

Contract Review Sheet

SO-5443-23

Intergovernmental Agreement #: SO-5443-23 Amendment #: _____

Contact: Bethany Johnston Department: Sheriff's Office

Phone #: 503-566-3261 Date Sent: Tuesday, June 6, 2023

Title: IGA Between MCSO and MCHHS for the SOAR Program

Contractor's Name: Marion County Health Department

Term - Date From: July 1, 2023 Expires: June 30, 2025

Original Contract Amount: \$560,634.00 Previous Amendments Amount: _____

Current Amendment: _____ New Contract Total: \$560,634.00 Amd% _____

Incoming Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 50-0010 General Exemptions (IGAs and QRFs)

Description of Services or Grant Award

MCHHS shall assess, monitor and provide treatment services to SOAR participants with substance abuse disorders.

This IGA is \$560,634 for the 2023-25 biennium, with options to renew every two years through June 30, 2029.

Desired BOC Session Date: 6/28/2023 BOC Planning Date: 6/15/2023

Files submitted in CMS: 6/7/2023 Printed packet & copies due in Finance: 6/13/2023

BOC Session Presenter(s) Undersheriff Wood, Commander Bergmann

FOR FINANCE USE

Date Finance Received: 6/13/2023 Date Legal Received: _____

Comments: Y

REQUIRED APPROVALS

DocuSigned by:
Camber Schlag 6/13/2023
C5B2E3DE257E444...
Finance - Contracts Date

DocuSigned by:
Bethany Johnston 6/15/2023
D89BA3AA80AC4BF...
Contract Specialist Date

DocuSigned by:
Jane E Vetto 6/13/2023
D0CF5B04B9E483...
Legal Counsel Date

DocuSigned by:
Jan Fritz 6/14/2023
DC16251248DE4EC...
Chief Administrative Officer Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: Wednesday, June 28, 2023

Department: Sheriff's Office Agenda Planning Date: 6/15/2023 Time required: 5 min.

Audio/Visual aids

Contact: Bethany Johnston Phone: x3261

Department Head Signature: [Handwritten signature: M Wood]

TITLE Consider approval of an Intergovernmental Agreement with Marion County Health and Human Services in the amount of \$560,634.00 to assess, monitor, and provide treatment services to Student Opportunity for Achieving Results (SOAR) participants with substance abuse disorders through June 30, 2025.

Issue, Description & Background MCHHS shall assess, monitor and provide treatment services to SOAR participants with substance abuse disorders.

Financial Impacts: \$560,634.00

Impacts to Department & External Agencies This contract is for \$560,634 for the 2023-25 biennium, with options to renew every two years through June 30, 2029. The funding will come from Measure 57 funds.

Options for Consideration: 1. Approve the Intergovernmental Agreement with Marion County Health and Human Services 2. Deny the Intergovernmental Agreement with Marion County Health and Human Services 3. Take no Action at This Time.

Recommendation: Staff recommends option 1, approve the Intergovernmental Agreement with Marion County Health and Human Services in the amount of \$560,634.00 to assess, monitor, and provide treatment services to Student Opportunity for Achieving Results (SOAR) participants with substance abuse disorders.

List of attachments: Agenda Review Sheet, Contract Review Sheet, IGA, HIPAA form, and PREA form.

Presenter: Undersheriff Wood, Commander Bergmann

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Jay Bergmann, jbergmann@co.marion.or.us Kristy Witherell, kwitherell@co.marion.or.us

INTERGOVERNMENTAL AGREEMENT
Between
MARION COUNTY Sheriff's Office and
MARION COUNTY HEALTH AND HUMAN SERVICES
SO-5443-23

1. PARTIES TO AGREEMENT

This Agreement between Marion County Health and Human Services, hereafter called MCHHS for Drug and Alcohol Treatment Services in connection with Students Opportunity for Achieving Results SOAR program, and Marion County Sheriff's Office, a political subdivision of the state of Oregon, hereafter called MCSO, is made pursuant to ORS 190.010 (Cooperative Agreements).

2. PURPOSE/STATEMENT OF WORK

The purpose of this Agreement is to establish the terms and conditions under which the MCHHS shall assess, monitor, and provide treatment services to SOAR participants with substance abuse disorders as described in Attachment A: Marion County Health and Human Services SOAR Services, incorporated into this agreement by this reference, and shall follow the applicable guidelines of services to MCSO. These services are further described in Section 5.

3. TERM AND TERMINATION

- 3.1 This Agreement shall be effective for the period of July 01, 2023, through June 30, 2025, unless sooner terminated or extended as provided herein. The parties may extend the term of this Agreement provided that the total Agreement term does not extend beyond June 30, 2029.
- 3.2 This agreement may be terminated by mutual consent of both parties at any time or by either party upon 30 days' notice in writing and delivered by mail or in person. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
- 3.3 MCSO may terminate this agreement effective upon delivery of written notice to MCHHS or at such later date as may be established under any of the following conditions:
 - a. If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for the purchase of the indicated quantity of services. This agreement may be modified to accommodate a reduction in funds.
 - b. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - c. If any license, certificate, or insurance required by law or regulation to be held by MCHHS to provide the services required by this agreement is for any reason denied, revoked, or not renewed.

- d. If MCHHS fails to provide services called for in this agreement within the time specified herein or any extension thereof.
- e. If MCHHS fails to perform any of the provisions of this agreement or so fails to pursue the work as to endanger the performance of this agreement in accordance with its terms and after written notice from MCSO, fails to correct such failure(s) within ten (10) days or such longer period as MCSO may authorize.

3.4 Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

4. FUNDING AND BILLING

4.1 The total amount paid under this contract shall not exceed \$560,634.00. Payments under this contract shall be made on a basis according to the following terms: MCHHS will submit an expenditure report for the costs associated with providing payment under this agreement.

4.2 MCSO will provide payment using the County's journal entry process to reimburse personnel costs upon receipt of the expenditure reports provided by MCHHS.

5. OBLIGATIONS UNDER THE TERMS OF THIS AGREEMENT

5.1 UNDER THE TERMS OF THIS AGREEMENT, MCHHS SHALL:

- a. Provide necessary computer and program needs, including county e-mail access and log-on information to access various programs as expected for any Marion County employee performing similar services.
- b. Demonstrate an understanding of the characteristics of the population being served, including any structural, cultural, and/or linguistic barriers faced by the population. Work with MCSO to respond to those barriers and provide culturally responsive services to the target population.

5.2 UNDER THE TERMS OF THIS AGREEMENT, MCSO SHALL:

- a. Provide use of office space and associated equipment and furniture in partnership with Chemeketa Community College.
- b. Provide materials and supplies necessary to accomplish work provided by MCHHS.

6. COMPLIANCE WITH APPLICABLE LAWS

The parties agree that both shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this agreement. The parties agree that this agreement shall be administered and construed under the laws of the state of Oregon.

7. NONDISCRIMINATION

The parties agree to comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations in the performance of this agreement.

8. HOLD HARMLESS

To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, each party agrees to waive, forgive, and acquit any and all claims it may otherwise have against the other and the officers, employees, and agents of the other, for or resulting from damage or loss, provided that this discharge and waiver shall not apply to claims by one party against any officer, employee, or agent of the other arising from such person's malfeasance in office, willful or wanton neglect of duty, or actions outside the course and scope of his or her official duties.

9. INSURANCE

Each party shall insure or self-insure and be independently responsible for the risk of its own liability for claims within the scope of the Oregon tort claims act (ORS 30.260 TO 30.300).

10. MERGER CLAUSE

Parties concur and agree that this agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change to the terms of this agreement shall bind either party unless in writing and signed by both parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Parties, by the signatures below of their authorized representatives, hereby agree to be bound by its term and conditions.

11. NOTICES

Any notice required to be given the MCHHS or MCSO under this Agreement shall be sufficient if given, in writing, by first class mail or in person as follows:

For MCHHS:

Marion County Health and Human Services
3180 Center St NE
Salem Or 97301
health@co.marion.or.us

For MCSO:

Sheriff's Office
PO BOX 14500
Salem, Or 97309
SO-Contracts@co.marion.or.us

12. Confidentiality: Client records and information shall be kept confidential in accordance with ORS 179.505, ORS 192.558, and 42 CFR part 2. The parties expressly agree to comply with applicable provisions of the Health Insurance Portability and Accountability Act of 1996, 42 USC sections 130d et seq., and the implementing regulations at 45 CFR Parts 160 and 164. This agreement, in and of itself, does not authorize any party to disclose protected health information to any other party absent separate compliance with the HIPAA laws. See Addendum NO. 1.

13. Prison Rape Elimination Act (PREA):

The Marion County Sheriff's Office is committed to complying with all of the requirements of PREA (Prison Rape Elimination Act). In order to protect Adults in Custody (AIC) from sexual abuse and to ensure they get the help they need if they are victimized, PREA requires all contractors and volunteers to receive specialized training on how to recognize the warning signs and how to report a case.

Contractors, employees, and volunteers who interact with Adults in Custody shall:

- View the PREA Contractor Training Presentation at the following link
https://prezi.com/0ebedyz1xjy/?token=f3d32de2c5ff329ee9f60b63ab34e41e8ac49b72cffcc282f4c4e1d9ea58c3af&utm_campaign=share&utm_medium=copy
- Acknowledge the review and receipt of PREA Volunteer and Contractor Information Acknowledgement Form by signing, dating, and returning the form in Attachment B. Signed acknowledgement forms shall be returned by email to SO-Contracts@co.marion.or.us.

14. SIGNATURES

This agreement and any changes, alterations, modifications, or amendments will be effective when approved in writing by the authorized representative of the parties hereto as of the effective date set forth herein.

In witness whereof, the parties hereto have caused this agreement to be executed on the date set forth below.

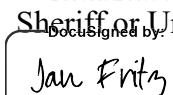
MARION COUNTY SIGNATURE BOARD OF COMMISSIONERS:

Chair _____ Date _____

Commissioner _____ Date _____

Commissioner _____ Date _____

Authorized Signature:  _____ Date: 6/13/2023
DocuSigned by: D35430AD507E404

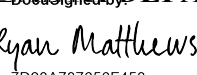
Authorized Signature:  _____ Date: 6/14/2023
Sheriff or Undersheriff
DocuSigned by: DC18361248DE4EC...

Reviewed by Signature:  _____ Date: 6/13/2023
Chief Administrative Officer
DocuSigned by: D9CF65B04B9F483...

Reviewed by Signature:  _____ Date: 6/13/2023
Marion County Legal Counsel
DocuSigned by: C5B2F3DF257E444...

Marion County Contracts & Procurement _____ Date _____

MARION COUNTY HEALTH DEPARTMENT

Authorized Signature:  _____ Date: 6/14/2023
DocuSigned by: 7D28A787656F458...

Title: Administrator _____

Attachment A

Marion County Health and Human Services SOAR Services

Marion County Health and Human Services Alcohol and Drug Treatment Program will provide the following addictions treatment services for SOAR participants:

Individual and Family Treatment

- Drug and alcohol assessments
- Treatment planning
- Individual and family alcohol and drug treatment counseling

Groups

- MATRIX: Social Support Group once a week for 1.5 hours for twelve weeks
- MATRIX: Family Education Group twice weekly for 1.5 hours for twelve weeks
- University of Cincinnati Cognitive Behavioral Interventions for Substance Abuse: Non-residential substance abuse treatment group

Mentoring

The purpose of mentoring is to assist individuals in moving toward a lifestyle that is conducive to recovery and education, to build pro-social support in the community, and to increase pro-social thoughts and behaviors, and decrease recidivism. The mentor will work closely with the Community Corrections Deputy and other inter-related agencies. The mentor is responsible for assisting with support in finding housing, clothing, food baskets, 12 STEP meetings and/or other support groups, advocacy, and how to utilize community resources that may match the needs of the individuals. The mentor will facilitate short groups throughout each cohort. A primary responsibility of the mentor is to provide support by mentoring the student during the early stages of re-entry.

Attachment B

PREA Volunteer and Contractor Information Acknowledgement Form

Our goal at The Marion County Sheriff's Office is to keep everyone safe. Part of achieving that goal is making sure everyone understands how to prevent, detect, and respond to sexual misconduct. All Contractors, Volunteers and Employees must understand PREA (Prison Rape Elimination Act) rules and how to report a problem, or issue in the unlikely event misconduct is witnessed or reported by a victim.

Important Rules to Know: No one is ever allowed to engage in sexual misconduct.

- Sexual misconduct includes any kind of sexual contact, regardless of whether the other party agreed to the contact or not.
- This also includes sexual harassment: saying sexual things, saying things about someone's body, talking about whom someone likes to date, or making offensive gestures or comments.

Employees, contractors, and volunteers are prohibited from having any kind of romantic relationship with an adult in custody. There is no such thing as consent to sexual activity in a correctional setting.

Employees, contractors, and volunteers are prohibited from sharing personal details, such as their personal contact information, except in order to carry out their professional responsibilities. Similarly, employees, volunteers, and contractors are prohibited from making contact with adults in custody outside of each facility through any means (e.g., in person meetings, texting, or on social media), except in order to carry out their professional responsibilities.

How We Keep Everyone Safe: At the Marion County Sheriff's Office, we do a number of things to keep everyone safe, including:

- Educating adults in custody about their right to be free from sexual misconduct
- Conducting background checks of the individuals, we hire.
- Training employees, volunteers, and contractors on our policies on preventing, detecting, and responding to sexual misconduct.
- Maintaining appropriate supervision of adults in custody.
- Offering a number of ways adults in custody and others can report problems at each facility.
- Fully investigating all allegations of sexual misconduct.
- Providing services and support to adults in custody who allege they have been sexually abused.
- Protecting employees and adults in custody from retaliation for reporting problems or helping with an investigation

What to Do If Sexual Misconduct is suspected, witnessed, or reported:

- If an incident of sexual misconduct is witnessed or suspected, you must report it immediately by contacting a deputy or non-sworn employee.
- If an adult in custody discloses something that suggests an incident of sexual misconduct has occurred, stay calm, listen to what they are saying, take the report seriously, and convey a message of support (e.g., “I’m glad you were strong enough to come to me.”). Let the adult in custody know the incident will be reported and an investigation will be conducted to make sure they are safe. Inform them the information will not be shared beyond those who need to know to fix the problem.
- If an adult in custody wants to share an incident and asks that it not be repeated, let them know about your limits of confidentiality. This includes reporting certain behaviors by law once you have knowledge or reasonable suspicion that a crime is being or has been committed.
- For example, you might say, “I am glad you came to me, and I can understand why you would not want me to tell anyone. If it is about someone hurting, harassing, or threatening you. I am required to report it. I respect your decision if you do not want to tell me as a result. But if you tell me, I can work with you to get help.”

Questions: If you have questions pertaining to your PREA responsibilities or other facility rules, or your responsibilities while you are here, you may contact us by calling the Marion County Jail’s Administrative section at (503) 581-1183.

Acknowledgement: By signing this form, you acknowledge that you have received, read, and understand your responsibilities regarding the Marion County Sheriff’s Office sexual misconduct prevention, detection, and response policies and procedures.

Signature: _____ Date: _____

Printed Name: _____

Addendum 1

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT BUSINESS ASSOCIATE CONTRACT PROVISIONS

INTRODUCTION

This Addendum to the contract between Marion County Sheriff's Office, a political subdivision of the State of Oregon, hereinafter called County, and Marion County Health and Human Services, hereinafter called Contractor is required by the Health Insurance Portability and Accountability Act of 1996, (HIPAA), as amended.

WHEREAS, County will make available or transfer to Contractor certain information in conjunction with goods or services that are being provided by Contractor to County, that is confidential and must be afforded special treatment and protection.

WHEREAS, Contractor will have access to or receive from County certain information that can be received, maintained, used or disclosed only in accordance with this Contract and the Department of Health and Human Services Security Rule and Privacy Rule, 45 Code of Federal Regulations (CFR) Parts 160, 162 and 164.

NOW THEREFORE, the parties agree as follows:

1. Definitions.

- a. BUSINESS ASSOCIATE shall mean Marion County Health and Human Services.
- b. BREACH means acquisition, access, use or disclosure of protected health information (PHI) in a manner that: (i) is not permitted by the HIPAA Privacy Regulations; (ii) poses a significant risk of financial, reputational, or other harm to the individual; and (iii) is not excluded from the definition of "Breach" found at 45 CFR 164.402. In the event of any inconsistency between the definition of "Breach" in this Agreement and the definition in the Privacy Regulations, the definition in the Privacy Regulations will control.
- c. COVERED ENTITY shall mean Marion County.
- d. HITECH Act shall mean the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act Public. Law No. 111-5.
- e. INDIVIDUAL shall mean the person who is the subject of the information and has the same meaning as the term "individual" defined in 45 CFR 160.103 and includes a person who qualifies as a personal representative pursuant to 45 CFR 164.502 (g).
- f. PRIVACY RULE shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, Subparts A and E.
- g. PROTECTED HEALTH INFORMATION shall have the same meaning as the term in 45 CFR 160.103, limited to information created or received by Business Associate from or on behalf of Covered Entity.
- h. REQUIRED BY LAW shall have the same meaning as the term in 45 CFR 164.103.

- i. SECRETARY shall mean the Secretary of the federal Department of Health and Human Services (HHS) and any other HHS officer or employee with delegated authority.
- j. SECURITY RULE shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160, and 164, Subparts A and C.
- k. UNSECURED PROTECTED HEALTH INFORMATION shall mean Protected Health Information in any form, including electronic, paper or verbal, that is not rendered usable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary pursuant to the HITECH Act, as such guidance may be updated by the Secretary from time to time.

Terms used, but not otherwise defined, in the Agreement shall have the same meaning as those terms in 45 CFR 160.103, 164.304 and 164. 501.

2. **Term.**

The term of the HIPAA obligations under this addendum shall commence as of the effective date of this contract and shall expire when all of the information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy protected health information, protections are extended to the information in accordance with the termination provisions in this contract.

3. **Limits on Use and Disclosure.**

Business Associate shall not use or disclose protected health information provided or made available by Covered Entity for any purpose other than as expressly permitted or required by this contract or as Required by Law.

4. **Permitted Uses and Disclosures by Business Associate.**

a. Statutory Duties.

(1) Business Associate acknowledges that it has a statutory duty under the HITECH Act to, among other duties:

(A) effective February 17, 2010, use and disclose Protected Health Information only in compliance with 45 C.F.R. § 164.504(e) (the provisions of which have been incorporated into this Agreement); and

(B) effective February 17, 2010, comply with 45 C.F.R. §§ 164.308 ("Security Standards: General Rules"), 164.310 ("Administrative Safeguards"), 164.312 ("Technical Safeguards"), and 164.316 ("Policies and Procedures and Documentation Requirements"). In complying with 45 C.F.R. § 164.312 ("Technical Safeguards"), Business Associate shall consider guidance issued by the Secretary pursuant to Section 13401(c) of the HITECH Act and, if a decision is made to not follow such guidance, document the rationale for that decision.

(2) Business Associate acknowledges that its failure to comply with these or any other statutory duties could result in civil and/or criminal penalties under 42 U.S.C. §§1320d-5 and 1320d-6.

(3) As of the effective date of Section 13405(d) of the HITECH Act, Business Associate may not receive direct or indirect remuneration in exchange for Protected Health Information unless permitted by the Act or regulations issued by the Secretary.

b. General Use and Disclosure Provision.

Except as otherwise limited in this contract, Business Associate may use or disclose protected health information to perform the functions, activities or services for, or on behalf of, Covered Entity as specified in the contract between the parties, provided that such use or disclosure would not violate the Security and Privacy Rules if done by the Covered Entity, or the minimum necessary policies of Covered Entity.

c. Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Regulations if done by Covered Entity.

5. **Additional Purposes for Uses and Disclosures by Business Associate.**

(a) Except as otherwise limited in this Contract, Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(b) Except as otherwise limited in this Contract, Business Associate may disclose protected health information for the proper management and administration of the Business Associate, provided that:

(i) The disclosure is required by Law;

(ii) Reasonable assurances are obtained from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, that the person will use appropriate safeguards to prevent use or disclosure of the information, and that the person immediately notifies Business Associate of any instances of which the confidentiality of the information has been breached per section 6.d of this Contract;

(iii) Except as otherwise limited in this Contract, Business Associate may use protected health information to provide data aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).

(iv) Business Associate may use protected health information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

(v) As of the effective date of Section 13405(d) of the HITECH Act, Business Associate may not receive direct or indirect remuneration in exchange for Protected Health Information unless permitted by the Act or regulations issued by the Secretary.

6. **Business Associate Obligations:**

- a. **Limits on Use and Further Disclosure Established by Contract and Law.** Business Associate agrees that information provided or made available by Covered Entity shall not be further used or disclosed other than as permitted or required by the Contract or as Required by Law.
- b. **Appropriate Safeguards.** Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the protected health information other than as provided for by this Contract.
- c. **Mitigation of Harmful Effects.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of the use or disclosure of protected health information by Business Associate in violation of the requirements of this Contract.
- d. **Reports of Breach.** Per the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA) Public. Law 111-5, Business Associate agrees to report to Covered Entity as soon as possible any use or disclosure of the protected health information not provided for by this Contract of which it becomes aware. If a breach of unsecured protected health information occurs at or by a Business Associate, the Business Associate must notify the Covered Entity no later than 60 days from the discovery of the breach. To the extent possible, the Business Associate should provide the Covered Entity with the identification of each individual affected by the breach as well as any information required to be provided by the Covered Entity in its notification to affected individuals.
- e. **Subcontractors and Agents.** Business Associate agrees to ensure that any agent, including any subcontractor, to whom it provides protected health information received from, or created by Business Associate on behalf of Covered Entity agrees in writing to the same terms, conditions and restrictions on the use and disclosure of protected health information as contained in this Contract.
- f. **Right of Access to Information.** Business Associate agrees to provide access, at the request of Covered Entity, to protected health information in a Designated Record Set, either to the Covered Entity, or as directed by Covered Entity to an Individual. This right of access shall conform with and meet the requirements of 45 CFR 164.524, including substitution of the words "Covered Entity" with Business Associates where appropriate.
- g. **Amendment and Incorporation of Amendments.** Business Associate agrees to make and incorporate any amendments to protected health information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526.
- h. **Provide Accounting.** Business Associate agrees to make internal practices, books, and records, including policies and procedures and protected health information relating to the use and disclosure of protected health information received from, or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity, the Secretary, or the Secretary's designee for the purposes of determining compliance with the Security and Privacy Rules.
- i. **Documentation of Disclosures.** Business Associate agrees to document disclosures of protected health information and information related to these disclosures as would be

required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of protected health information in accordance with 45 CFR 164.528.

- j. Access to Documentation of Disclosures. Business Associate agrees to provide Covered Entity information collected in accordance with Section 6(i) of this Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of protected health information in accordance with 45 CFR 164.528.
- k. False Claims, Fraud and Abuse. Business Associate shall cooperate with and participate in activities to implement and enforce the Covered Entity's policies and procedures to prevent, detect and investigate false claims, fraud and abuse relating to Oregon Health Plan, Medicare or Medicaid funds. Business Associate shall cooperate with authorized State of Oregon entities and Centers for Medicare and Medicaid (CMS) in activities for the prevention, detection and investigation of false claims, fraud and abuse. Business Associate shall allow the inspection, evaluation or audit of books, records, documents, files, accounts, and facilities as required, to investigate the incident of false claims, fraud or abuse. Business Associate is required to verify that their staff and Contractors are not excluded from providing services under this contract funded by Medicare and Medicaid before services are provided. Business Associate is required to check the following databases for excluded individuals and entities:
 - Office of Inspector General (OIG)
<https://oig.hhsc.state.tx.us/Exclusions/Search.aspx>
 - Excluded Parties List System (EPLS) www.epls.gov

7. Obligations of Covered Entity.

- a. Limitations in Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 CFR 164.520, to the extent that the limitation may affect Business Associate's use or disclosure of protected health information.
- b. Changes in Use or Disclosure of Protected Health Information. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose protected health information, to the extent that the changes may affect Business Associate's use or disclosure of protected health information.
- c. Restrictions on Use or Disclosure of Protected Health Information. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of protected health information, that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that the restriction may affect Business Associate's use or disclosure of protected health information.

8. Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to use or disclose protected health information in any manner that would not be permissible under the Security and Privacy Rules if done by Covered Entity, except if the Business Associate will use or disclose protected health information for, and the Contract includes provisions for, data aggregation or management and administrative activities of Business Associate.

9. Security Assurances, the Business Associate will.

- a. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the County as required by the Health Insurance Portability and Accountability Act of 1996 and the requirements of Health Insurance Reform, the Security Standards (45CFR Parts 160, 162 & 164); and, effective February 17, 2010, to comply with the provisions of the Security Rule identified in this Agreement.
- b. Ensure that any agent, including a subcontractor, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it;
- c. Report to the County any material attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, interference with system operations in an information system, or any security incident of which it becomes aware;
- d. Authorize termination of the contract by the County, if the County determines that the Business Associate has violated a material term of the contract.

10. Termination of Contract.

- a. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Contract, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 - (2) Immediately terminate this Contract, if Business Associate has breached a material term of this Contract and cure is not possible; or
 - (3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- b. Effect of Termination.
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Contract, for any reason, Business Associate shall return or destroy all protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to protected health information that is in the possession of subcontractors or agents of Business Associate. Business Associate, its subcontractors or agents, shall retain no copies of the protected health information. In the event that Business Associate requests protected health information, Covered Entity retains the right to grant or deny.
 - (2) In the event that Business Associate determines that returning or destroying protected health information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon written notice to Covered Entity that return or destruction of protected health information is infeasible, Business Associate shall extend the protections of this Contract to the protected health information and limit further

uses and disclosures of protected health information to those purpose that make the return or destruction infeasible, for so long as Business Associate, its subcontractors or agents maintains protected health information.

11. Miscellaneous Provisions.

- a. **Regulatory References.** A reference in this Contract to a section in the Security and Privacy Rules means the section as in effect or as amended.
- b. **Amendment.** The Parties agree to take any action as is necessary to amend this Contract from time to time needed for Covered Entity to comply with the requirements of the Security and Privacy Rules and the Health Insurance Portability and Accountability Act of 1996.
- c. **Survival.** The respective rights and obligations of Business Associate under Section 10 (b) of this Contract, Effect of Termination, shall survive the termination of this Contract.
- d. **Interpretation.** Any ambiguity in this Contract shall be resolved to permit Covered Entity to comply with the Security and Privacy Rules.
- e. **Entire Agreement.** This Contract consists of this Addendum and the Contract, together which constitutes the entire agreement between the Parties. Any alterations, variations, modifications or waivers of any provisions shall be valid only when they have been submitted in writing and approved by the Parties.

12. Qualified Service Organization Contract Provisions.

- a. CONTRACTOR is required to follow the Federal Drug and Alcohol law 42 C.F.R. Part 2, Subchapter A, as amended.
- b. COUNTY will make available or transfer to CONTRACTOR certain information in conjunction with goods or services that are being provided by CONTRACTOR to COUNTY, that is confidential and must be afforded special treatment and protection.
- c. CONTRACTOR will have access to or receive from COUNTY certain information that can be received, maintained, used, or disclosed only in accordance with this Contract and the Federal Drug and Alcohol law 42 C.F.R. Part 2, Subchapter A.
- d. CONTRACTOR Shall:
 - (1) Acknowledge that in receiving, storing, processing, or otherwise dealing with any information from the Program about the patients in the Program, it is fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2; and
 - (2) Undertake to resist in judicial proceedings any effort to obtain access to information pertaining to patients otherwise than as expressly provided for in the federal confidentiality regulations, 42 C.F.R. Part 2.