



**CONTRACT BETWEEN  
THE OKLAHOMA STATE DEPARTMENT OF HEALTH  
AND  
(NAME OF AWARDEE)**

This contract is entered into between the Oklahoma State Department of Health, Office of Minority Health and Health Equity, hereinafter referred to as OSDH, by virtue of the authority vested in it by 74 O.S. § 85.1, et. al., and (Name of Awardee), hereinafter referred to as Sub-Recipient.

All terms and conditions herein become the contract between the OSDH and the Sub-Recipient. The Sub-Recipient agrees to comply with all of these terms and conditions. Sub-Recipient understands and agrees that when any term and/or condition contained within this contract is, or becomes, applicable to the Sub-Recipient's officers and/or employees, Sub-Recipient agrees to ensure that its officers and employees (collectively, "organization") abide by the terms and/or condition applicable to organization

**Purpose:**

The purpose of this contract is to support expanded efforts to increase testing, tracing and vaccination activities and efforts to address health disparities and the disproportionate impact of COVID-19 among rural, ethnic and minority communities. Funds will be made available for health workforce development including training, recruitment and retention of community outreach and engagement specialists, care coordinators, primary care and mental health professionals, and nurses; Expansion of telehealth services; Engagement in local emergency response planning; Integration with public health system partner efforts; others and needs are identified in collaborative planning processes. Funds will also be used to support planning and engagement in a statewide health equity planning process.

**Attachments:**

This contract incorporates herein by reference the following attachments:

1. Attachment A: Sub-Recipients Questionnaire
2. Attachment B: Business Associate Agreement
3. Attachment C: OMES Form 004 – Non-Collusion
4. Attachment D: Approved Budget
5. Attachment E: Workplan Template

**Sub-Recipient Relationship:**

Applicants/recipients are expected to have systems, policies, and procedures in place by which they manage grant funds and grant-supported activities. They may use their existing systems for this purpose as long as organizational policies are consistently applied regardless of the source of funds. Sub-Recipient systems must meet the standards and requirements set forth in 2 CFR Part 200, 45 CFR Part 75, or 7 CFR Part 3016, or as determined by the applicable Federal program guidance.

In addition, Sub-Recipients shall request reimbursement of costs from OSDH only when those costs comply with the applicable Federal Cost Principles 2 CFR Part 200, FAR 31.2, or as determined by the applicable Federal program guidance to the Sub-Recipient's entity type. Any request for reimbursement of cost not allowable under the above Federal regulations must be specifically approved in the special conditions of the contract language and be supported by a specific line item within the Sub-Recipient's approved budget.

**Contract Period:**

This Contract will begin on Date of Award and terminate on May 31, 2023. The Date of Award is the date the OSDH has in its possession a copy of the contract executed by both parties and a purchase order has been issued. This Contract shall include an option to renew for up to one (1) additional one (1) year period. This contract shall not take effect and no services may be provided prior to the Date of Award.

**Contract Expense Cap:**

(Amount of Award)

**Federal Award Information:**

This agreement is fully or partially funded through federal funds. An updated notice of federal award information will be provided with each contract renewal, contract modification, or other change that affects the amount of the contract or the allocation of fund source(s). The amount below identifies the amount of each applicable federal award for this contract, and may not be the same as the total amount of the federal award provided to OSDH or as the total amount of this contract.

FAIN #:	NH75OT000097
Award Name:	Oklahoma Initiative to Address COVID-19 Health Disparities
Award Year:	2021
CFDA #:	93.391
Federal Agency:	Awarding Centers for Disease Control and Prevention (CDC)
Amount:	\$43,768,887.00

**Duties of the Sub-Recipient:**

The Sub-Recipient must:

1. Submit an approved Workplan within 30 days of executed contract.

**Duties of the OSDH:**

The OSDH shall:

1. Provide access to Disparities grant staff for questions, assistance, and guidance
2. Provide access to OMHHE translation/interpretation staff for translation services as needed
3. Provide access to OSDH Communication department for marketing, advertising, print, web content, social media, etc.
4. Provide access to OSDH COVID 19 testing supplies and PPE
5. Provide access to training through OSDH OMHHE office
6. Review all submitted documentation and ensure all required activities have been completed.

7. Provide technical assistance and feedback on exercises conducted by the Sub-Recipient.
8. Review all invoices and budget documentation submitted by the Sub-Recipient and process in a timely manner.
9. Perform periodic budget maintenance to determine appropriate expenditure levels and recommend budget modifications when necessary.
10. Provide financial monitoring and reporting – maintaining accurate information and reporting monthly on grant expenditures; supplying required financial reports to grantor on time and with accuracy.

## **GENERAL TERMS AND CONDITIONS**

### **Access to Records Requirements:**

The Sub-Recipient agrees to comply with all record retention requirements of 2 CFR § 200.333 - §200.337. The Sub-Recipient agrees to maintain required records and supporting documentation, for validation of costs billed to the OSDH, for seven (7) years from the ending date of the contract. The Sub-Recipient also agrees to allow the State Auditor's Office, GAO, the Oklahoma Department of Management and Enterprise Services, the OSDH, or their authorized representatives access to the records, books, documents, accounting procedures, practices or any items of the service provider relevant to this contract for purpose of audit and examination. The Sub-Recipient further agrees to assure appropriate access by the aforementioned parties to any Sub-Recipient's associated records.

If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the seven-year period, the records must be retained until completion of the action and resolution of all issues which arise from it; or, until the end of the regular seven-year period, whichever is later.

**The OSDH may routinely request supporting documentation to validate Sub-Recipient payments.**

### **Advance Payments Prohibited:**

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the OSDH.

### **Amendments, Unavailability or Redirection of Funding and Cancellation:**

In the event state or federal funds used to support this contract become unavailable, either in full or in part, due to reductions in appropriations, the OSDH may terminate or reduce the contract upon notice in writing to the Sub-Recipient by certified mail or email. The OSDH may also, based on its determination of agency need, increase or reduce contract amounts and send notification of such changes to the Sub-Recipient upon making such changes. The OSDH shall be the final authority as to the availability or redirection of funds. The effective date of such contract termination, increase or reduction shall be specified in the notice. All other modifications or amendments to this contract shall be in writing, dated and executed by both the Sub-Recipient and the OSDH. In the event of a reduction, the Sub-Recipient may cancel this contract as of the effective date of the proposed reduction upon advance written notice to the OSDH. With exception of the above, this contract shall be in force until the expiration date, or until 30 days after written notice has been given by either party of its desire to cancel without cause.

Notification of cancellation shall be by Certified Mail to the business address of record or by email to the specified Contact Person. In the event this contract is canceled by either party, the OSDH shall be responsible for reimbursement for goods or services received or provided prior to cancellation date. In the event this contract is cancelled under this section, Sub-Recipient agrees to take all reasonable steps to minimize termination costs and to comply with the requirements in 2 CFR §200.343 and 200.344. The OSDH agrees to reimburse Sub-Recipient for all work performed prior to the date of notice of termination of this contract for expenditures and non-cancelable commitments incurred in anticipation of performing under this contract. The OSDH shall not be responsible for reimbursement of unreasonable or unnecessary expenditures incurred after receipt of the cancellation notice.

**Event of Default:**

The OSDH may withhold payment or terminate the contract in whole or in part in the event (i) it has provided Sub-Recipient with written notice of material breach, and (ii) Sub-Recipient fails to cure such material breach within thirty (30) days of receipt of written notice. If the contract or certain obligations under the contract are terminated, the OSDH shall be liable only for payment for products or services delivered and accepted prior to the date of such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. In no event shall the OSDH be liable to the Sub-Recipient, for compensation for any products or services provided by Sub-Recipient neither requested nor accepted by the OSDH. Any partial termination of the contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of the Sub-Recipient or the OSDH regarding portions of the contract that remain in effect.

**Failure to Comply Statement:**

The Sub-Recipient shall be subject to all applicable state and federal laws, rules and regulations, and all amendments thereto. The Sub-Recipient agrees that should it be in noncompliance, the OSDH may impose additional conditions as provided in 2 CFR §200.207; or, as provided in 2 CFR § 200.338, temporarily hold cash payments pending correction of the deficiency, disallow all or part of the cost of the activity or action not in compliance, suspend or terminate the contract in part or in whole, withhold further awards for the project or program, or take other remedies legally available. Compliance with the requirements shall be the responsibility of the Sub-Recipient, without reliance on or direction by the OSDH.

**Applicable Law:**

This contract shall be governed in all respects by the laws of the State of Oklahoma. Jurisdiction and venue for any dispute concerning this contract shall be Oklahoma County, Oklahoma.

**Assignment and Delegation:**

The Sub-Recipient agrees that its responsibilities within this contract are unique and may not be assigned or delegated.

**Audit Requirements:**

Sub-Recipients expending federal funds from all funding sources in excess of the threshold established in 2 CFR Part 200.501 shall be required to have a single audit or a program-specific audit conducted in accordance with 2 CFR Part 200, Subpart F. Audit costs may not be charged to any OSDH contracts

when no audit has been performed, or has not been prepared in accordance with this requirement.

Sub-Recipients that are required to have an audit conducted for compliance with 2 CFR Part 200.501 shall submit to the Federal clearinghouse (FAC) a single copy of the data collection form and the reporting package as required by 2 CFR Part 200.512 within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period. If an independent audit is not posted in the required time, or there have been findings, the OSDH will have the option to consider taking action under the Failure to Comply clause of this contract.

If the Sub-Recipient is a tribal entity, and has chosen to opt out of audit report submission pursuant to 2 CFR §200.512, the Sub-Recipient shall submit a copy of the audit report in paper or electronic form to:

Oklahoma State Department of Health  
Internal Audit Unit  
424 S Eastern Ave  
Moore, OK 73160

**Certification Regarding Debarment, Suspension, Proposed for Debarment, or Declared Ineligible for Award of Contracts by any Federal or State Agency:**

By signing the contract, the Sub-Recipient attests and assures that no employee or any of its principals performing hereunder:

- A. are presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- B. have, within a three year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or, commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- C. have, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal, State or local entity; nor,
- D. are presently indicted for, or otherwise criminally indicted, or charged by a governmental entity with any of the offenses enumerated above in this section.

**Charitable Choice Providers:**

Providers who are members of the faith community are eligible to compete for contracts with the State of Oklahoma on the same basis as any other provider. Such providers shall not be required to alter their forms of internal governance, their religious character or remove religious art, icons, scripture, or other symbols. Such providers may not, however, discriminate against clients on the basis of their religion, religious beliefs, or clients' refusal to participate in religious practices (45 CFR Part 87.1c). Organizations that receive direct financial assistance from the OSDH under any OSDH program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the OSDH. If an

organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the OSDH, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.

**Contact Persons:**

For the purposes of this contract, all contacts with the Sub-Recipient shall be directed to its representative: (Name) at telephone number (Phone Number) and email address [\(Email Address\)](#).

For purposes of this contract, all contacts with the OSDH shall be directed to its representative (Name) at telephone number (Phone) and email address [\(Email Address\)](#).

Either party may change the Contact Person upon notice to the other party.

**Contract Monitoring Plan:**

This contract will be monitored by the OSDH based on the completion of a Risk Assessment process. Information related to programmatic requirements, the contract specifications, and responses to the Subrecipient Sub-Recipient's Questionnaire (Attachment A) will be utilized to complete a Risk Assessment Tool. The Risk Assessment Tool will be used to determine the level of risk associated with the Contract. A Contract Monitoring Plan and a Contract Administration Plan will be developed to define the activities and level of monitoring and administration that will be required during the contract period. Typical monitoring activities include Sub-Recipient site visits, review of contractually required reports, invoice review, invoice validation, and verification of licensure and/or insurance requirements, etc. The level of risk assigned to the contract shall determine the frequency and type of activity within a Contract Monitoring Plan and/or a Contract Administration Plan. The Contract Monitoring and/or Contract Administration Plan may be updated periodically as determined by the OSDH throughout the contract period. Upon development of the Contract Monitoring Plan and Contract Administration Plan, the OSDH will provide a copy of each to the Sub-Recipient.

All communications related to this contract will be between the Sub-Recipient's Contact Person and the OSDH Contract Monitor. The OSDH Contract Monitor for this contract is:

(Name)  
OSDH OMHHE  
123 Robert S. Kerr Ave.  
Oklahoma City, OK 73102-6406  
(Phone)  
[\(Email Address\)](#)

**Sub-Recipient's Relation to the OSDH:**

The Sub-Recipient is in all respects an independent Sub-Recipient and is neither an agent nor an employee of the OSDH. Neither the Sub-Recipient nor any of its officers, employees, agents, or members shall have authority to bind the OSDH nor are they entitled to any of the benefits or worker's

compensation provided by the OSDH to its employees. In the event the independent Sub-Recipient relationship ends in any way, this contract shall automatically terminate without notice. The Sub-Recipient shall notify the OSDH Contract Monitor of the change in relationship.

### **Electronic Signatures/Execution in Counterparts**

This document may be executed in counterparts, with each such copy considered an original. Facsimile/scanned and PDF signatures shall be accepted as original. Electronic signatures must be an authorized copy of the hand-written signature or created using a technology that allows the process of signature authentication to be validated. In all cases, the name of the authorized signatory shall be identified as visible on the document. Each party will be responsible for maintaining the security of its electronic signature technology and represents through submission of the signed document that the individual's signature is authorized and valid to bind the organization.

### **Entire Agreement:**

This contract, including referenced attachments, taken together as a whole constitute the entire agreement between the OSDH and Sub-Recipient. No other statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied shall be binding or valid.

### **Equipment and Other Purchases:**

It is understood that no items of equipment, property or other capital purchases shall be reimbursed under the provisions of this contract. Equipment is defined as an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sub-Recipient for financial statement purposes, or \$5000.

### **Maintenance of Insurance, Payment of Taxes, and Workers' Compensation:**

A. As a condition of this contract, Sub-Recipient shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below. Such proof of coverage shall be provided to the OSDH Procurement if services will be provided by any of Sub-Recipient's employees, agents or Sub-Recipients at any State premises and/or employer vehicles will be used in connection with performance of work for the OSDH. Sub-Recipient may not commence performance hereunder until such proof has been provided. Additionally, Sub-Recipient shall promptly provide proof to the OSDH Procurement of any renewals, additions, or changes to such insurance coverage. Sub-Recipient's obligation to maintain insurance coverage under the contract is a continuing obligation through the term of the contract and each purchase order issued to Sub-Recipient in connection with the contract. The minimum acceptable insurance limits of liability are as follows:

- i. Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- ii. Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$3,000,000 per occurrence;
- iii. Automobile Liability Insurance with limits of liability of not less than \$3,000,000 per occurrence, with coverage, if applicable, for all owned vehicles, all non-owned vehicles, and

- all hired vehicles;
- iv. Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- v. Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence;
- vi. Medical Malpractice insurance, if applicable;
- vii. Comply with applicable Federal and State occupational disease statutes. If occupational diseases are not covered under those statutes, they shall be covered under the employer's section of the insurance policy; and
- viii. Additional coverage required by State in writing in connection with a particular purchase or service.

B. Sub-Recipient shall be entirely responsible during the existence of the contract for the liability and payment of taxes payable by or assessed to Sub-Recipient or its employees, agents and Sub-Recipients of whatever kind, in connection with the contract. Sub-Recipient further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. The OSDH shall not be liable to the Sub-Recipient, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State employee.

C. Sub-Recipient agrees to indemnify and hold harmless the OSDH and its employees, agents, representatives, Sub-Recipients, and/or assignees from any and all liability, actions, claims, demands, or suits, and all related costs and expenses and attorneys' fees relating to tax liability, unemployment insurance and/or assignees from any and all liability, actions, claims, demands, or suits, and all related costs and expenses and attorneys' fees relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

If the Sub-Recipient does not carry workers' compensation insurance because it considers their business to be that of an independent Sub-Recipient, as defined by the Workers Compensation Act (85A O.S. § 1 et. seq.), and not that of an employee, the Sub-Recipient must complete the Affidavit of Exempt Status under the Administrative Workers' Compensation Act (CC-FORM-36A) through the Oklahoma Worker's Compensation Commission and provide proof of completion to the OSDH before any contractual services are provided.

#### **Federal Funding Accountability and Transparency Act of 2006 (FFATA):**

Sub-Recipients shall comply with the requirements of the Federal Funding Accountability and Transparency Act of 2006 (FFATA) as set forth in 2 CFR Part 170. A DUNS number (Data Universal Numbering System) is a requirement for all contracts of \$25,000 or more. Sub-Recipients may be required to submit additional information to satisfy FFATA compliance.

#### **Force Majeure:**

- A. Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any

governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable. Subject to the conditions set forth above, such non-performance shall not be deemed a default. However, the OSDH may terminate a purchase order if Sub-Recipient cannot cause delivery of products or services in a timely manner to meet the business needs of the OSDH.

- B. Notwithstanding the foregoing or any other provision in the contract, (1) in no event will any of the following be considered a force majeure event: (a) shutdowns, disruptions or malfunctions in Sub-Recipient's systems or any of Sub-Recipient's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Sub-Recipient's systems; or (b) the delay or failure of Sub-Recipient or Sub-Recipient personnel to perform any obligation of Sub-Recipient hereunder unless such delay or failure to perform is itself by reason of a force majeure event; and (2) no force majeure event modifies or excuses Sub-Recipient's confidentiality, indemnification or data security and breach notifications set forth herein.

#### **Information Technology Access Clause:**

State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at [https://omes.ok.gov/sites/g/files/gmc316/f/isd\\_itas.pdf](https://omes.ok.gov/sites/g/files/gmc316/f/isd_itas.pdf). Sub-Recipient shall provide a Voluntary Product Accessibility Template ("VPAT") describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow the OSDH to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by the Sub-Recipient. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum.

All representations contained in the VPAT provided will be relied upon by the OSDH as applicable, for accessibility compliance purposes.

#### **Invoicing:**

A properly completed invoice must be submitted within 30 days of the end of the month in which services were delivered or products provided and include the following items:

- A. name, address and FEI number of the Sub-Recipient;
- B. invoice date;
- C. period covered by invoice;
- D. **purchase order number;**

- E. any other data, reports, information or documentation required by other conditions of the contract;
- F. detail of the services provided and be in accordance with the terms and conditions of this agreement.

For invoices involving payment for the Sub-Recipient's time, the invoice must be signed and contain the following statement: By my signature I attest that this invoice is an accurate and true representation of my time in relation to the services provided to the OSDH.

The invoice shall be submitted to:

OKLAHOMA STATE DEPARTMENT OF HEALTH

OMHHE/(Name)

Oklahoma Disparities Grant

123 Robert S Kerr Ave

Oklahoma City, Oklahoma 73102-6406

The State of Oklahoma has 45 days from presentation of a proper invoice to issue payment to the Sub-Recipient.

**The OSDH may withhold or delay payment to any Sub-Recipient failing to provide required programmatic documentation and/or requested financial documentation.**

**The OSDH reserves the right not to process invoices submitted by the Sub-Recipient to OSDH more than 30 days after the month in which services were delivered. The OSDH will not pay invoices received more than sixty (60) days after the end of the applicable contract period.**

To comply with 2 CFR § 200.415 (Required Certifications), invoices requesting payment must include a certification, signed by an official who is authorized to legally bind the Sub-Recipient, which reads as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812). “

The Sub-Recipient assures that all costs billed will be supported by documentation that will include, but not be limited to, copies of paid invoices, payroll records and time reports as required by the costs principles applicable to their organization (See “Sub-Recipient Relationship” section of this contract). The Sub-Recipient further assures that all billings will be based on actual costs incurred and paid.

If the Sub-Recipient is unable to support any part of their claim to the OSDH and it is determined that

such inability is attributed to misrepresentation of fact or fraud on the part of the Sub-Recipient, the Sub-Recipient shall be liable to OSDH for an amount equal to such unsupported part of the claim in addition to all costs, including legal, attributable to the reviewing and discovery of said part of claim. Liability under this paragraph shall be determined within two years of the discovery of such misrepresentation of fact or fraud by the Sub-Recipient.

**Limited English Proficiency:**

Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program needs service or information in a language other than English in order to effectively be informed of or participate in the program, the Sub-Recipient shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide the information in appropriate languages to such persons.

An inability by the Sub-Recipient to provide the information in the appropriate language to a significant number or proportion of the population eligible to be served or likely to be directly affected by the program shall result in termination of the contract.

**Mandatory Requirements:**

The use of the terms “shall,” “must” or “will” (except to indicate simple futurity) in this contract indicate a mandatory requirement or condition. The word “should” or “may” in this contract indicates desirable attributes of conditions and are permissive in nature.

**Non-Collusion Certification:**

The Sub-Recipient will complete and return the attached non-collusion certification, OMES-FORM-CP-004. (See Attachment C)

**Notices**

Notices under this contract shall be considered properly delivered when sent by certified mail to the business address of record or by email, delivery receipt requested, to the Contact Person identified in the contract.

**Oklahoma Taxpayer and Citizen Protection Act of 2007:**

By signing the contract, the Sub-Recipient warrants and attests its employees and all proposed Sub-Recipients are in compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal and State laws and regulations related to the immigration status of employees. The Sub-Recipient shall obtain statements from all proposed Sub-Recipients certifying compliance with this requirement and shall furnish copies of the statements with their contract. These warranties shall remain in effect through the entire term, including all renewal periods, of the Contract.

All Sub-Recipients or Sub-Recipients are prohibited by State law from entering into a contract with a public employer for the physical performance of services within this state unless the Sub-Recipient or Sub-Recipient registers and participates in the Status Verification System to verify information of all new employees.

The Status Verification Service System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (EEV) available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify).

**Open Records Act:**

Sub-Recipient acknowledges that the State is subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 et seq. Sub-Recipient also acknowledges that State will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Contract specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act or other applicable law, no Contract provision is confidential information and any provision is subject to disclosure.

**Other Certifications:**

The Sub-Recipient certifies compliance with the provisions of the 1964 Civil Rights Act, Education Amendment of 1972; Section 504 of the Rehabilitation Act 1973; the Age Discrimination Act of 1975; the Hatch Act; the Pro Children Act of 1994; Drug Free Workplace Act of 1988; the American with Disabilities Act of 1990; Title IX or the Education Amendments of 1972; 31 U.S.C. Section 1352, Public Law 105-78; Section 503 of Division F, Title V, of the FY12 Consolidated Appropriations Act; 41 U.S.C. 4712 and the National Defense Authorization Act (NDAA) for Fiscal year (FY) 2013; Contract Work Hours and Safety Standards Act (40 U.S. C. 3701-3708); Anti-Lobbying Law (31 U.S.C. 1325); Internal Revenue Service Publication 1075 (regarding use, access and disclosure of Federal Tax Information); the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended; mandatory standards and policies relating to energy efficiency as outlined in the State of Oklahoma's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201); 2 CFR § 200.112 (Conflict of Interest); 2 CFR § 200.113 (Mandatory Disclosures); 2 CFR § 200.322 (Procurement of Recovered Materials); registered as business entity licensed to do business in the State, having obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable; and, the Single Audit Act of 1984; as applicable.

**Personnel Activity Reports:**

The Sub-Recipient and any approved Sub-Recipient shall maintain Personnel Activity Reports (PARs) on all employees reimbursed in whole or in part by this contract. PARs must be completed in accordance with the Federal Cost Principles applicable to the Sub-Recipient's specific entity type, i.e., State and Local Government, Non-Profit, Colleges and Universities, etc. (Sub-Recipients may refer to 2 CFR Part 200.430, 45 CFR Part 75, 7 CFR Part 3016 to determine the applicable Federal Cost Principles, or as determined by the applicable Federal program guidance.) The above requirements will apply to all Sub-Recipients regardless of the type of funds being reimbursed to the Sub-Recipient by the OSDH.

**Privacy Clause:**

The Sub-Recipient shall, at all times, maintain confidential all information pertaining to any person, patient, or client with whom it has a professional relationship, contact or contract. No information shall be released to any person or party not directly employed by the Sub-Recipient without first obtaining such person's, patient's or client's expressed written consent therefore. Confidential information pertaining to any minor shall not be released to any person or party without the express written consent of a custodial parent, court appointed guardian, court authorized foster parent, or authorized self-consenting minor, subject however, to all applicable state and federal statutes, rules and regulations.

**Procurement Integrity:**

The Sub-Recipient certifies they have not entered into this contract with this or any other Oklahoma state agency that would result in a substantial duplication of the services or duplication of the end product rendered by the Sub-Recipient or its employees.

**Protecting and Securing Protected Health Information:**

Incorporated herein in its entirety, and made a part of this contract, is the attached Business Associate Agreement (Attachment B) signed between the Parties.

**Promotional Items:**

Per 2 CFR Part 200.421, costs of promotional items and memorabilia, including models, gifts, and souvenirs are unallowable. Advertising costs for the purpose of program outreach and other specific purposes necessary to meet the requirements of the Federal award are allowable.

**Severability:**

If any provision of this contract, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect.

**Statement of Responsibility and Liability:**

The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to act. The OSDH shall be responsible for the acts and omissions to act of its officers and employees while acting within the scope of their employment according to the Oklahoma Governmental Tort Claims Act (51 O.S. §151 et seq.).

The Sub-Recipient shall be responsible for any damages or personal injury caused by the negligent acts or omissions to act by its officers, employees, or agents acting within the scope of their authority or employment.

The Sub-Recipient agrees to hold harmless the OSDH of any claims, demands and liabilities resulting from any act or omission on the part of the Sub-Recipient and/or its agents, servants, and employees in the performance of this contract. It is the express intention of the parties hereto that this contract shall not be construed as, or given the effect of, creating a joint venture, partnership or affiliation or association that would otherwise render the parties liable as partners, agents, employer-employee or otherwise create any joint and severable liability.

**Tobacco Free Policy:**

Sub-Recipient, while performing the duties under this contract shall comply with the smoke free requirements on state property pursuant to 21 O.S. § 1247. For other tobacco products, including e-cigarettes, use of such products is prohibited pursuant to the Governor's Executive Orders 2019-07 and 2013-43.

**Travel and Related Expenses:**

All costs associated with the execution of this contract are included in the costs described in the Contract Expense Cap section of this contract. Additional costs, including travel expenses, will not be reimbursed.

**Use of OSDH Name or Logo:**

Sub-Recipient may not use the OSDH name or logos without the explicit written permission of OSDH.

**Waiver of Breach:**

No failure by the OSDH to enforce any provisions hereof after any event of default by the Sub-Recipient shall be deemed a waiver of the OSDH's rights with regard to that event, or any subsequent event. Waiver shall not be construed to be a modification of the terms of the contract.

**APPROVED:**

Representing:  
Oklahoma State Department of Health  
as legal signatory:

\_\_\_\_\_  
Keith Reed, RN, MPH, CPH  
Interim Commissioner of Health

\_\_\_\_\_  
Date

Representing:  
(Name of Awardee)  
as legal signatory:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**OKLAHOMA STATE  
DEPARTMENT OF HEALTH**

**SUB-RECIPIENT CONTRACTOR'S QUESTIONNAIRE**

The financial and business responsibility of Oklahoma State Department of Health (OSDH) as a

**SECTION A: PURPOSE & INSTRUCTIONS**

Pass Through Entity (PTE) must ensure proper discharge of the Public Trust which accompanies the authority to expend Federal Funds. As such, adequate Business Management and Financial Management systems of Sub-grantees and Financial Assistance Contractors must meet the criteria outlined in OSDH's grant agreement, OMB Circulars, Code of Federal Regulations and Program Law. The accounting system should be integrated with an adequate system of internal controls to safeguard funds and assets, check accuracy and reliability of accounting data, promote operational efficiency and encourage adherence to prescribed policies.

The OSDH is required to complete a risk assessment process for each sub-recipient award. Failure to complete this questionnaire will result in the inability of the OSDH to meet its requirements as a pass-through entity to file required FFATA reports, as well as inhibit the ability to OSDH to assess sub-grantee risk. Contractors who fail to provide a completed questionnaire will automatically be deemed high risk and subject to increased monitoring.

Page 2 must be completed for each new sub-recipient award.

The remainder of the questionnaire may be re-used as long as the information provided does not substantially change. Information provided regarding sub-grantee budgets, contracts, and revenue should cover the entirety of the organization's fiscal year.

Please answer every question, attaching material & providing explanations/comments where requested.

## SUB-RECIPIENT CONTRACTOR'S QUESTIONNAIRE

### SECTION A: GENERAL INFORMATION

**NAME OF ORGANIZATION:**

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**"DOING BUSINESS AS" NAME**

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**ADDRESS:**

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**CITY, STATE, ZIP+4, CONGRESSIONAL DISTRICT:**

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**PRINCIPAL PLACE OF PERFORMANCE:** *Primary site where work will be performed.*

**ADDRESS:**

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**CITY, STATE, ZIP+4:**

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**EMPLOYER ID # \_\_\_\_\_ DUNN & BRAD# \_\_\_\_\_**

**DUNS 4 DIGIT EXTENSION # \_\_\_\_\_ PARENT DUNS # \_\_\_\_\_**

**SUBAWARD PROJECT DESCRIPTION:** *Description should capture overall purpose of the sub-award.*

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Did your organization (1) receive 80% or more of its annual gross revenues in Federal awards during your preceding fiscal year and (2) receive \$25,000,000.00 or more in annual gross revenues from Federal awards during your preceding fiscal year? **YES**     **NO**     If NO, skip to Section B.

**HIGHLY COMPENSATED OFFICERS:** Does the public have access to information about the compensation of the five most highly compensated senior executives of your organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

**YES**     **NO**     If NO please list the names and total compensation of the five most highly compensated officers of your organization:

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1. Number of employees in the organization: Full Time \_\_\_\_\_ Part Time \_\_\_\_\_
2. Are employees who control funds bonded against loss by reason of fraud or dishonesty? YES \_\_\_\_ NO \_\_\_\_
3. Indicate whether your organization is:
 

a. Local City Government _____	Local County Government _____
b. State Government _____	c. Federal Government _____
d. College or University _____	e. Sovereign Entity _____
f. Governmental Trust Authority _____	g. Non-Profit 501(c) (3) _____
h. For Profit _____	i. Association/Coalition _____
j. Other (Identify) _____	

*Provide eligibility documentation i.e., Tax Exempt status as a 501(c) (3) Organization and etc.*

4. Is your organization subject to board oversight? YES \_\_\_\_ NO \_\_\_\_  
*If yes, please attach a list of Board Members.*  
*If no, skip to question #5.*
- 4a) Does your organization's board have approved Bylaws? YES \_\_\_\_ NO \_\_\_\_  
*If yes, please attach a copy of the Board's approved Bylaws.*  
*If no, skip to question #5d.*
- 4b) Does your organization conduct business in accordance with the boards approved Bylaws? YES \_\_\_\_ NO \_\_\_\_
- 4c) Have the members of your organization's board been appointed in accordance with the approved Bylaws? YES \_\_\_\_ NO \_\_\_\_
- 4d) What was the date of your organization's most current board meeting in which there was a quorum? \_\_\_\_/\_\_\_\_/\_\_\_\_  
*Please attach a copy of the approved minutes from this board meeting.*
- 4e) Does your organization's board include individuals who are related family members of:  
*(Check all that apply)*

Position	YES	NO
The Chief Financial Officer		
The Executive Director		
The Program Director		

4f) Do employees of your organization serve as board members? YES\_\_\_\_\_NO \_\_\_\_\_

5. How many years has your organization been in business? \_\_\_\_\_

6. Does your organization maintain any accreditation/licensure related to the services it is providing for the OSDH? YES\_\_\_\_\_NO \_\_\_\_\_  
*If yes, please list.*

\_\_\_\_\_  
*If no, skip to question 7.*

6a) Is your organization in good standing with the accreditation/licensure it maintains?  
YES\_\_\_\_\_NO \_\_\_\_\_

7. Has your organization taken on new activities or services in the past 12 months?  
*If yes, please explain.*  
YES\_\_\_\_\_NO \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Has your organization experienced more than 33% increase or decrease in overall revenue/funding in the past 12 months? YES\_\_\_\_\_NO \_\_\_\_\_

9. Has your organization experienced turnover or changes in assignments in any of the following key personnel in the past 12 months? *(Check all that apply)*

Position	YES	NO
The Chief Financial Officer		
Executive Director		
The Program Director		

10. Have there been any lawsuits filed or any undecided litigation against your organization in the past 12 months. YES\_\_\_\_\_NO \_\_\_\_\_

## SECTION B: BUSINESS MANAGEMENT SYSTEMS

11. Does your organization have established written Policies and Procedures (P&P) to cover the following business management areas?

*Check each area.*

*Attach a copy only if requested.*

AREA	YES	NO	NOT SURE
Human Resource/Personnel			
Procurement			
Accounting			
Property			
Travel			
Equal Employment Opportunity (EEOC)			
Health Insurance Portability Act of 1996 (HIPPA)			
Tobacco Use			

12. Does your organization have a record retention policy for the following documents? How long is the required retention period for the organization to maintain the following types of documents? *Match each box.*

Type of Record	YES	NO	# of Years
Programmatic Documents			
Financial Documents			
Other types of Documents			

13. Are time and activity distribution records (Personal Activity Reports) maintained by funding source and project for each employee to account for total hours (100%) devoted to your organization? YES \_\_\_\_\_ NO \_\_\_\_\_

***All types of organizations, please provide a sample copy of the Time and Effort document used by your organization.***

- 15a) If your organization is not a college or university, does your organization maintain Time and Effort or Personal Activity Reports that:

	YES	NO
include the employee's signature		
include a supervisor's signature		
Include a reporting of time which delineates between programs worked on by the employee		
include a reporting of total time worked by the employee		

- 15b) If your organization is a college or university, does your organization maintain Personal Activity Reports in accordance with 2 CFR Part 200 Cost Principles for Educational Institutions?  
YES \_\_\_\_\_ NO \_\_\_\_\_
14. Are non-federal cash and/or third party in-kind cost share or matching funds supported by appropriate documentation? YES \_\_\_\_\_ NO \_\_\_\_\_
15. Does the organization have a written budgetary process and controls to preclude incurring obligations in excess of the grant amount of individual cost categories? YES \_\_\_\_\_ NO \_\_\_\_\_
16. Are purchase approval methods communicated and documented?  
YES \_\_\_\_\_ NO \_\_\_\_\_
17. Are appropriate duties separated to ensure one individual is not controlling all aspects of a financial transaction/process? YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

### SECTION C: ACCOUNTING SYSTEM & FUNDS MANAGEMENT

18. What type of accounting software does your organization utilize?  
\_\_\_\_\_
19. Does the accounting system account for cost by individual projects?  
YES \_\_\_\_\_ NO \_\_\_\_\_
20. Does the accounting system accurately and completely track receipt and disbursement of funds by each grant and/or funding source?  
YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_
21. Does the accounting system provide for recording of actual expenditures for each contract/grant by component project and budget cost categories reflected in the approved budget? YES \_\_\_\_\_ NO \_\_\_\_\_
22. Which of the following best describes your organization's accounting system?  
Manual \_\_\_\_\_ Automated \_\_\_\_\_ Combination \_\_\_\_\_ Other \_\_\_\_\_
23. How frequently do you post to the general ledger?  
Daily \_\_\_\_\_ Weekly \_\_\_\_\_ Monthly \_\_\_\_\_ Other \_\_\_\_\_
24. Are common or indirect costs accumulated into cost pools for allocation to projects contracts and grants?  
YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

25. Are the following books of account maintained?

TYPE	YES	NO
General Ledger		
Cash Receipts Journal		
Payroll Journal		
Purchase Journal		
General Journal		
Other: _____ Describe: _____		

26. Is the organization familiar with criteria and procedures for determination of allowable costs in connection with Federal grants and contracts?

YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

27. Does the organization have a working knowledge of the 2CFR Part 200 Supercircular?

YES \_\_\_\_\_ NO \_\_\_\_\_ NOT SURE \_\_\_\_\_

28. Does your organization expect to expend more than \$750,000 in federal funds during its current fiscal year, including federally funded contracts or grants awarded by other state agencies or other entities?

YES \_\_\_\_\_ NO \_\_\_\_\_

30a) What is the highest level of audit that your organization has undergone within the past 2 years?

A-133

Yellowbook Audit in accordance with GAAS \_\_\_\_\_

Other audit, please specify type: \_\_\_\_\_

No audit done in past 2 years \_\_\_\_\_

*Provide copy of last audit.*

30b) What is your organization's fiscal year? (mm/yy to mm/yy) \_\_\_\_\_ to \_\_\_\_\_

29. Has your organization ever had a cost reimbursement grant?

YES \_\_\_\_\_ NO \_\_\_\_\_

30. Has your organization received funding from OSDH in the last two years?

YES \_\_\_\_\_ NO \_\_\_\_\_

31. Has your organization had a contract/grant with OSDH to provide these same services before?

YES \_\_\_\_\_ NO \_\_\_\_\_

32. Is your organization receiving funding from other sources to provide same or similar services to the services being provided in this contract/grant?

YES \_\_\_\_\_ NO \_\_\_\_\_

33. Please attach a schedule showing the total Federal dollars awarded to your organization by Program/Project identifying Federal Agencies and Pass Through Entitys for the two most recently completed fiscal years.

34. Please list any contracts/grants that your organization has with other state agencies in Oklahoma.

*No other contracts/grants with the state agencies in Oklahoma.* \_\_\_\_\_

Agency	Program	Amount
	Total	

35. What is the total amount of your organization's operating budget?

*Please list all types of revenues Sources and their total amounts.*

Source of Revenue	Amount
Total	

36. What is the capitalization level established by your organization for financial statement purposes to define an item as an asset/piece of equipment? \$ \_\_\_\_\_

**COMMENTS/EXPLANATIONS**

**The total number of attachments is: \_\_\_\_\_**

**Attach numbered sheets as necessary.**

**PREPARED BY (SIGNATURE):**

\_\_\_\_\_

**TITLE AND TYPED NAME:**

\_\_\_\_\_

**DATE:** \_\_\_\_\_

**TELEPHONE/FAX/EMAIL:**

\_\_\_\_\_

I, \_\_\_\_\_, the undersigned do, under penalty of perjury,  
declare that the information contained in this document and any attachments is true and  
correct to the best of my knowledge and belief.

\_\_\_\_\_

**Signature of CEO**

\_\_\_\_\_

**Date**

I, \_\_\_\_\_, the undersigned do, under penalty of perjury,  
declare that the information contained in this document and any attachments is true and  
correct to the best of my knowledge and belief.

\_\_\_\_\_

**Signature of CFO**

\_\_\_\_\_

**Date**

**OKLAHOMA STATE DEPARTMENT OF HEALTH  
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“BAA”) is effective as of \_\_\_\_\_ (“Effective Date”), by and between the Oklahoma State Department of Health (“Covered Entity”) \_\_\_\_\_ (“Business Associate”).

**WHEREAS**, Covered Entity has determined that it has components covered by HIPAA;

**WHEREAS**, Purpose of the BAA:

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**WHEREAS**, under HIPAA, Business Associate is classified as a business associate of Covered Entity and is to comply with the HIPAA Security and Privacy regulations pursuant to Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), Title XIII, of the American Recovery and Reinvestment Act of 2009, including Sections 164.308, 164.310, 164.312 and 164.316 of title 45 of the Code of Federal Regulations.

**NOW THEREFORE**, in consideration of the foregoing and of the covenants and agreements set forth herein, the parties, intending to be legally bound, agree as follows:

**I. DEFINITIONS.** Unless otherwise defined in this BAA, all terms used in this BAA have the meanings ascribed to the same terms in HIPAA.

- (a) “Breach” shall have the meaning set forth in 45 CFR § 164.402, including, without limitation, the unauthorized acquisition, access, use, or disclosure of PHI in a manner not permitted by HIPAA.
- (b) “Business Associate” shall generally have the same meaning as the term “Business Associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the person or entity listed as the business associate on the signature page hereto.
- (c) “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 CFR 160.103.
- (d) “HIPAA” shall mean: (i) the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder, including the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR parts 160 and 164, and any subsequent amendments or modifications thereto, and (ii) the HITECH Act, and regulations promulgated thereunder, and any subsequent amendments or modifications thereto.
- (e) “HITECH Act” shall mean the provisions applicable to business associates under the Health Information Technology for Economic and Clinical Health Act, found in Title XIII of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.
- (f) “PHI” shall mean Protected Health Information which Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity in connection with the performance of Services by Business Associate for Covered Entity.
- (g) “Privacy Rules” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, as may be amended, modified or superseded, from time to time.

- (h) “Protected Health Information” shall have the meaning set forth in 45 CFR § 160.103, including, without limitation, any information, whether oral, electronic or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; (ii) the provision of health care to an individual; or (iii) the past, present or future payment for the provision of health care to an individual; and (iv) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- (i) “Required by Law” shall have the meaning set forth in 45 CFR § 164.103, including, without limitation, a mandate contained in law that compels Covered Entity or Business Associate to make a use or disclosure of Protected Health Information and that is enforceable in a court of law.
- (j) “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his/her designee.
- (k) “Security Incident” shall have the meaning set forth in 45 CFR § 164.304, including without limitation, the attempted or successful unauthorized access, use, disclosure, modification or destruction of electronic PHI.
- (l) “Security Rules” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, as may be amended, modified or superseded from time to time.
- (m) “Unsecured PHI” shall have the meaning set forth in 45 CFR § 164.402, including, without limitation, Protected Health Information not secured through the use of encryption, destruction or other technologies and methodologies identified by the Secretary to render such information unusable, unreadable, or indecipherable to unauthorized persons.

## **II. OBLIGATIONS OF BUSINESS ASSOCIATE.**

(a) Permitted Uses: Business Associate may use PHI to provide the services requested by Covered Entity; provided, however, that Business Associate shall not disclose PHI in any manner that would constitute a violation of HIPAA. Business Associate may use PHI: (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; or (iii) as Required by Law.

(b) Permitted Disclosures: Business Associate may disclose PHI to provide the services requested by Covered Entity; provided, however, that Business Associate shall not disclose PHI in any manner that would constitute a violation of HIPAA. Business Associate may disclose PHI: (i) for the proper management and administration of Business Associate if such disclosure is Required by Law or if "Reasonable Assurances" are obtained; (ii) to carry out the legal responsibilities of Business Associate if such disclosure is Required by Law or if "Reasonable Assurances" are obtained; or (iii) as Required by Law. To the extent that Business Associate discloses PHI to a third party pursuant to Section II(b)(i) or (ii) above under Reasonable Assurances, Business Associate must obtain in writing, prior to making any such disclosure: (i) reasonable assurance from the third party that such PHI will be held in a confidential manner; (ii) reasonable assurance from the third party that such PHI will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to such third party; and (iii) an agreement from the third party to immediately notify Business Associate of any breaches of confidentiality of such PHI, to the extent the third party has obtained knowledge of such breach (collectively, “Reasonable Assurances”). Except as Required by Law, Business Associate shall not disclose PHI to a health plan for payment or healthcare operations if the individual subject to the PHI has requested such restriction, the individual (or designee) pays out of pocket in full for the health care item or service to which the PHI relates, and the restriction has been made known to Business Associate in accordance with Section 3(b) of this BAA. Business Associate shall not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of Covered Entity.

(c) De-identification. Business Associate shall not de-identify PHI without Covered Entity's prior consent.

(d) Appropriate Safeguards. Business Associate shall comply with the applicable provisions of the Security Rules and shall implement appropriate administrative, technical, physical, and security safeguards in compliance with HIPAA that reasonably and appropriately safeguard and protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. As required by HIPAA, Business Associate shall maintain policies, procedures, and documentation that address the safeguards to prevent, detect, contain, and correct security violations in accordance with 45 CFR 164. Business Associate shall make its policies and procedures required by the Security Rule available to Covered Entity solely for purposes of verifying BA's compliance and the Secretary of the Department of Health and Human Services (HHS).

(e) Notification Obligations. During the term of this BAA, Business Associate shall notify Covered Entity as soon as is reasonably practicable but in no event later than five (5) calendar days after the discovery of any use and/or disclosure of PHI not permitted by this BAA, a Breach of Unsecured PHI, or any material Security Incident, and shall provide Covered Entity with information regarding the improper use and/or disclosure, Breach or Security Incident as required by law. In the event of a breach of Unsecured PHI, such notice shall include, to the extent possible, the name of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach. Business Associate shall also, to the extent possible, furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to Individuals under 45 CFR § 164.404(c) at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available.

(f) Mitigation. Business Associate shall take prompt corrective action to mitigate and cure, if possible, any harmful effect that is known to Business Associate of an improper use and/or disclosure of PHI, Breach, or Security Incident. Business Associate shall cooperate with Covered Entity regarding any Breach notification to third parties, and shall reimburse Covered Entity for any costs incurred by Covered Entity in complying with the applicable requirements of HIPAA resulting from a Breach of Unsecured PHI by Business Associate. To the extent allowed by law, Business Associate shall indemnify and hold Covered Entity harmless from all claims, liabilities, costs, and damages arising out of or in any manner related to the disclosure by Business Associate of any PHI or to the breach by Business Associate of any obligation related to PHI. Business Associate shall be deemed to discover a Breach of Unsecured PHI as of the first day on which such Breach is known, or should have been known, by Business Associate.

(g) Access to PHI. Within ten (10) days of receipt of a request, Business Associate shall make PHI maintained by Business Associate in a Designated Record Set, in Business Associate's possession or control, available to Covered Entity for inspection and/or copying to enable Covered Entity to fulfill its obligations under 45 CFR § 164.524. If a request for access to PHI is delivered directly to Business Associate, Business Associate shall as soon as possible, but no later than ten (10) days after receipt of the request, forward the request to Covered Entity. Business Associate shall provide access to a copy of electronic PHI maintained by Business Associate in a Designated Record Set to the Covered Entity in accordance with the provisions of this Section and HIPAA.

(h) Amendment of PHI. Within ten (10) days of receipt of a request, Business Associate shall make PHI maintained by Business Associate in a Designated Record Set, in Business Associate's possession or control, available to Covered Entity for amendment to enable Covered Entity to fulfill its obligations under 45 CFR § 164.526. Business Associate shall amend PHI maintained by Business Associate in a Designated Record Set, in Business Associate's possession or control, as directed by Covered Entity to enable Covered Entity to fulfill its obligations under 45 CFR § 164.526. If a request for amendment of PHI is delivered directly to Business Associate, Business Associate shall as soon as possible, but no later than ten (10) days after receipt of the request, forward the request to Covered Entity.

(i) Accounting of PHI Disclosures. Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an

accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Within five (5) days of receipt of a request by Covered Entity, Business Associate shall make available to Covered Entity the information required to provide an accounting of such disclosures. Any accounting information shall include the information described in 45 CFR § 164.528(b), including, without limitation: (i) the date of disclosure of PHI; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the written request for disclosure. If a request for an accounting of PHI is delivered directly to Business Associate, Business Associate shall as soon as possible, but no later than five (5) days after receipt of the request, forward the request to Covered Entity.

(j) Governmental Access to Records. Business Associate shall make PHI and its facilities, internal practices, books, records, accounts, and other information relating to the use and disclosure of PHI available to the Secretary, authorized governmental officials, and Covered Entity in a prompt and reasonable time and manner and shall cooperate with the Secretary concerning any investigation designed to determine Covered Entity's or Business Associate's compliance with HIPAA. Unless the Secretary directs otherwise, Business Associate shall promptly notify Covered Entity in writing of Business Associate's receipt of a request for information from the Secretary or notice concerning an investigation by the Secretary and shall provide Covered Entity with a copy of all documents made available to the Secretary.

(k) Business Associate's Agents and/or Subcontractors. To the extent Business Associate uses one or more subcontractors, vendors, or agents to provide Services to Covered Entity, and such subcontractors, vendors, or agents create, receive, maintain, or transmit PHI, Business Associate shall require in accordance with 45 CFR § 164.308(b) and 164.502(e) that each subcontractor, vendor, or agent agree in writing to be bound by the terms of this BAA and HIPAA to the same extent as Business Associate, including but not limited to the implementation of reasonable and appropriate safeguards to protect PHI. A fully executed copy shall be provided to Covered Entity. Following the discovery of non-compliance by a subcontractor, vendor, or agent of any of its obligations with respect to PHI, Business Associate shall promptly report such non-compliance to Covered Entity and shall ensure that its subcontractors, vendors, or agents agree to indemnify or hold harmless Covered Entity from all claims, liabilities, costs, and damages arising out of or in any manner related to the non-compliance or breach by Business Associate of any obligation related to PHI.

(l) Compliance with Standard Transactions. If Business Associate conducts, in whole or in part, Standard Transactions (as such term is defined in the Standards for Electronic Transactions Rule at 45 CFR Parts 160 and 162, as may be amended, modified or superseded, from time to time) for or on behalf of Covered Entity, Business Associate will comply, and will require any of its subcontractors or agents involved with such Standard Transactions on behalf of Covered Entity to comply, with each applicable requirement of 45 CFR Parts 160 and 162. Business Associate will not enter into, or permit its subcontractors or agents to enter into, any agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that: (i) changes the definition, data condition, or use of a data element or segment in a Standard Transaction; (ii) adds any data elements or segments to the maximum defined data set; (iii) uses any code or data element that is marked "not used" in a Standard Transaction or are not in the Standard Transactions' implementation specification; or (iv) changes the meaning or intent of the Standard Transactions' implementation specifications.

(m) Additional Obligations. Business Associate shall comply with the requirements of HIPAA, which are applicable to Business Associate as a business associate of the Covered Entity, including all regulations which are issued to implement such requirements, as may be amended, modified or superseded from time to time. To the extent Business Associate carries out one or more of Covered Entity's obligation(s) under 45 CFR Part 164, Subpart E, in the performance of such obligations, Business Associate shall comply with the requirements of 45 CFR Part 164, Subpart E, that apply to Covered Entity to the same extent as required by Covered Entity.

### **III. OBLIGATIONS OF COVERED ENTITY.**

(a) Notice of Privacy Practices. ODSH's Notice of Privacy Practices is available on its website: [www.ok.gov/health](http://www.ok.gov/health).

(b) Restrictions on Use or Disclosure. Covered Entity shall only disclose PHI to Business Associate or to others, pursuant to this BAA, in a manner and to an extent permitted by HIPAA. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individuals to use and/or disclose PHI, to the extent such changes or revocations may affect Business Associate's permitted or required uses and/or disclosures of PHI. Further:

- (i) Covered Entity shall notify Business Associate of any restriction to the use and/or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent such restriction may affect Business Associate's permitted or required uses and/or disclosures of PHI;
- (j) Covered Entity shall not request Business Associate use or disclose PHI in any manner that would violate the Privacy Rule if done by Covered Entity; and
- (ii) Covered Entity agrees to timely notify Business Associate, in writing, of any arrangements between OSDH and the Individual that is the subject of PHI that may impact in any manner the use and/or disclosure of the PHI by Business Associate under this BAA.

#### **IV. TERM AND TERMINATION.**

(a) Term. This BAA shall commence on the Effective Date and shall remain effective for the entire term that Business Associate provides Services for Covered Entity or until terminated in accordance with the provisions in this BAA.

(b) Termination for Cause. Either party may terminate this BAA by notice in writing to the other party, if the other party materially breaches this BAA in any manner and such material breach continues for a period of thirty (30) days after written notice is given to the breaching party by the other party specifying the nature of the breach and requesting that it be cured. If termination of this BAA is not feasible, the non-breaching party shall report the breach to the Secretary if required by HIPAA.

(c) Severability: If any provision of this contract, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect.

(d) Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall: (i) Retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (ii) Return to Covered Entity (or, if agreed to by Covered Entity, destroy) the remaining PHI that the Business Associate still maintains in any form; (iii) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI; (iv) Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at above under "Permitted Uses and Disclosures By Business Associate" that applied prior to termination; and (v) Return to Covered Entity (or, if agreed to by Covered Entity, destroy) the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities. If destruction of PHI is permitted under this Subsection, Business Associate shall notify Covered Entity in writing that such PHI has been destroyed. All other obligations of Business Associate under this BAA shall survive termination.

**V. CONSTRUCTION.** This BAA shall be construed as broadly as necessary to implement and comply with HIPAA. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA.

**VI. HEADINGS.** The headings contained in this BAA are included only for convenience of reference and do not define, limit, explain or modify this BAA or its interpretation, construction or meaning and are in no way to be construed as part of this BAA.

**VII. NOTICE.** All notices and other communications required or permitted pursuant to this BAA shall be in writing, addressed to the party at the address set forth at the end of this BAA, or to such other address as any party may designate from time to time in writing in accordance with this Section. All notices and other communications shall be sent by: (i) registered or certified mail, return receipt requested, postage pre-paid; (ii) overnight mail by a reputable carrier; (iii) facsimile with a copy sent by First Class Mail, postage pre-paid; or (iv) hand delivery. All notices shall be effective as of the date of delivery if by hand delivery or overnight mail, two (2) days following the date of facsimile, or if by certified mail on the date of receipt, whichever is applicable.

**VIII. ASSIGNMENT.** This BAA and the rights and obligations hereunder shall not be assigned, delegated, or otherwise transferred by either party without the prior written consent of the other party and any assignment or transfer without proper consent shall be null and void.

**IX. GOVERNING LAW.** Any claim, dispute, or litigation relating to the execution, interpretation, performance, or enforcement of this BAA shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles. Venue for any action, claim, dispute, or litigation relating in any way to the execution, interpretation, performance, or enforcement of the BAA shall be in the appropriate state or federal court in Oklahoma County, Oklahoma. Further, notwithstanding any provision in the BAA, the Department, as an agency of the State of Oklahoma, does not waive the doctrine of sovereign immunity and immunity from suit to the extent authorized by the Constitution and laws of the State of Oklahoma nor any other right or defense available to the Department.

**X. BINDING EFFECT; MODIFICATION.** This BAA shall be binding upon, and shall ensure to the benefit of, the parties hereto and their respective permitted successors and assigns. This BAA may only be amended or modified by mutual written agreement of the parties; provided, however, that in the event any provision of this BAA shall conflict with the requirements of HIPAA, this BAA shall automatically be deemed amended as necessary to conform to such legal requirements at all times. To the extent that any relevant provision of the HIPAA Regulations is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to these revised obligations.

**XI. NO THIRD-PARTY BENEFICIARIES.** Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person or entity other than Covered Entity, Business Associate and their respective successors or permitted assigns, any rights, remedies, obligations or liabilities whatsoever.

**XII. COUNTERPARTS.** This BAA may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute but one BAA.

**XIII. ENTIRE AGREEMENT.** This BAA constitutes the entire agreement between the parties with respect to the matters contemplated herein and supersedes all previous and contemporaneous oral and written agreements, negotiations, commitments, and understandings.

**XIV. AUTHORIZATION.** The execution of this BAA is fully authorized by each party. No party is under any legal disability and the person(s) signing below have appropriate authority to bind their respective parties by execution of this BAA on their behalf.

*[Signatures on following page]*

**IN WITNESS WHEREOF**, each of the undersigned has caused this BAA to be duly executed in their respective names by their duly authorized representatives as of the Effective Date.

**COVERED ENTITY:**

Oklahoma State Department of Health

By:

Print Name: Mykel Fry

Title: Chief Legal Counsel

Address: 123 Robert S Kerr Avenue

Oklahoma City, OK 73102

**BUSINESS ASSOCIATE:**

By:

Print Name:

Title:

Address:



**OKLAHOMA**  
Office of Management  
& Enterprise Services

**Certification for Competitive  
Bid and/or Contract  
(Non-Collusion Certification)**

**NOTE:** A certification shall be included with any competitive bid and/or contract exceeding \$25,000.00 submitted to the State for goods or services.

Agency Name: OSDH Agency #: 340

Supplier Legal Name: \_\_\_\_\_ Solicitation or Purchase Order #: \_\_\_\_\_

**SECTION I [74 O.S. § 85.22]:**

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder, for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and suppliers and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in connection with the prospective acquisition;
2. I am fully aware of the facts and circumstances surrounding the acquisition or making of the bid to which this statement relates and have been personally and directly involved in the events leading to the acquisition or submission of such bid; and
3. Neither the business entity that I represent in this certification nor anyone subject to the business entity's direction or control has been a party:
  - a. to any collusion among bidders or suppliers in restraint of freedom of competition by agreement to bid or contract at a fixed price or to refrain from bidding or contracting,
  - b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
  - c. to any discussions between bidders or suppliers and any state official concerning exchange of money or other thing of value for special consideration in connection with the prospective contract.

B. I certify, if awarded the contract, whether competitively bid or not, neither the business entity I represent nor anyone subject to the business entity's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of this state any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement relates.

**SECTION II [74 O.S. § 85.42]:**

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

**SECTION III [74 O.S. § 582]:**

For the purpose of a contract for goods or services, the supplier also certifies is not currently engaged in a boycott of goods or services from Israel that constitutes an integral part of business conducted or sought to be conducted with the state.

The undersigned, duly authorized agent for the above named bidder or supplier, by signing below acknowledges this certification statement is executed for the purposes of:

☐ the competitive bid attached herewith and contract, if awarded to said supplier;

**OR**

☐ the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

\_\_\_\_\_  
Supplier Authorized Signature

\_\_\_\_\_  
Certified This Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email

\_\_\_\_\_  
Fax Number