA). A laboratory facility must be currently certified and in compliance with the Clinical Laboratory Improvement Act (CLIA). A Certified Registered Nurse Anesthetist (CRNA) must provide evidence of a current Alabama license.

Disciplinary actions taken against the Contractor by his/her licensing board or agency could result in termination of this Contract.

14. GOVERNOR'S PRORATION CLAUSE

It is agreed that the Department may terminate this Contract by giving thirty (30) days written notice to Contractor should the Governor of Alabama declare proration of the fund from which payment under this Contract is to be made. This termination for cause is supplemental to other rights the Department may have under this contract or otherwise to terminate such Contract.

15. TERMINATION CLAUSE

This Contract may be terminated by either party giving thirty (30) days written notice to the other party.

16. AMENDMENT CLAUSE This Contract may be amended only by mutual agreement in writing, signed by the Department and Contractor, and processed through and approved by all necessary authorities.

17. STANDARD OF PRACTICE CLAUSE Contractor agrees to observe and comply at all times with all Federal and State laws and rules in effect during the term of this Contract which in any manner affect performance under this contract. Contractor agrees to perform services consistent with customary standard of practice and ethics in the profession.

18. ASSIGNMENT CLAUSE The rights, duties, and obligations arising under the terms of this Contract shall not be assigned by any of the parties hereto without the written consent, sent certified mail, of all other parties.

19. ENTIRE AGREEMENT CLAUSE This Contract contains the entire agreement of the parties and there are no other agreements, verbal or written, affecting this agreement that have not been incorporated herein or attached hereto.

20. SEVERABILITY CLAUSE Each provision of this Contract is intended to be severable. If any term or provision of this contract is illegal or invalid for any reason whatsoever, said illegality or invalidity shall not affect the legality or validity of the remainder of this Contract.

21. HEADINGS CLAUSE Headings in this contract are for convenient reference only and shall not be used to interpret or construe the provisions of this Contract.

22. DO NOT WORK CLAUSE

Contractor acknowledges and understands that this Contract is not effective until it has received all requisite state government approvals and Contractor shall not begin performing work under this Contract until notified to do so by the Department. Contractor is not entitled to compensation for work performed prior to the effective date of this Contract.

23. EMERGENCY CANCELLATION CLAUSE

Notwithstanding any other provision of this Contract, upon the issuance of a Declaration of Financial Necessity by the State Health Officer, this contract may be canceled immediately upon notice of such cancellation being given to the Contractor in writing. Notwithstanding such cancellation, the Contractor shall be recompensed for work and labor done and completed prior to the issuance of such notice on principles of quantum meruit.

24. FINANCIAL NECESSITY CLAUSE

All terms and conditions of this Contract notwithstanding, the parties agree that upon the issuance of a Declaration of Financial Necessity by the State Health Officer, the maximum amount payable under this contract may be unilaterally reduced by the Department to an appropriate amount to be determined by the Department upon notice of such being given to the contractor in writing. Notwithstanding such reduction, the contractor shall be recompensed for work and labor done and completed prior to the issuance of such notice on principles of quantum meruit.

25. DEBT OF STATE CLAUSE It is agreed the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama of 1901, as amended by Amendment 26. It is further agreed that if any provision of this contract shall contravene any statute or constitutional provision or amendment, either now in effect or which may during the course of the contract be enacted, then that conflicting provision in the contract shall be deemed null and void. The Contractor's sole remedy for the settlement of any and all disputes arising under the terms of this contract shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama.

26. DISPUTES

For any and all disputes arising under the terms of this Contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative disputes resolution including, but not limited to, mediation by and through the mediators approved by the State of Alabama or where appropriate, private mediators.

27. MERIT SYSTEM CLAUSE

Contractor shall not be entitled to receive any benefits under this Contract that merit system employees receive by virtue of their status or employment, nor may neither Contractor nor any of its officers, agents, servants, or employees be employed as a merit system employee during the term of this Contract. Any such employment automatically voids this Contract.

28. HOLD HARMLESS CLAUSE

Contractor hereby holds harmless the State of Alabama and the Department and their officers, agents, servants, and employees from any and all claims arising out of acts or omissions committed by the Contractor or any agent, servant or employee of Contractor while in performance hereunder.

29. FUND APPROPRIATION CLAUSE

It is agreed that the Department may terminate this Contract by giving thirty (30) days written notice to Contractor should the Centers for Disease Control or the Legislature of Alabama fail to appropriate funds for the continued payment of this contract. This termination for cause is supplemental to any other rights Department may have under this Contract or otherwise to terminate such Contract.

30. TOBACCO SMOKE CLAUSE

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if

the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this Contract the Contractor certifies that it will comply with the requirements of the Act.

The Contractor further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for the children's services and that all contractors shall certify accordingly.

31. LOBBYING CLAUSE

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

32. DEBARMENT, SUSPENSION CLAUSE

For the purposes of this clause, "prospective lower tier participant" or "lower tier participant" refers to the Contractor herein.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person

to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under sub-paragraph 5 above, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--
Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.
33. RECORD RETENTION - The Contractor is aware that it must retain all records pertinent to expenditure incurred under this Contract for a period of three (3) years after the termination of all activities funded under this Contract. Records for any displaced person must be kept three

(3) years after he/she has received final payment. Notwithstanding the above, if there are litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolutions of all issues, or the expiration of the three-year period, plus the current year whichever occurs later. See Department of Public Examiners for their record retention policy.

34. AVAILABILITY OF FINANCIAL STATEMENTS. All records and financial statements, to include a copy of the independent audit report, shall be made available to authorized personnel from the State or Federal Program Office, the Examiners of Public Accounts or their representatives, for audit and inspection purposes.

35. HIPAA CLAUSE. This Clause is necessitated by the application of the Health Insurance Portability and Accountability Act, being 42 U.S.C. §§ 1320d-1329d-8 as amended by § 262 of P.L.104-191, 110 Stat. 2020-2031 and § 264 of P.L.104-191 (42 U.S.C. § 1320d-2 as amended) and as further amended by Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and regulations promulgated thereunder (HIPAA). References in this clause are to the Code of Federal Regulations, hereinafter "CFR."

1. Definitions Terms used, but not otherwise defined, in this Clause shall have the same meaning as in the Department of Health and Human Services' Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") and Security of Electronic PHI or E-PHI ("Security Rule"), 45 CFR Parts 160 through 164.

a. "Contractor" The Contractor herein. The Contractor is within the definition of a "Business Associate" under the Privacy and Security Rules. This term shall refer to Contractor and/or any of its Subcontractors or employees.

b. "Department" The Department herein. The Department is within the definition of a "Covered Entity" under the Privacy and Security Rules.

c. "Improper Disclosure" means actual disclosure (including mailing or e-mailing protected information to the wrong physical or e-mail addresses and posting of protected information to unauthorized websites), or loss of control of the protected information (including loss of records in transit, physical burglary, electronic record intrusion), and other events indicating that the protected information actually was disclosed to unauthorized parties or there is a reasonable likelihood that it may have been disclosed to unauthorized parties.

d. "Individual" shall have the same meaning as the term "individual" in 45 § CFR § 164.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

e. "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR. Part 160 and Part 164, Subparts A and E.

f. "Proper Notification" to ADPH means sending an electronic message to Nancy Wright and Chris Haag at the following email addresses, NancyWright@adph.state.al.us and Chaag@adph.state.al.us, and a written letter to Nancy Wright and Chris Haag at the following address; Alabama Department of Public Health, Family Health Services, P.O. Box 303017, Montgomery, AL 36130-3017, within 48 hours of the improper disclosure event. In the case that Contractor has reason to believe that receipt by neither of these parties was actually accomplished, Contractor will notify Samarria Dunson at the following email address Samarria.Dunson@adph.state.al.us, as soon as possible after recognizing the failure of the original notification.

g. "PHI or E-PHI (PHI)" means individually identifiable health information and Electronic PHI or E-PHI as found in 45 CFR § 160.103, except for that information in (a) education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. § 1232g, (b) records described at

20 U.S.C. § 1232g (a) (4) (B) (iv), and (c) employment records held by the Department in its role as employer, or as the term may otherwise be defined in 45 CFR § 164.501.

h. "Protected Individuals" means the Department's patient, or clients, or employees, former employees, their spouses, dependents, or other individuals whose protected information was provided by or on the Department's behalf to Contractor or its subcontractors in connection with Contractor's services under this Contract.

i. "Protected Information" means individuals' Social Security Numbers; credit, banking, and other financial information; and PHI or E-PHI, or information from an employee's or former employer's personnel or health information file.

j. "Required By Law" means any mandate contained in law that compels the Department to make a use or disclosure of PHI or E-PHI and that is enforceable in a court of law, including, but not limited to, court orders and court-ordered warrants, subpoenas or summons, a civil or an authorized investigative demand, Medicare conditions of participation (if applicable), statutes or regulations requiring the production of information, or as the term may otherwise be defined in 45 CFR § 164.103.

k. "Secretary" means The Secretary of the United States Department of Health and Human Services or his designee.

l. "Designated Record Set" means the medical and billing records maintained by or for the Department about a Department patient or any other group of records used by or for the Department to make decisions about the patient.

m. "Security Rule" means the Security Standards for the Protection of Electronic Health Information at 45 CFR Part 160 and part 164, Subparts A and C.

2. Obligations and Activities of Contractor

a. Use and Disclosure of PHI or E-PHI. Contractor agrees not to use or further disclose PHI or E-PHI other than as permitted or required by this Contract or as required by law.

b. Safeguards Contractor shall use appropriate safeguards to prevent use or disclosure of the PHI or E-PHI other than as provided for by this Contract.

c. Mitigation of Damages. Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI or E-PHI by Contractor in violation of the requirements of this Contract.

d. Reporting Violations. Contractor shall within five (5) days of becoming aware of a use or disclosure or security incident in violation of this Contract, report the use, disclosure, or security incident to the Department.

e. Agents and Contractors. Contractor agrees to ensure that any agent, including a Subcontractor, to whom it provides PHI or E-PHI received from, or created or received by Contractor on behalf of the Department agrees to the same restrictions and conditions that apply through this Contract to Contractor with respect to such information.

f. Access to PHI or E-PHI. If Contractor maintains PHI in a Designated Record Set, Contractor shall, within five (5) days of a request by the Department for access to a patient's PHI, make available to the Department the requested PHI that Contractor maintains in Designated Record Sets, in accordance with 45 CFR § 164.524.

g. Amendment of PHI or E-PHI. If Contractor maintains PHI in a Designated Record Set, Contractor shall, within ten (10) days of receiving a request from the Department for the amendment of a patient's PHI, incorporate the amendment into the information that Contractor maintains in a Designated Record Set in order to meet the requirements under 45 CFR § 164.526.

h. **Books and Records.** If Contractor maintains a Designated Record Set, Contractor agrees to make its facilities, internal practices, books, accounts, other sources of information and records relating to the use and disclosure of PHI or E-PHI received from, or created or received by Contractor on behalf of the Department available to the Department, or at the request of the Department to the Secretary, during normal business hours or as otherwise directed by the Secretary for purposes of determining the parties' compliance with the applicable standards, implementation specifications, and other requirements of the Privacy Rule and Security Rule.

i. **Accounting of Disclosures.** Contractor shall within ten (10) days of receiving notice from the Department that it has received a request from a patient for an accounting of disclosures of PHI or EPI, provide to the Department or, if so directed, to the patient or the patient's personal representative, information relating to disclosures of the PHI or EPI made, including (1) the date of the disclosure, (2) the name of the entity or person who received the information, (3) a brief description of the information disclosed, and (4) a brief statement of the purpose of the disclosure which includes an explanation of the basis for the disclosure, pursuant to 45 CFR '164.528.

j. **Implementing Safeguards for E-PHI** (1) Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI or E-PHI that it creates, receives, maintains, or transmits on behalf of the Department as required by the Security Rule. (2) Contractor agrees to ensure that any agent, including a Subcontractor to whom it provides this information agrees to implement reasonable and appropriate safeguards to protect the electronic PHI or E-PHI.

k. **Confidentiality** In addition to any other protections provided for in this Contract, Contractor agrees to properly notify the Department within forty-eight (48) hours of learning of the event of any improper disclosure or suspected improper disclosure of protected information that Contractor or Contractor's Subcontractors receive, store, create, or transmit related to the Department's protected individuals.

Contractor further agrees to use its best efforts to determine how the improper disclosure of the protected information occurred and to take reasonable remedial action to prevent a reoccurrence. In addition, Contractor will remediate improper disclosures made by Contractor or its Subcontractors by covering the expenses related to timely notifying the affected protected individuals about the disclosure; and in the event of actual disclosure to cover the expenses related to procuring commercial monitoring of the affected protected individuals' security for a period of one (1) year, unless the Department consents that such monitoring is unnecessary in the particular circumstances surrounding the event. The Department will not unreasonably withhold such consent.

3. Permitted Uses and Disclosures by Contractor

a. **Permitted Uses and Disclosures by Contractor** Except as otherwise limited in this Contract, Contractor may use or disclose PHI or E-PHI on behalf of the Department, or to perform functions, activities, or provide services to, the Department or patients or clients of the Department for the purposes of providing health care to patients and clients in accordance with the Department's Confidentiality Policy, if such use or disclosure of PHI or E-PHI would not otherwise violate the Privacy Rule or Security Rule if such disclosure is made by the Department.

b. **Uses for Management and Administration Purposes** Except as otherwise limited in this Contract, Contractor may use PHI or E-PHI for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.

c. **Disclosures for Management and Administration Purposes** Except as otherwise limited in this Contract, Contractor may disclose PHI or E-PHI for the proper management and administration of the Contractor, provided that disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which the person is aware that the confidentiality of the information has been breached.

d. **Data Aggregation Services** Except as otherwise limited in this Contract, Contractor may use PHI or E-PHI to provide Data Aggregation services to the Department as permitted by 42 CFR § 164.504(e)(2)(i)(B).

4. Obligations of the Department

a. **Notification of Elected Limitations** The Department shall provide Contractor with the Department's Privacy Notice which the Department produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.

b. **Notification of Changes in Authorization** The Department shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose PHI or E-PHI, if such changes affect Contractor's permitted or required uses and disclosures.

c. **Notification of Restrictions** The Department shall notify Contractor of any restriction to the use or disclosure of PHI or E-PHI that the Department has agreed to in accordance with 45 CFR § 164.522.

5. Permissible Requests by the Department The Department shall not request Contractor to use or disclose PHI or E-PHI in any manner that would not be permissible under the Privacy Rule if done by the Department except that if the Contractor will use or disclose PHI or E-PHI for data aggregation or management and administrative activities of Contractor, such information may be requested.

6. Return of Information and Survival of the Terms of this Clause The provisions of this section shall survive the termination of this Contract and may constitute a continuing duty in perpetuity

a. Except as otherwise provided, upon termination of this Contract for any reason, Contractor shall delete, return or destroy all PHI or E-PHI maintained in a designated record set received from the Department, or created or received by Contractor on behalf of the Department or as a result of this Contract. This provision shall apply to PHI or E-PHI that is in the possession of Subcontractors or agents of Contractor. Where such information is deleted or destroyed, Contractor shall provide the Department with an assurance of the deletion or destruction of such.

b. Except in accordance with normal business practices, Contractor shall retain no copies of the PHI or E-PHI.

c. In the event that Contractor determines that returning or destroying the PHI or E-PHI is infeasible, Contractor shall provide to the Department notification of the conditions that make return or destruction infeasible. Upon mutual Contract of the parties that return or destruction of PHI or E-PHI is infeasible; Contractor shall extend the protections of this Contract to such PHI or E-PHI and limit further uses and disclosures of such PHI or E-PHI to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such PHI or E-PHI.

7. Administrative Provisions

a. A reference in this Contract to a section of the Privacy or Security Rules shall mean that section as it is most recently amended.

b. The parties hereto agree to take action as is necessary to amend this Contract from time to time to maintain compliance with the Privacy and Security Rules.

c. **Interpretation.** Any ambiguity in this Contract regarding the application of the Privacy and Security Rules shall be resolved in favor of a meaning which permits the parties hereto to comply with such Privacy Rules and Security Rules.

8. Enactment and Impact of ARRA Provisions

a. Contractor acknowledges that enactment of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, commonly known as ARRA) amended certain provisions of HIPAA in ways that now affect, or will on future dates affect, the obligations of Department and Contractor under the Privacy and Security Rules.

b. Contractor agrees to comply, as of the applicable effective dates of each such HIPAA obligation relevant to business associates, with the requirements imposed by ARRA, including monitoring Federal guidance and regulations published thereunder and timely compliance with such guidance and regulations.

c. In the event that Contractor determines that returning or destroying the PHI or E-PHI is infeasible, Contractor shall provide to the Department notification of the conditions that make return or destruction infeasible. Upon mutual Contract of the parties that return or destruction of PHI or E-PHI is infeasible; Contractor shall extend the protections of this Contract to such PHI or E-PHI and limit further uses and disclosures of such PHI or E-PHI to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such PHI or E-PHI.



**Breast & Cervical Cancer Screening
and Diagnostic Services Provider**

Alabama Department of Public Health
Reviewed as to content by:

Signature Name (Please type or Print)

Program Director
Alabama Breast & Cervical Cancer
Early Detection Program

Signature

Title _____

Donald E. Williamson, M.D.
State Health Officer

Date _____

Tax ID No. _____

Fax _____

Email address _____

Address _____

