

# INVITATION TO BID

State of Ohio  
Department of Administrative Services  
General Services Division  
Office of Procurement Services

The Original Signed Bid must be submitted to the Office of Procurement Services to receive consideration for award.		BIDDER NAME	
BID NUMBER <u>OT900321</u>	OPENING DATE (1:00 p.m.) <u>May 27, 2020</u>	STREET ADDRESS <input type="checkbox"/> Check if remit address is different and list on separate sheet	
General Services Division Office of Procurement Services  4200 Surface Road Columbus, OH 43228-1395  Attn: Bid Desk		CITY	STATE ZIP
		COUNTY	MBE/EDGE CERTIFICATE NUMBER
		TELEPHONE NO. ( )	TOLL FREE NO. 1 - ( )
		CONTACT PERSON	FAX NO. ( )
REQ./INDEX NO. LDC019	BID NOTICE DATE April 30, 2020	CONTRACTOR'S E-MAIL ADDRESS	
SELECT YOUR PREFERRED METHOD OF RECEIVING PURCHASE ORDERS AND ENTER THE E-MAIL OR FAX NUMBER INFORMATION (ONLY SELECT ONE METHOD) <input type="checkbox"/> E-Mail <input type="checkbox"/> Fax			
In addition to the standard terms for payment, the payment terms for state agency(ies) will be 2%, 10 Days, Net 30 Days unless otherwise stated in the following space. If no discount is offered, bidder should circle "Net 30 Days". ____%, ____ Days, Net 30 Days			
<u>PARTICIPATING AGENCY(IES):</u>  Department of Mental Health and Addiction Services, 30 E. Broad Street, 8th Floor, Columbus, OH 43215, Department of Youth Services, 30 W. Spring Street, Columbus OH 43215 and Department of Veteran Services, Business Unit 221, 3416 Columbus Ave., Sandusky, OH 44870			
<b>ADDENDUM FOR CHANGE</b> <b>ADDENDUM NO.: 2</b> <b>REVISION DATE: 05/22/20</b>			
<u>THE DEPARTMENT OF ADMINISTRATIVE SERVICES, OFFICE OF PROCUREMENT SERVICES IS SOLICITING BIDS FOR:</u>  <b>MEDICAL TRANSCRIPTION SERVICES</b>			
Attached are pages 6 through 18 to this Invitation to Bid. Remove the corresponding pages from the existing bid and replace with the attached.			
As indicated herein this addendum is issued to correct turn-around times, add additional specifications, change contact information, modify quality assurance report requirements, clarify the error rate, change staff training requirements, correct a spelling error, revise the estimated usage, change the required monthly capability, and to repaginate.			

SPECIFICATIONS AND REQUIREMENTS

I. SCOPE OF WORK

These specifications cover the medical transcription services required by the Ohio Department of Mental Health and Addiction Services (DMHAS) Behavioral Healthcare centers, the Juvenile Correctional Facilities (JCF) operated by the Ohio Department of Youth Services (DYS) and the Ohio Veterans Homes operated by the Ohio Department of Veterans Services (DVS). DMHAS Behavioral Health centers are located in six (6) locations, DYS has three (3) JCF locations and DVS operates two (2) facilities around the state. A list of facilities and locations is included below. The medical transcription program desired should be highly sophisticated, comprehensive, incorporating modern techniques, utilizing Contract employees that will establish and maintain a high level of accuracy and promptness of service. Access to the Contractor's 800 number call center must be available at any time needed, 24 hours per day, 7 days per week, 365 days per year. The standards of performance set forth in these specifications represent minimum acceptable standards. Not every location listed herein will be utilizing this service on a consistent basis. The inclusion of locations outlined herein is not a guarantee that they will utilize the service. The State reserves the right to add and remove locations.

- A. All associated costs, to include, but not limited to, labor, fringe benefits, equipment, automated line counting reimbursement software, and supplies that are necessary to accomplish all specified services shall be included.
- B. A line of transcription is considered to be a 65 Visible Black Character (VBC) line. A VBC is defined strikeable and visible characters and includes any printed letter, number, symbol, and/or punctuation mark visible to the eye, excluding spaces and any or all formatting (e.g., bold, underline, italics, table structure, formatting codes). All visible black characters can be seen with the naked eye as a mark, regardless of whether viewed electronically or on a printed page. A VBC line is calculated by counting all visual characters and dividing the total number of characters by 65 to arrive at the number of defined lines.

Examples VBCs are:

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z  
a b c d e f g h i j k l m n o p q r s t u v w x y z  
~ ! @ # \$ % ^ & \* ( ) \_ + { } | : < > ? ± ` 1234567890 - = [ ] \ ; ' , . / " `

- C. Headers and footers should be included in the character count, and will not be counted differently than other VBC. This does not include auto-populated text. The Contractor will only bill for the first time typed, not any automatically populated area which they did not strike the keys, i.e. the State will only pay for work performed.
- D. Below is a listing of DMHAS Behavioral Healthcare centers, DYS' JCF's and DVS' veteran's homes. The following facilities may be expected to utilize the contract. In addition, the State reserves the right to add any additional agencies/locations.

DMHAS Facilities:

Appalachian Behavioral Healthcare (ABH)  
100 Hospital Drive  
Athens, OH 45701  
Don Bowers  
(740) 594-5000  
[Donald.bowers@mha.ohio.gov](mailto:Donald.bowers@mha.ohio.gov)

Heartland Behavioral Healthcare (HBH)  
3000 Erie Street South  
Massillon, OH 44647  
Lori Cambridge  
(330) 833-3135  
[lori.cambridge@mha.ohio.gov](mailto:lori.cambridge@mha.ohio.gov)

Northcoast Behavioral Healthcare (NBH)  
1756 Sagamore Road  
Northfield, OH 44067  
\*Donna Newhart  
(330) 467-7131 Ext 2454  
[Donna.Newhart@mha.ohio.gov](mailto:Donna.Newhart@mha.ohio.gov)

Northwest Ohio Psychiatric Hospital (NOPH)  
930 South Detroit Avenue  
Toledo, OH 43614  
Michelle Papson  
(419) 381-1881  
[michelle.papson@mha.ohio.gov](mailto:michelle.papson@mha.ohio.gov)

Summit Behavioral Healthcare (SBH)  
1101 Summit Road  
Cincinnati, OH 45237  
\*Butch Massie  
(513) 948-3600  
[Butch.Massie@mha.ohio.gov](mailto:Butch.Massie@mha.ohio.gov)

Twin Valley Behavioral Healthcare (TVBH)  
2200 West Broad Street  
Columbus, OH 43223  
\*David Blahnik  
(614) 641-4275  
[David.Blahnik@mha.ohio.gov](mailto:David.Blahnik@mha.ohio.gov)

\*Denotes the update of contact information, per addendum 1.

SPECIFICATIONS AND REQUIREMENTS (CONT'D)

DYS Facilities:

Circleville Juvenile Correctional Facility  
640 Island Road,  
Circleville, OH 43113  
Angela Fairchild  
(740) 477-2500 ext. 7180  
[Angela.Fairchild@dys.ohio.gov](mailto:Angela.Fairchild@dys.ohio.gov)

Cuyahoga Hills Juvenile Correctional Facility  
4321 Green Road  
Highland Hills, OH 44128  
Cheryl Krupp  
(216) 464-8200  
[Cheryl.Krupp@dys.ohio.gov](mailto:Cheryl.Krupp@dys.ohio.gov)

Indian River Juvenile Correctional Facility  
2775 Indian River Road  
Massillon SW, OH 44646  
TBA  
(330) 837-4211

DVS Facilities:

Georgetown Home  
2003 Veterans Blvd.  
Georgetown, OH 45121  
Heather Doss  
(937) 378-2900  
[Heather.Doss@dvs.ohio.gov](mailto:Heather.Doss@dvs.ohio.gov)

Sandusky Home and Domiciliary  
3416 Columbus Ave.  
Sandusky, OH 44870  
Angie Williams  
(419) 625-2454  
[Angie.Williams@dvs.ohio.gov](mailto:Angie.Williams@dvs.ohio.gov)

II. CONTRACTOR'S BASIC SERVICE REQUIREMENTS

- A. The Contractor must provide transcription services described herein at any time needed, 24 hours per day, 7 days per week, 365 days per year.
- B. Contractor must provide a toll-free telephone service to dictate reports.
  - 1. Systems that require the use of special recording devices or special upload programs are not acceptable.
  - 2. The Contractor must supply ample phone lines to accommodate 250 plus dictators at any time needed, 24 hours per day, 7 days per week, 365 days per year.
- C. The Contractor must comply with all HIPPA security and privacy regulations.
- D. \*The Contractor must provide a Job ID before the start of each dictation.
- E. The Contractor shall provide transcription personnel in order to complete, at a minimum, an average of \*seventy-three thousand (73,000) lines of transcription per month.
- F. The Contractor shall provide and utilize an accurate method for determining how visible characters are being counted, for billing and invoicing purposes. This method shall be transparent and provide full information needed for the Agency to accurately reconcile invoices.
- G. The Contractor will fix technical problems with the system in a timely manner. Failure to fix problems within a timely manner could result in a default. The State reserves the right to define timely.
- H. The Contractor must utilize the Agency approved name conversion(s).
- I. Medical Reference Material Requirements. At a minimum, the Contractor is required to maintain the following medical reference materials to expedite the reports to the using agencies.
  - 1. Medical Dictionary
  - 2. American Drug Index
  - 3. Medical Phrase Index
  - 4. Taber's Cyclopedic Medical Dictionary
  - 5. Diagnostic and Statistical Manual of Mental Disorders; Fourth Edition, Text Revision or most current edition

\*Denotes the addition and clarification of specifications, per addendum 1.

SPECIFICATIONS AND REQUIREMENTS (CONT'D)

- J. Upon Contract award notification by DAS, Contractor shall make every effort to cooperate with agencies in transitional activities (e.g., Information Technology readiness, etc.) to be ready to perform on the Contract start date.

III. CONTRACTOR PERSONNEL REQUIREMENTS

- A. The transcribers employed by the Contractor to perform under this Contract shall have a thorough and complete knowledge of medical terminology as it relates to various body systems and medical nomenclature of physical and mental impairments.
- B. The Contractor shall be required to utilize well qualified and experienced medical transcribers. Medical transcribers shall have a minimum of five (5) years of medical transcription experience. Said experience shall be related to the transcription of highly technical medical reports.
- C. The Contractor and all transcribers must be based and located in the United States of America. All data and information associated with the services performed under contract shall remain within the United States of America at all times.

IV. CONTRACTOR – SYSTEM ACCESS

- A. Upon award of the Contract, the Contractor must provide a list of transcribers to the using agencies. Access to patient information (PCS) will be limited to only those individuals on this list. Group IDs are not permitted.
- B. Contractor will be able to install VPN access to above identified transcribers.
- C. All equipment, software, and licensing is the responsibility of the Contractor.

V. TRANSCRIPTION REPORT SUBMITTAL

- A. Transcribed clinical reports are to be made available, electronically and securely, to the corresponding hospital, JCF or Veterans home using Microsoft Word software and using HIPAA compliant security measures. Word documents must have read/write access. The Agency will each separately communicate the preferred method to receive reports. The Agency does not necessarily need reports sent by E-mail, but secure Web-based access or other mutually agreed upon electronic method will be utilized. A non-electronic, backup method to communicate reports, using HIPAA compliant security measures, may also be utilized if approved by the using agencies.
- B. Each individual report will make available, electronically and securely, immediately upon completion. The State does not anticipate a hard copy is required from the Contractor.
- C. As indicated below, each individual report will be transcribed and made available according to the following timelines:
1. Two (2) hour turn-around (completion) time is required on STAT reports.
    - i. Estimated Annual Usage/Requirements for STAT reports are less than one tenth percent (0.1%) of all reports.
  2. \*Reports that require eight (8) hour turn-around (completion) time, are required for the following work types:
    - i. History and Physical
  3. Reports that require twelve (12) hour turn-around (completion) time, are required for the following work types:
    - i. Psychiatric Exam
  4. Reports that require twenty-four (24) hour turn-around (completion) time, are required for the following work types:
    - i. Discharge Narrative Summary
    - ii. Psychiatry Progress Notes

\*Indicates a change of turn-around time requirement, per addendum 1.

SPECIFICATIONS AND REQUIREMENTS (CONT'D)

5. \*Reports that require forty-eight (48) hour turn-around (completion) time is required for the following work types:
  - i. Social Service Report
  - ii. Comprehensive Psychological
  - iii. Psychological Testing Report
  - iv. Brief Psychological Report
  - v. Competency to Stand Trial Evaluation
  - vi. Sanity Evaluation
  - vii. Competency Restoration
  - viii. Post NGRI Acquittal
  - ix. Mandatory Hearing

VI. WORK PROGRESS AND SUMMARY REPORTS

- A. A Daily Job Report is to be sent to designated representatives at each facility as well as monthly reports specifying work types for the previous month. The Agency will provide the awarded Contractor a sample of the reports specified.
- B. The Contractor will provide samples of daily and monthly job reports for review.
- C. The Contractor will use using agency approved file naming convention. The Agency will provide an example to the awarded Contractor.

VII. \*STAFF TRAINING

\*The Contractor shall provide online training to all staff identified by the State on the use of Contractor's dictation system, as requested. All training must have audio and video recorded and made available to the State to distribute and reference as training material at no cost. The Contractor shall provide step by step dictation instructions in electronic format, as requested. It is the responsibility of the Contractor to update and provide agencies with revised copies of the step by step trainings in order to keep it current with the system. No costs associated with trainings will be reimbursed.

- A. The online training must include, but is not limited to, the following:
  1. A general how-to outline of the system.
  2. Detailed, thorough demonstration of how to use every option/create every type of report with the system.
  3. A electronic handout that includes step by step instructions for trainees to follow along with the demonstration.
  4. The ability for trainees to ask questions/request clarifications during the online training.
  5. Any other requests as requested by the trainees.
- B. The Contractor will be responsible for coordinating with agencies for 3 online training sessions per agency. The agencies reserve the right to deviate from the outlined schedule below. The State does not anticipate the need for additional trainings.
  1. The first training the State requires being done after award notice and before Contract inception, in accordance with page 8, term J. The Contractor must be able to meet the requirements outlined above under STAFF TRAINING term A.
  2. The second training must also be prior to award and be geared toward answering specific questions or solving problems that have arisen. The Contractor must be able to meet the requirements outlined above under STAFF TRAINING term A, if needed/requested.
  3. The third meeting shall be shortly after the Contract inception date. The State anticipates using this meeting to tie up any loose ends discovered while using the system. The Contractor must be able to meet the requirements outlined above under STAFF TRAINING term A, if needed/requested.

SPECIFICATIONS AND REQUIREMENTS (CONT'D)

VIII. \*COMMUNICATIONS AND DEFAULT FOR EXCESSIVE DOWNTIME

- A. The Contractor shall provide at a minimum two (2) primary contacts to contact for problem resolution.
- B. Agencies will appoint a central point of contact through whom communications will be directed and who will be responsible for monitoring quality assurance and quality control issues on behalf of the centers.
- C. The Contractor will communicate down-time, changes, and updates in advance, if possible. If unable to notify in advance, the Contractor is notify the agencies as soon as possible. Excessive downtime and/or excessive failure to notify of downtime could result in a default. The State reserves the right to define excessive.

IX. \*QUALITY ASSURANCE AND MONITORING

- A. The Contractor shall provide listen access for twenty-four (24) individuals to be identified by the using agencies. This can be done via the web site.
- B. \*The Contractor shall provide quality assurance reports are to be sent to a designated using agency representative monthly to reflect timeliness, quality and volume, for monitoring of service. The State requires these monthly reports including the following information:
  - 1. Turnaround times
  - 2. Quality audits
  - 3. Error rates
  - 4. Volumes and report types by clinician
  - 5. If reports met the turnaround time threshold
  - 6. Internal quality audits with error rates (In aggregate and by transcriptionist.
  - 7. All other information as requested by the agency.
- C. The Contractor shall describe and provide a sample of their detailed quality assurance process, as part of their bid response. If not provided, it will be due to DAS within three (3) days of request.
- D. \*The Contractor's quality assurance process will include error rates that will not exceed five percent (5%).

X. ADDITIONAL INVOICE AND PAYMENT REQUIREMENTS

- A. The Contractor will provide a detailed monthly invoice along with appropriate reimbursement software or billing validation to each of the identified representatives. A means to verify accuracy of bills and complete transparency in the count and billing process is required. Accuracy of the character count reflected in billing and invoicing shall exceed ninety (90) percent accuracy.
- B. Copies of all cost control records and reports shall be furnished to the Agency contact or designee in compliance with reporting scheduled as mutually agreed upon. Said reports shall include not less than monthly, quarterly, and annual summaries by facility.

XI. RECORD STORAGE AND RETENTION

- A. The Contractor will maintain voice recordings for a minimum of thirty (30) days post transcription with the ability to recall and listen to the dictation.
- B. The Contractor will maintain transcribed reports for a minimum of sixty (60) days post e-mail with the ability to resend to using agency, if requested.

SPECIFICATIONS AND REQUIREMENTS (CONT'D)

XII. \*HANDLING OF THE STATE'S DATA

The Contractor must use due diligence to ensure computer and telecommunications systems and services involved in storing, using, or transmitting State data are secure and to protect that data from unauthorized disclosure, modification, or destruction. To accomplish this, the Contractor must:

- A. Apply appropriate risk management techniques to ensure security for all sensitive data, including but not limited to any data identified as Confidential Information elsewhere in this Contract.
- B. Ensure that its internal security policies, plans, and procedures address the basic security elements of confidentiality, integrity, and availability.
- C. Maintain plans and policies that include methods to protect against security and integrity threats and vulnerabilities, as well as and detect and respond to those threats and vulnerabilities.
- D. Maintain appropriate identification and authentication process for information systems and services associated with State data.
- E. Maintain appropriate access control and authorization policies, plans, and procedures to protect system assets and other information resources associated with State data.
- F. Implement and manage security audit logging on information systems, including computers and network devices.

The Contractor must maintain a robust boundary security capacity that incorporates generally recognized system hardening techniques. This includes determining which ports and services are required to support access to systems that hold State data, limiting access to only these points, and disable all others. To do this, the Contractor must use assets and techniques such as properly configured firewalls, a demilitarized zone for handling public traffic, host-to-host management, Internet protocol specification for source and destination, strong authentication, encryption, packet filtering, activity logging, and implementation of system security fixes and patches as they become available. The Contractor must use two-factor authentication to limit access to systems that contain particularly sensitive State data, such as personally identifiable data.

Unless the State instructs the Contractor otherwise in writing, the Contractor must assume all State data is both confidential and critical for State operations, and the Contractor's security policies, plans, and procedure for the handling, storage, backup, access, and, if appropriate, destruction of that data must be commensurate to this level of sensitivity. As part of the Contractor's protection and control of access to and use of data, the Contractor must employ appropriate intrusion and attack prevention and detection capabilities. Those capabilities must track unauthorized access and attempts to access the State's data, as well as attacks on the Contractor's infrastructure associated with the State's data. Further, the Contractor must monitor and appropriately address information from its system tools used to prevent and detect unauthorized access to and attacks on the infrastructure associated with the State's data.

SPECIFICATIONS AND REQUIREMENTS (CONT'D)

\*The Contractor must use appropriate measures to ensure that State's data is secure before transferring control of any systems or media on which State data is stored. The method of securing the data must be appropriate to the situation and may include erasure, destruction, or encryption of the data before transfer of control. The transfer of any such system or media must be reasonably necessary for the performance of the Contractor's obligations under this Contract.

\*The Contractor must have a business continuity plan in place. The Contractor must test and update the IT disaster recovery portion of its business continuity plan at least annually. The plan must address procedures for response to emergencies and

other business interruptions. Part of the plan must address backing up and storing data at a location sufficiently remote from the facilities at which the Contractor maintains the State's data in case of loss of that data at the primary site. The plan also must address the rapid restoration, relocation, or replacement of resources associated with the State's data in the case of a disaster or other business interruption. The Contractor's business continuity plan must address short- and long-term restoration, relocation, or replacement of resources that will ensure the smooth continuation of operations related to the State's data. Such resources may include, among others, communications, supplies, transportation, space, power and environmental controls, documentation, people, data, software, and hardware. The Contractor also must provide for reviewing, testing, and adjusting the plan on an annual basis.

The Contractor may not allow the State's data to be loaded onto portable computing devices or portable storage components or media unless necessary to perform its obligations under this Contract properly. Even then, the Contractor may permit such only if adequate security measures are in place to ensure the integrity and security of the data. Those measures must include a policy on physical security for such devices to minimize the risks of theft and unauthorized access that includes a prohibition against viewing sensitive or confidential data in public or common areas. At a minimum, portable computing devices must have anti-virus software, personal firewalls, and system password protection. In addition, the State's data must be encrypted when stored on any portable computing or storage device or media or when transmitted from them across any data network. The Contractor also must maintain an accurate inventory of all such devices and the individuals to whom they are assigned.

Any encryption requirement identified in this provision must meet the Ohio standard as defined in Ohio IT standard ITS-SEC-01, "Data Encryption and Cryptography".

The Contractor must have reporting requirements for lost or stolen portable computing devices authorized for use with State data and must report any loss or theft of such to the State in writing as quickly as reasonably possible. The Contractor also must maintain an incident response capability for all security breaches involving State data whether involving mobile devices or media or not. The Contractor must detail this capability in a written policy that defines procedures for how the Contractor will detect, evaluate, and respond to adverse events that may indicate a breach or attempt to attack or access State data or the infrastructure associated with State data.

In case of an actual security breach that may have compromised State data, including but not loss or theft of devices or media, the Contractor must notify the State in writing of the breach within 24 hours of the Contractor becoming aware of the breach, and fully cooperate with the State to mitigate the consequences of such a breach. This includes any use or disclosure of the State data that is inconsistent with the terms of this Contract and of which the Contractor becomes aware, including but not limited to, any discovery of a use or disclosure that is not consistent with this Contract by an employee, agent, or subcontractor of the Contractor.

The Contractor must give the State full access to the details of the breach and assist the State in making any notifications to potentially affected people and organizations that the State deems are necessary or appropriate. The Contractor must document all such incidents, including its response to them, and make that documentation available to the State on request. In addition to any other liability under this Contract related to the Contractor's improper disclosure of State data, and regardless of any limitation on liability of any kind in this Contract, the Contractor will be responsible for acquiring one year's identity theft protection service on behalf of any individual or entity whose personally identifiable information is compromised while it is in the Contractor's possession.

XIII. AGENCY RESPONSIBILITIES

A. Using Agencies will provide the following information to the awarded Contractor:

1. Templates of the various work types.
2. An example of approved file naming conventions for dictations.
3. A central point of contact through whom communications will be directed and who will be responsible for monitoring quality assurance and quality control issues on behalf of the centers for dictations.

\*Denotes repagination, per addendum 1.



PRICE SCHEDULE

<u>OAKS ITEM ID</u>	<u>ESTIMATED ANNUAL USAGE</u>	<u>DESCRIPTION</u>	<u>UNIT OF MEASURE</u>	<u>COST</u>
TBD	*873,803 Lines	Price Per Line	Per Line	\$
Price Per Line is based on 65 Visible Black Characters				

<u>BIDDER SHALL COMPLETE THE FOLLOWING COST ALLOCATION CATEGORIES</u>					
As a baseline for evaluation of price adjustment requests for this Contract, Bidders shall indicate the percentage of total costs for the following cost elements. The sum of all percentages must equal one hundred percent. Bidders may add additional cost categories if appropriate.					
<u>Cost of Materials</u>	<u>Labor Cost</u>	<u>Utilities</u>	<u>Transportation</u>	<u>Other</u>	<u>Overhead</u>
%	%	%	%	%	%

\*Denotes repagination and the correction to estimated annual usage, per addendum 1.

ATTACHMENT ONE

DRAFT BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between [Name of Business Associate] (referred to as "Business Associate") and the [Agency and Department Name] (referred to as "Agency"), [define term/duration of the agreement. Example: "for length of underlying agreement."]

WHEREAS, Agency will make available and/or transfer to Business Associate confidential, personally identifiable health information in conjunction with [describe function to be performed by BA on behalf of CE]; and

WHEREAS, such information may be used or disclosed only in accordance with the privacy and security regulations [45 CFR Parts 160, 164] issued pursuant to the Health Insurance Portability and Accountability Act [42 USC §§ 1320 - 1320d-8], as amended, and the terms of this Agreement, or more stringent provisions of the law of the State of Ohio;

NOW THEREFORE, the parties agree as follows:

1. Definitions.

- 1.1. Protected Health Information ("PHI") means individually identifiable information relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual, as more fully defined in 45 CFR §§ 160.103 and 164.514, and any amendments thereto, created, received, maintained, or transmitted from or on behalf of the Agency.
- 1.2. Unsecured PHI is PHI that is not rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services.
- 1.3. Business Associate shall have the meaning given to such term in 45 CFR § 160.103.
- 1.4. Individual means the person who is the subject of the PHI, as defined in 45 CFR § 160.103, and includes the person's personal representative.
- 1.5. Privacy Rule means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and Part 164, Subparts A and E, and any amendments thereto.

2. Permitted Use. The Business Associate agrees that it shall not receive, create, use or disclose PHI except as follows:

- 2.1. Covered Functions. [describe covered function being performed or refer to an Exhibit, attached to and made a part of the agreement];
- 2.2. Disclosure Restrictions. If necessary for the proper management and administration of the Business Associate or to carry out legal responsibilities of the Business Associate. PHI may only be disclosed to another person/entity for such purposes if:
  - 2.2.1. Disclosure is required by law; or
  - 2.2.2. Where the Business Associate obtains reasonable assurances from the person to whom disclosure is made that the PHI released will be held confidentially and only may be used or further disclosed as required by law or for the purposes of the disclosure; and person/entity agrees to notify Business Associate of any breaches of confidentiality in a timely fashion and in writing. Documentation needs to follow the same standards and time frames as item 5 below.
- 2.3. Data Aggregation. To permit the Business Associate to provide data aggregation services relating to the health care operations of Agency as defined in 45 CFR § 164.501. Aggregation is defined as combining PHI received from multiple Business Associates to produce data analysis that relates to the operation of the respective Covered Entities.

3. Minimize Use of PHI. The Business Associate agrees that it will not request, use or release more than the minimum necessary amount of PHI to accomplish the purpose of the use, disclosure or request.

ATTACHMENT ONE (CONT'D)

4. Business Associate Safeguards. The Associate will use appropriate safeguards to prevent any unauthorized use or disclosure of PHI and shall implement the administrative, physical and technical safeguards that reasonably protect the confidentiality, integrity and availability of the PHI that it creates, receives, maintains or transmits on behalf of the Agency. The Associate will use the security controls within NIST Special Publication 800-53 Rev. 4 that align with the appropriate safeguards under 45 CFR 164 Subpart C including those identified as addressable. The Associate will comply with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII. With regard to electronic PHI not covered by the Guidance published at 74 FR 19006, the Associate will protect electronic PHI at rest and in transit through encryption that complies with State of Ohio IT Standard, ITS-SEC-01 Data Encryption and Cryptography

5. Unauthorized Disclosure and Incident Reporting and Remediation and Privacy and Security Breach Notification.

5.1. Incident Reporting.

5.1.1. Business Associate shall report to Covered Entity the following:

5.1.1.1. Any use or disclosure of PHI which is not in compliance with the terms of this Agreement or applicable law of which it becomes aware; and

5.1.1.2. Any security incident of which it becomes aware. For purposes of this Agreement, "security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

5.1.2. Within 24 hours of discovery of a suspected reportable incident as described in 5.1.1 above, Business Associate shall notify Covered Entity of the existence and nature of the incident as understood at that time. Business Associate shall immediately investigate the incident and within 72 hours of discovery shall provide Covered Entity, in writing, a report describing the results of Business Associate's investigation, including:

5.1.2.1. What data elements were involved, the extent of the data involved in the incident, and the identification of affected individuals, if applicable;

5.1.2.2. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI, or to have been responsible for the incident;

5.1.2.3. A description of where the PHI is believed to have been improperly transmitted, sent, or utilized, if applicable;

5.1.2.4. A description of the probable causes of the incident;

5.1.2.5. A description of the proposed plan for preventing similar future incidents, including ongoing risk remediation plan approval; and

5.1.2.6. Whether the Associate believes any federal or state laws requiring notifications to individuals are triggered.

5.1.3. Reporting and other communications made to the Covered Entity under this section must be made to the agency's HIPAA privacy officer at:

[office name]

[phone]

[email address]

[address]

ATTACHMENT ONE (CONT'D)

- 5.2. Business Associate Mitigation. In addition, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement, and report its mitigation activity back to the agency. Business Associate shall preserve evidence.
- 5.3. Coordination. Business Associate will coordinate with the agency to determine additional, specific actions that will be required of the Business Associate for mitigation of the Breach, which may include notification to the individuals, entities or other authorities. Notifications, if any, will be made at the direction of the agency.
- 5.4. Incident costs. Business Associate shall bear all costs associated with the incident. This may include, but not be limited to, costs associated with notifying affected individuals. It also may include the cost of investigation, remediation, and assistance to individuals including services such as a standard level of identity-theft protection service that includes credit-monitoring.
6. Subcontractor Obligations. Business Associate shall ensure that all of its subcontractors and agents are bound, in writing, by the same restrictions and obligations contained herein, including but not limited to the obligation to implement reasonable and appropriate safeguards to protect the information, whenever the subcontractor or agent creates, receives, maintains, or transmits PHI on behalf of the Business Associate. The Business Associate shall obtain Agency approval prior to entering into such agreements
7. Access to PHI. Business Associate shall make all PHI and related information maintained by Business Associate or its agents or subcontractors available as soon as practicable following a request for PHI, but within fifteen (15) days, to the extent necessary to fulfill the following obligations:
  - 7.1. Inspection and Copying. Make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524.
  - 7.2. Accounting. To account for disclosures of PHI in accordance with the provisions of the Privacy Rule, including, but not limited to 45 CFR § 164.528; and shall make all PHI in its possession available to Agency as soon as practicable following a request for PHI, but within fifteen (15) days, to fulfill Agency's obligation to amend PHI and related information in accordance with 45 CFR § 164.526, and shall, as directed by Agency, incorporate any amendments or related statements into the information held by the Business Associate and any subcontractors or agents.
8. Compliance and HHS Access. The Business Associate shall make available to the agency and to the Secretary of the U.S. Department of Health and Human Services any and all internal practices, documentation, books, and records related to the use and disclosure of PHI received from the agency, or created, received, maintained, or transmitted by the Business Associate on behalf of the agency. Such access is for the purpose of determining the agency's compliance with HIPAA, regulations promulgated by the United States Department of Health and Human Services, and any amendment thereto. Any non-compliance by the Business Associate with the terms of this Agreement or the privacy and security regulations shall be a breach of this Agreement if the Business Associate knew of the breach and failed to take immediate and reasonable steps to cure the non-compliance. The Business Associate agrees that Agency has the right to immediately terminate this Agreement and seek relief, if Agency determines that the Business Associate has violated a material term of the Agreement.
9. Ownership and Destruction of Information. The PHI and any related information created, received, maintained, or transmitted from or on behalf of Agency is and shall remain the property of the Agency. The Business Associate agrees that it acquires no title in or rights to the information, including any de-identified information. Upon termination of this Agreement, Business Associate agrees, at the option of Agency, to return or securely destroy all PHI created or received from or on behalf of Agency following 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII. The Business Associate agrees that it will not retain any copies of PHI except as required by law. If PHI is destroyed, the Business Associate agrees to provide Agency with appropriate documentation or certification evidencing such destruction upon request. If return or destruction of all PHI and all copies of PHI is not feasible, the Business Associate agrees to extend the protections of this Agreement to such information for as long as it is maintained and to limit further uses and disclosures to those which make return or destruction infeasible. Termination of this Agreement shall not affect any of its provisions that, by wording or nature, are intended to remain effective and to continue in operation.

\*Denotes repagination, per addendum 1.

ATTACHMENT ONE (CONT'D)

10. Termination. Notwithstanding any term or condition in the underlying agreement, the State may terminate the underlying agreement if at any time it determines that the Associate has violated a material term of this Business Associate Agreement. In the alternative, the State may, at its sole discretion, take any action provided in the underlying agreement, may suspend the Agreement, or may allow Associate a reasonable period of time to cure before termination, when such action is determined to be in the State's best interest. Upon suspension of the agreement, the State may, at its sole discretion, require the Associate to comply with the requirements of the above Ownership and Destruction of Information paragraph, in the same manner as though the agreement had been terminated. This paragraph shall in no way alter, amend, limit or change the terms and conditions in the underlying agreement as they relate to performance of the underlying agreement, and shall solely relate to violation of the terms of the Business Associate Agreement.
11. Survivorship. The obligations to safeguard the confidentiality, privacy and security of PHI imposed herein shall survive the termination of this Agreement.
12. Injunctive Relief. Notwithstanding any rights or remedies under this Agreement or provided by law, Agency retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of PHI by the Business Associate, any of its subcontractors or agents, or any third party who has received PHI from the Business Associate.
13. Binding Effect. Subject to the limitations on assignment provided elsewhere in this Agreement, the Agreement shall be binding on the parties and their successors, but neither party may assign the Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. This Agreement will be binding upon and inure to the benefit of the respective successors and assigns of the State and the Business Associate.
14. Ambiguities, Strict Performance and Priorities. Any ambiguities in this Agreement shall be resolved in favor of an interpretation that promotes compliance with HIPAA and regulations promulgated thereunder. Any conflicts in the security and privacy terms and conditions of this agreement with those in the underlying agreement shall be interpreted to favor of the terms and conditions that promote greater degree of security and privacy. The parties agree that any modifications to those laws shall modify the obligations of the parties hereunder without the need for formal amendment of the Agreement. Any other amendments to this Agreement shall not be effective without the written agreement of both parties. This Agreement will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party. The headings in this Agreement are for convenience only and will not affect the interpretation of any of the Agreement terms and conditions. If at any time either party fails to demand strict performance by the other party of any of the terms of this Agreement, such failure will not be construed as a waiver of any such term, and either party may at any time demand strict and complete performance by the other party.
15. Notice. For any notice under this Agreement to be effective the notice must be made in writing and sent to the address of the appropriate contact provided in the Agreement.
16. Notwithstanding section 5 of this Agreement, any notice to the other party pursuant to this Agreement shall be deemed provided if sent by first class United States mail, postage prepaid, as follows:

To Agency:

[Agency Site/Department Name]  
[Agency Site/Department Address]  
[Agency Site/Department Phone]

To Business Associate:

[Business Associate Name]  
[Business Associate Address]  
[Business Associate Phone]

ATTACHMENT ONE (CONT'D)

17. Independent Contractor. Business Associate agrees that no agency, employment, joint venture, or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this Agreement. Business Associate also agrees that, as an independent contractor, it assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums which may accrue as a result of compensation received for services or deliverables rendered hereunder. Business Associate agrees that it is an independent contractor for all purposes including, but not limited to, the application of the Fair Labor Standards Act, the Social Security Act, the Federal Unemployment Tax Act, the Federal Insurance Contribution Act, provisions of the Internal Revenue Code, Ohio Tax law, Workers Compensation law, and Unemployment Insurance law. Business Associate certifies that all approvals, licenses, or other qualifications necessary to conduct business in Ohio have been obtained and are operative. If at any time during the contractual period Business Associate becomes disqualified from conducting business in Ohio, for whatever reason, Business Associate must immediately notify DAS of the disqualification and will immediately cease performance of its obligations hereunder.
18. Counterpart. This Agreement may be executed in one, or more than one counterpart, and each executed counterpart shall be considered an original, provided that such counterpart is delivered to the other party by facsimile, mail courier or electronic mail, all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto agree to the foregoing,

[Business Associate Name Here]

For Ohio Dep. [Agency Name]

\_\_\_\_\_  
Representative

\_\_\_\_\_  
Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_