

**ALABAMA DEPARTMENT OF PUBLIC HEALTH (ADPH)  
BUREAU OF FAMILY HEALTH SERVICES**

**REQUEST FOR PROPOSALS (RFP)**

**FOR**

**MATERNAL CHILD HEALTH TITLE V WELL WOMAN PROGRAM  
FOR INCREASING PHYSICAL ACTIVITY IN WOMEN AGES 15-55**

**RELEASE DATE:**

**AUGUST 11, 2023**

## **OVERVIEW AND PURPOSE**

The Alabama Department of Public Health (ADPH), Bureau of Family Health Services, Well Woman program is currently accepting proposals for a partnership with qualified applicants in Butler, Dallas, Macon, Montgomery, Russell, and Wilcox counties to provide physical activity resources to Well Woman participants. The purpose is to increase physical activity and provide educational material on the benefits of physical activity to promote healthy lifestyle changes. The Well Woman program creates the opportunity for women ages 15-55 to receive preventive services, screenings, management of chronic diseases, and access to physical activity to optimize the health of women. Research demonstrates that participating in regular physical activity has many health benefits. A Well Woman visit provides an excellent opportunity to counsel patients about maintaining a healthy lifestyle and minimizing health risks. Please visit <https://www.alabamapublichealth.gov/womenshealth/well-woman.html> to learn more about the Well Woman program.

The goal of the program is to provide preconception and interconception care to women as a foundation for wellness, health promotion, and chronic disease identification. The contract will allow women who live in areas of Alabama with limited access to resources for physical activity an opportunity for physical activity engagement, in person support, and access to educational materials.

## **ELIGIBLE APPLICANTS**

Eligible applicants are non-profit entities who: (1) are legally authorized to conduct business within the state of Alabama; (2) are in a position to operate on a cost reimbursement basis; (3) become an Alabama registered vendor prior to billing for services; and (4) meet the terms and conditions of the RFP.

Proposals will be accepted from applicant agencies with staff, including a project coordinator, that has a minimum of two years of experience with implementing, coordinating, or managing programs that promote healthy living by increasing physical activity in individuals. Applicants should have an operational facility with daily hours of operation and functional physical activity equipment available for use by program participants in the Well Woman counties. Applicants should provide a monthly calendar or handout with business hours of operation, classes, activities, and any other options available to participants. Individuals not operating within an established organization, agency, business, or other entity are not eligible to apply for this contract opportunity. Please visit <https://vendors.alabama.gov> to learn more about how to become a vendor in the State of Alabama.

## **FUNDING AVAILABLE**

Funding will be provided in the form of a grant, dependent on the availability of appropriated funds provided by federal dollars from the MCH Title V Well Woman Program for qualified applicants to provide resources for physical activity to Well Woman participants in various counties in Alabama. The grant may be renewed for a second year based on satisfactory performance by the awardee in the initial year; submission of a competitive proposal, including

an approved workplan and budget for year two; and availability of federal funding. ADPH maintains the right to approve or disapprove subsequent funding. Applicants can be qualified trainers within an establishment or an establishment that promotes physical activity.

These grants will be awarded on a competitive basis. The funding period is for fiscal year 2024 (October 1, 2023 – September 30, 2024). Upon award, the awardee will enter into a grant agreement with ADPH. **All payments are on a reimbursement basis pending satisfactory completion of work and approval of submitted and supporting documentation.**

## **PROJECT DESCRIPTION**

ADPH is seeking applicants to develop and maintain active resources and active participation in appropriate levels of physical activity for women ages 15-55 in the Well Woman program, including cardio and aerobic exercise. The project plan will ensure Well Woman participants have access to a variety of physical activity options. The options for physical activity could include but are not limited to, a facility available for gym access in the county; physical activity classes available through the gym; and options for events that are available on weekends, early mornings, and late evenings. The recipient will provide a monthly calendar available for distribution to participants with the facility hours of operation listed, class times, and/ or activities (if applicable). The recipient will provide support and mentorship to Well Woman participants to increase physical activity with daily living. If nutrition information is disseminated, the applicant must seek out credible sources such as [myplate.gov](http://myplate.gov), [cdc.gov/nutrition](http://cdc.gov/nutrition), [snaped.fns.usda.gov](http://snaped.fns.usda.gov), or [eatright.org](http://eatright.org). Nutrition counseling that involves medical nutrition therapy or diet specific instruction for weight loss or disease management should be administered by a registered dietician. General nutrition education should only be provided after consultation with a registered dietician or other nutrition professional. Contact local organizations for assistance with nutrition education such as the health department, extension office, hospital, or school nutrition program.

## **SCOPE OF WORK AND REQUIRED ACTIVITIES**

Under the grant, the recipient will:

1. Develop the infrastructure for active engagement of women ages 15-55 in physical activity.
2. Maintain active engagement of women ages 15-55 who are Well Woman program participants.
3. Provide an operational facility with daily hours of operation and functional physical activity equipment available for use by program participants in the Well Woman counties.
4. Provide a monthly calendar or handout with daily hours of operation, equipment available, classes/physical activities available with class times included, etc., available for distribution to participants.
5. Provide quarterly data reports with attendance log documentation, outlining activities achieved, for inclusion in the Well Woman reports submitted to the Health Resources and Services Administration under Title V of the MCH Grant. (See Attachment A)

6. Submit quarterly invoices for reimbursement with supporting documentation such as activity sheets that provide adequate details to justify payment. Funded projects may use their own form(s); however, the form(s) must include detailed activities and hours spent on said activities. (See Attachment A)

## **TERMS AND CONDITIONS**

**State of Alabama laws, rules, and regulations specifically govern the format and requirements of contracts between state agencies and offerors. A pro forma grant and business associate agreement (BAA) is included as Attachment B. If awarded, the offeror agrees to meet all of State of Alabama required clauses in the contract and BAA, if required.**

## **BUDGET**

The applicants must include detailed budgets and justifications outlining the proposed cost to complete the tasks described in the project scope of work; applicants must submit a copy of the following items:

1. An organizational chart that reflects the structure of the organization, clearly defining each staff member's role in the proposed project. If this requires an additional organizational chart, include both.
2. A statement indicating the applicant can operate on a cost reimbursement basis. All details for payment must match what is required for program reimbursement to include vendor information that matches exactly what is entered into STAARS. **Note: It may take up to two months to receive reimbursement.**
3. The applicant should budget for materials and supplies necessary to carry out the goals and objectives of the project and the total must be included in the amount of funds requested in the proposal. This includes but is not limited to, office supplies, promotional, and incentive items. The applicant must describe the items and how they plan to distribute the items.

## **PROPOSAL FORMAT**

The applicant is required to submit one (1) complete, original, ink-signed proposal and four (4) additional complete copies. The original proposal, as well as the four (4) additional complete copies of the proposal must be UNSTAPLED and UNBOUND. The proposal should be typed and double-spaced on a single side of 8 1/2 x 11 plain, white paper with 1-inch margins using black Times New Roman print with a 12-point size font. All pages must be clearly numbered consecutively. Proposal documents are not to exceed 10 pages including organizational charts, resumes, and any other appendices. Proposals submitted by email will not be accepted. Any proposals that do not meet the formatting requirements will be removed from consideration.

## **PROPOSAL SUBMISSION**

Ideal candidates should submit a proposal including the following:

1. Description of your organization with the facility's hours of operation, and qualifications of agency employee(s) with resumes of all consultants who would be involved in the project;
2. Details of experience in implementing, coordinating, or managing programming that promotes healthy living through physical activity;
3. A detailed plan of how increased opportunities would be offered for daily physical fitness to Well Woman participants including in person support, facility available for daily participant use, monthly calendar or handouts with class and activity information listed, and educational materials to be used to achieve participant's desired outcomes related to physical activity, and abilities to offer virtual opportunities to participants;
4. At least two prior projects completed that are comparable to this project as part of the proposal including references for each;
5. Description of how contract progress will be reported quarterly to the ADPH Well Woman program for evaluation purposes; and
6. A firm budget for the scope of work consistent with the goals and objectives listed in the proposal.

**Deadline for submission:** Applications must be received by **Friday, September 1, 2023, at 5:00 p.m. CST**. All proposals received after this time will not be considered for award. Please submit completed proposals to the address listed below.

Mail to: Katherine Campbell, RN  
Well Woman Nurse Coordinator  
Alabama Department of Public Health  
Family Health Services  
201 Monroe St., Suite 1350  
Montgomery, AL. 36104

Evaluation of proposals will be conducted from September 7, 2023 until September 20, 2023.

**Discussions may be conducted with offerors who submit proposals determined to be reasonably sufficient for being selected for the award, but proposals may be accepted without such discussions. If additional information or discussions are needed with any offerors, the offeror(s) will be notified.** The selection decision for the winning proposal will be made no later than September 22, 2023.

## **PROPOSAL EVALUATION**

Applications will be graded by a panel comprised of selected staff from the ADPH Bureau of Family Health Services and Bureau of Prevention, Promotion, and Support using a 100-point grading scale. Evaluation will be based on the following criteria:

1. **Overall proposal suitability- 20 points**
  - Proposal was submitted by the deadline and followed the required format list. (10 points)

- Proposal responded to all requirements listed in the RFP. (10 points)
2. **Technical expertise and experience- 20 points**
    - Applicant provided a description of the organization with facility hours and qualifications. (10 points)
    - Applicant provided a concise description of the plan to achieve participants' goals and if any virtual options are available. (10 points)
  3. **Previous work completed- 20 points**
    - Applicant provided details of two prior projects that are similar to this project with references provided, (10 points)
    - Applicant provided information for two years of appropriate experience with resumes for any supporting staff, if applicable. (10 points)
  4. **Proposed work plan- 20 points**
    - Applicant provided a description, list, or plan to identify the target population to increase opportunities for daily physical fitness. (10 points)
    - Applicant clearly described, listed, or identified a concise description of how programming will be implemented, coordinated, delivered, or managed. (10 points)
  5. **Cost/budget- 20 points**

Applicants will be evaluated on the cost of their project(s) based on the work to be performed in accordance with the scope of this project.

    - Applicant provided a detailed budget with reasonable and consistent goals. (10 points)
    - Applicant clearly described, listed, or identified a clear and concise plan for reporting quarterly progress. (10 points)

**The award will go to the proposal that conforms to the solicitation and is the most advantageous to the state, taking into consideration price and evaluation factors.**

#### **CONTACT INFORMATION AND TECHNICAL ASSISTANCE**

For information or clarification, applicants may call 334-206-5672 or email inquiries to Katherine.Campbell@adph.state.al.us.

**Attachment A**

**Sample Data Report Template:**

Business Name Well Woman Physical Activity/ _____ County Date
<ul style="list-style-type: none"><li>• Participant attendance log information for Quarter _____, Date range _____.</li><li>• Provide information on equipment used or services provided.</li><li>• Provide a summary of activities/classes and times available for Well Woman participants.</li><li>• Estimated hours spent on said activities/classes</li></ul>

**Sample Invoice Template:**

Please Remit To: Return Address	INVOICE Invoice number Date						
Billed To: Well Woman Alabama Department of Public Health 201 Monroe Street, Suite 1350 Montgomery, Alabama 36104							
<table border="1"><thead><tr><th style="text-align: left;">DATE</th><th style="text-align: left;">DESCRIPTION</th><th style="text-align: left;">TOTAL</th></tr></thead><tbody><tr><td>_____</td><td>ADPH Well Woman – Physical Fitness Service for _____ County (date) to (date)</td><td>\$ _____</td></tr></tbody></table>		DATE	DESCRIPTION	TOTAL	_____	ADPH Well Woman – Physical Fitness Service for _____ County (date) to (date)	\$ _____
DATE	DESCRIPTION	TOTAL					
_____	ADPH Well Woman – Physical Fitness Service for _____ County (date) to (date)	\$ _____					
<b>Total Amount Due: \$ _____</b>							

**Attachment A**

**Sample Supporting Documentation to Submit with Invoice:**

Business Name  
Well Woman Physical Activity

Trainer: \_\_\_\_\_ (if applicable)

Location: \_\_\_\_\_

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

**Sign-In Sheet**

Print Name	Signature

Exercise and Fitness Equipment/ Supplies available: \_\_\_\_\_

\_\_\_\_\_

Classes/ Activities offered (if applicable): \_\_\_\_\_

\_\_\_\_\_



**Attachment B**

**Sample ADPH Grant Template**

**GRANT  
BETWEEN  
THE ALABAMA DEPARTMENT OF PUBLIC HEALTH  
AND  
(PROVIDER NAME – ALL CAPS AND BOLD)**

This Grant entered into by and between the **Alabama Department of Public Health**, hereinafter the “**Department**,” and **(Provider Name - Bold)**, hereinafter “**Sub-Recipient**,” is effective **(Begin Date - Bold)**, or upon approval by the Governor, and terminates **(End Date - Bold)**.

WHEREAS, the purposes of this Grant are to (Insert GENERAL “Overview” of purpose of Grant).

WHEREAS, funding for activities performed under this Grant was provided by the Department, (Bureau or County Name) through a cooperative agreement with the (Federal Grantee), being grant number (Grant Number, Name of Grant), for budget period (Budget Period). The program was authorized through the following Acts: (Acts through which the program was authorized).

WHEREAS, this Grant is entered into following a request for proposal process.

WHEREAS, Sub-Recipient has submitted a proposal which has been accepted by the Department including a plan or scope of work, which is herein incorporated by reference.

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

The Department shall:

- (1..... Insert specific tasks for the Department to complete use as many bullets/numbers as needed)
- (2.....)
- (3.....)

The Sub-Recipient shall:

- (1..... Insert specific tasks for the Sub-Recipient to complete)
- (2.....)
- (3.....)

Under no circumstances shall the maximum amount payable under this Grant exceed \$ (Max Amount do not exceed) for the Grant period.

FEDERAL DISCLOSURES CLAUSE. The Grant must meet the Federal requirements for pass-through entities in 2 C.F.R. § 200.332 which require the Department to notify Sub-Recipient of the following:

- a. This Grant constitutes a subaward. The identification information required to be provided under the subaward is enumerated in 2 C.F.R. § 200.332(a)(1);
- b. All requirements imposed by the Department on Sub-Recipient so that the Federal award is used in accordance with Federal statutes, regulations, and terms and conditions of the Federal award, as set forth below:
  - (1) .... Insert specific requirements for Sub-Recipient, using as many bullets/numbers as needed.
- c. Any additional requirements the Department imposes on Sub-Recipient in order for the Department to meet its own responsibility to the Federal awarding agency, including identification of any required financial and performance reports, as set forth below:
  - (1)...Insert specific requirements for Sub-Recipient, using as many bullets/numbers as needed.
- d. An approved federally recognized indirect cost rate negotiated between Sub-Recipient and the Federal Government, or, if no such rate exists, either a rate negotiated between the Department and Sub-Recipient (in compliance with 2 C.F.R. Part 200), or a de minimis indirect cost rate, as defined in 2 C.F.R. § 200.414(f), as set forth below:
  - (1)
- e. Sub-Recipient must permit the Department, including the Office of Program Integrity, and auditors access to Sub-Recipient's records and financial statements as necessary for the Department to meet the requirements of 2 C.F.R. Part 200;
- f. Additional terms and conditions concerning closeout of the subaward, as set forth below:
  - (1)...Insert specific requirements for Sub-Recipient, using as many bullets/numbers as needed.
- g. Sub-Recipient's use of the subaward will be monitored by the Department for compliance with the conditions of the award, Federal law and regulations, and for achievement of performance goals. As part of its compliance monitoring, the Department must:
  - (1) Review financial and performance reports required by the Department;
  - (2) Follow up and ensure that Sub-Recipient takes timely and appropriate action on all deficiencies pertaining to the subaward detected through audits, onsite reviews, and other means;
  - (3) Issue a management decision for audit findings pertaining to the subaward, as required by 2 C.F.R. § 200.521;
  - (4) ...Insert any additional monitoring requirements, using as many bullets/numbers as needed. Compliance monitoring may include conduction of onsite visits and requests for documents.

- h. Any additional specific subaward conditions imposed on Sub-Recipient by the Department, as described in 2 C.F.R. § 200.208, and as set forth herein, including, if applicable, the reasons for imposition of such conditions and any actions required by Sub-Recipient for their removal:
  - (1)...Insert specific requirements for Sub-Recipient, using as many bullets/numbers as needed.
- i. Sub-Recipient's failure to comply with the requirements of 2 C.F.R. Part 200 may result in the imposition of additional special conditions by the Department, as provided under 2 C.F.R. § 200.208, or additional remedies for non-compliance, as provided under 2 C.F.R. § 200.339.
- j. Whether the subaward is for research and development. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.
  - (1)...State whether the subaward is for research and development.

The Department must also notify Sub-Recipient of the requirement to adhere to the Federal property standards in 2 C.F.R. Part 200 for any equipment purchased with subaward funding, including the standards in 2 C.F.R. § 200.313 for the use of all such equipment.

Insert the following clause when equipment will be purchased by Sub-Recipient with subaward funding: EQUIPMENT USE AND PROCUREMENT CLAUSE. The Sub-Recipient shall adhere to the requirements of 2 C.F.R. § 200.313 for the use of all equipment purchased by Sub-Recipient with subaward funding, to include the following:

- a. Use all equipment purchased with subaward funding for the project's authorized purposes and in accordance with state laws and procedures;
- b. Not encumber or dispose of the property without the written approval of the Department and the Federal awarding agency. Disposition of any equipment will be made in accordance with instructions provided by the Federal awarding agency;
- c. Maintain property records that include a description of the property, a serial number, or other identification number, the source of funding, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project cost, the location, use and condition of the property, and any ultimate disposition data, including the date of disposal and sale price of the property;
- d. Physical inventory of the property must be taken and the results reconciled with the property records at least once every two years;
- e. Adequate safeguards to protect against loss, damage or theft of the property and investigation of any lost, damaged or stolen property;
- f. Develop procedures to ensure program staff forward invoices for equipment purchases of \$500 or more to Sub-Recipient's employee in charge of maintaining records for equipment inventory tracking;

- g. Recognize that title to materials and supplies, including computing devices, will vest in Sub-Recipient upon acquisition, subject to the requirements of 2 C.F.R. § 200.314 for compensation to the Federal awarding agency for residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program.

**BEASON- HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT.** By signing this grant, the parties affirm, for the duration of the grant, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a party found to be in violation of this provision shall be deemed in breach of the grant and shall be responsible for all damages resulting therefrom.

**OFFICE OF INSPECTOR GENERAL EXCLUSION PROVISION.** Section 6501 of the Patient Protection and Affordable Care Act (“PPACA”) regarding exclusions from federal health care programs took effect on January 1, 2011. This Section of PPACA amends the Social Security Act to provide that State Medicaid agencies must exclude or terminate from participation any individual or entity excluded from participating in any Federal healthcare program, such that, if an individual or entity is excluded or terminated by Medicare or by Medicaid in any state, that individual or entity must be excluded from all other states’ Medicaid programs.

Pursuant to that provision, if the Sub-Recipient is entering into this agreement for a federal health care program, Sub-Recipient agrees to screen all employees and subcontractors against the OIG list of excluded individuals and entities upon engagement and at least monthly. *This includes screening of former names and variations of names.*

**CLOSEOUT CLAUSE.** Sub-Recipient acknowledges that all invoices or other demands for payment must be received by the Department by (Invoice Closeout Date). Invoices or demands for payment received after that date cannot be paid and are forfeited.

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

(Insert the following clause when the total amount of Grant is \$15,000 and greater: **ANTI-BOYCOTT CLAUSE.** Sub-Recipient represents that it is not currently

engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.)

**GOVERNOR'S PRORATION CLAUSE.** It is agreed that the Department may terminate this Grant by providing thirty (30) days written notice to Sub-Recipient should the Governor of Alabama declare proration of the fund from which payment under this Grant is to be made. This termination for cause is supplemental to other rights the Department may have under this Grant or otherwise to terminate this Grant.

**TERMINATION CLAUSE.** This Grant may be terminated by either party providing a thirty (30) day written notice to the other party.

**AMENDMENT CLAUSE.** This Grant may be amended only by mutual agreement in writing, signed by Department and Sub-Recipient, and processed through and approved by all necessary authorities.

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

**WHISTLEBLOWER PROTECTION CLAUSE.** Pursuant to 41 U.S.C. § 4712, an employee of a contractor, subcontractor, or grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for whistleblowing. The statute defines whistleblowing as making a disclosure that the employee reasonably believes is evidence of:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract or grant.

To qualify under the statute, the employee's disclosure must be made to:

- A Member of Congress or a representative of a Congressional committee;
- An Inspector General;
- The Government Accountability Office;
- A federal employee responsible for contract or grant oversight or management at the relevant agency;
- An official from the Department of Justice or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has responsibility to investigate, discover or address misconduct.

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

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

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

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

DO NOT WORK CLAUSE. Sub-Recipient acknowledges and understands that this Grant is not effective until it has received all requisite State government approvals and Sub-Recipient shall not begin performing work under this Grant until notified to do so by the Department. Sub-Recipient is entitled to no compensation for work performed prior to the effective date of this Grant.

EMERGENCY CANCELLATION CLAUSE. Notwithstanding any other provision of this Grant, upon the issuance of a Declaration of Financial Necessity by the State Health Officer, this Grant may be canceled immediately upon notice of such cancellation being given in writing to the Sub-Recipient. Notwithstanding such cancellation, the Sub-Recipient shall be recompensed for work and labor performed and completed prior to the issuance of such notice on principles of quantum meruit.

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

DEBT OF STATE CLAUSE. It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article XI, Section 213 of the Constitution of Alabama of 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Grant shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this Grant, be enacted, then that conflicting provision in the Grant shall be deemed null and void. The Sub-Recipient's sole remedy for the

settlement of any and all disputes arising under the terms of this Grant shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama.

**DISPUTES.** In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

**MERIT SYSTEM CLAUSE.** Sub-Recipient shall not be entitled to receive any benefits under this Grant that merit system employees receive by virtue of their status or employment, nor may Sub-Recipient nor any of its officers, agents, servants or employees be employed as a merit system employee during the term of this Grant. Any such employment automatically voids this Grant.

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

**TOBACCO SMOKE CLAUSE.** Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to one-thousand dollars (\$1000) per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this Grant the Sub-Recipient certifies that it will comply with the requirements of the Act. The Sub-Recipient further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for the children's services and that all Sub-Recipients shall certify accordingly.

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or

employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Grant, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Grant, contract, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten-thousand dollars (\$10,000) and not more than one-hundred-thousand dollars (\$100,000) for each such failure.

**DEBARMENT, SUSPENSION CLAUSE.** For the purposes of this clause, "prospective lower tier participant" or "lower tier participant" refers to the Grantee or Sub-Recipient herein.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any



lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under sub-paragraph 5 above, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**RECORD RETENTION.** The Sub-Recipient is aware that it must retain all records pertinent to expenditure incurred under this Grant for a period of three (3) years after the termination of all activities funded under this Grant. Records for any displaced person must be kept three (3) years after he/she has received final payment. Notwithstanding the above, if there are litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration

of the three-year period, then such records must be retained until completion of the actions and resolutions of all issues, or the expiration of the three-year period, plus the current year whichever occurs later. See Department of Public Examiners for its record retention policy.

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

**AUDIT REQUIREMENTS.** A non-Federal Sub-Recipient that expends \$750,000 in federal awards or more during the Sub-Recipient's fiscal year must have a single audit conducted in accordance with the Uniform Administrative Requirements, 2 CFR Part 200, Subpart F.

**HIPAA CLAUSE.** This clause is necessitated by the application of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act"), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as "HIPAA"). References to this clause are to the Code of Federal Regulations, hereinafter "CFR."

The parties agree to use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule"). The definitions set forth in the Privacy Rule are incorporated by reference into this Grant (45 C.F.R. §§ 160.103 and 164.501). The Parties likewise agree to take all necessary precautions to protect the integrity of electronic protected health information (e-PHI) by complying with the HIPAA Security Rule.

**INTERPRETATION CLAUSE.** Where there is an apparent conflict among the Grant documents which cannot be resolved by interpretation, this document controls.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

Sub-Recipient:  
(Provider Name)

Alabama Department of Public Health  
*This Grant has been reviewed as to content*

Signed: \_\_\_\_\_  
(Owner or Authorized Representative)

Signed: \_\_\_\_\_  
(Bureau Director/District Administrator)

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

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

Address:  
(Company Address)  
(Second Address Line)  
(City, State, Zip)

APPROVED:  
Alabama Department of Public Health

Telephone: (Telephone #)  
Fax: (Fax #)

Signed: \_\_\_\_\_  
Scott Harris, M.D., M.P.H.  
State Health Officer

*Sub-Recipient please type or print your  
email address:* (Email address)

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

Social Security or FEIN:  
(SS or FEIN Number)

Unique Entity Identifier (UEI)  
Number:

APPROVED: State of Alabama

Signed: \_\_\_\_\_  
Kay Ivey, Governor

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

**Attachment B**  
**Sample ADPH BAA Template**  
**BUSINESS ASSOCIATE AGREEMENT**  
**BETWEEN**  
**THE ALABAMA DEPARTMENT OF PUBLIC HEALTH**  
**AND**

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This Agreement is entered into by and between the **Alabama Department of Public Health**, ("**Covered Entity**"), an agency of the State of Alabama, and ("**Business Associate**") and is effective as of \_\_\_\_\_.

WHEREAS, Covered Entity and Business Associate have entered into a Contract ("**Contract**") in which Business Associate has agreed to provide certain services to Covered Entity. In connection with that Contract, Business Associate creates, receives, maintains or transmits Protected Health Information ("**PHI**") from, to, or on behalf of Covered Entity. This information is protected by the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, (the "**HITECH Act**"), and the associated regulations promulgated by the Secretary ("**HIPAA Rules**").

WHEREAS, it is desirable, in order to further the continued efficient operations of Covered Entity to disclose to Business Associate certain PHI, and Business Associate has certain responsibilities with respect to that PHI; and

WHEREAS, in light of the foregoing requirements of HIPAA, the HITECH Act, and the HIPAA Rules, Business Associate and Covered Entity agree to be bound by the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises herein, the parties agree as follows:

1. **Definitions.**

a. Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Designated Record Set, Disclosure, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

- b. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
- c. **Covered Entity** shall have the meaning given to such term in 45 CFR § 160.103
- d. **HIPAA Rules** means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.

2. **Permitted Uses and Disclosures.**

a. **Purposes.** Except as otherwise limited in this Agreement, Business Associate may only use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Contract, provided that such use or disclosure would not violate HIPAA or applicable state law if done by Covered Entity, or the minimum necessary and related Privacy and Security policies and procedures of Covered Entity. All such uses and disclosures shall be consistent with the minimum necessary requirements of HIPAA. Business Associate is directly liable under HIPAA for the impermissible Use or Disclosure of PHI it handles on behalf of Covered Entity.

b. **De-Identified Data.** Business Associate is not authorized to de-identify PHI or to use or disclose any de-identified PHI of Covered entity except as otherwise provided in the Contract. If de-identification is specified in the Contract, Business Associate shall de-identify the information in accordance with 45 CFR 164.514(a) - (c).

c. **Use for Administration of Business Associate.** Except as otherwise limited in this Agreement, the Business Associate may use PHI for the proper management and administration of Business Associate, or to carry out the legal responsibilities of Business Associate.

d. **Disclosure for Administration of Business Associate.** Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that (i) the disclosure is Required by Law; or (ii) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the PHI 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; and, (iii) the person agrees to notify the Business Associate and Covered Entity of any instances of which it is aware in which the confidentiality of the information has been breached.

3. **Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.**

a. **Notice of Privacy Practices.** Covered Entity shall notify Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's

use or disclosure of protected health information.

**b. Restriction on Use or Disclosure.** Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that covered entity has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**c. Revocation of Permission to Use or Disclose.** Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

4. **Permissible Requests by Covered Entity.** Except as set forth in Section 2 of this Agreement, Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

5. **Obligations of Business Associate.**

**a. Use and Disclosure.** Business Associate agrees not to use or disclose PHI other than as permitted or required by the Contract or as Required by Law. Business Associate shall comply with the provisions of the Agreement relating to privacy and security of PHI and all present and future provisions of HIPAA that relate to the privacy and security of PHI that are applicable to Covered Entity and/or Business Associate.

**b. Appropriate Safeguards.** Business Associate will use appropriate safeguards as are necessary to prevent the use or disclosure of PHI, except as provided for in this Agreement, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information. Business Associate represents and warrants that Business Associate:

i. Has implemented and will continue to maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI as required by the Security Rule; and

ii. 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 XI 11. With regard to electronic PHI not covered by the Guidance published at 74 FR 19006, Business Associate will protect electronic PHI at rest and in transit through encryption that complies with State of Alabama Information Technology Policy 683-00: Encryption.

iii. Shall ensure that any agent or subcontractor that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees to the

same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.

c. **Breach Notification.** Business Associate shall promptly, and in any event within three (3) business days, report to Covered Entity any of the following:

- i. Any use or disclosure of PHI not permitted by this Business Associate Agreement of which Business Associate becomes aware;
- ii. Any Security Incident of which Business Associate becomes aware; and
- iii. The discovery of a Breach of Unprotected Health Information.

A Breach is discovered as of the first day on which the Breach is known, or reasonably should have been known, to Business Associate or any employee, officer or agent of Business Associate. Any notice of a Security Incident or Breach of Unsecured Protected Health Information shall include (1) the date of discovery; (2) the data elements involved; (3) the identification of each Individual whose PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired or disclosed during such Security Incident or Breach; (4) where the PHI or confidential data is believed to have been improperly transmitted; (5) the probable cause(s) of the improper use or disclosure; (6) a description of the proposed plan for preventing similar future incidents; and (7) whether any federal or state laws requiring breach notification are triggered. Any such notice shall be directed to Covered Entity's Privacy Officer.

d. **Investigation.** Business Associate shall reasonably cooperate and coordinate with Covered Entity in the investigation of any violation of the requirements of this Business Associate Agreement and/or any Security Incident or Breach.

e. **Mitigation.** Business Associate agrees to mitigate, to the extent practical, any harmful effect that is known to Business Associate or its employees, officers, Subcontractors or agents of a use or disclosure of PHI by Business Associate in violation of this Agreement. Business Associate shall keep Covered Entity fully apprised of all mitigation efforts, and all associated costs shall be borne by the Business Associate. This includes, but is not limited to, costs associated with notifying affected individuals.

f. **Reports and Notices.** Business Associate shall reasonably cooperate and coordinate with Covered Entity in the preparation of any reports or notices to the Individual or other authorities required to be made under HIPAA, the HITECH Act, HIPAA Rules, or any other federal or state laws. Any such reports or notices shall be subject to the prior written approval of Covered Entity.

g. **Agents/Subcontractors.** Business Associate agrees to ensure that any agent and/or subcontractor that creates, receives, maintains or transmits PHI on behalf of Business Associate agrees in writing to restrictions and conditions at least as stringent as those that apply to Business Associate pursuant to this Agreement

with respect to such PHI. Failure to include such requirement in any subcontract or agreement may result in Covered Entity's termination of the Agreement. If Business Associate becomes aware of a pattern of activity or practice of an agent and/or

subcontractor that constitutes a material breach or violation of any such restrictions or conditions, Business Associate shall take reasonable steps to cure the breach or end the violation, and if such steps are unsuccessful, to terminate the contract or arrangement with such agent and/or subcontractor.

**h. Access to Designated Record Sets.** To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to provide access, at the request of Covered Entity, in the time, format and manner reasonably requested by Covered Entity to PHI in a Designated Record Set to enable Covered Entity to fulfill its obligations under HIPAA. If an Individual makes a request directly to Business Associate, Business Associate shall notify Covered Entity of the request within three (3) business days of such request and will cooperate with Covered Entity and allow Covered Entity to send the response to the Individual.

**i. Amendment to Designated Record Sets.** To the extent that Business Associate possesses or maintains PHI in a Designated Record Set, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to at the request of Covered Entity or an Individual, and in the time and manner reasonably requested by Covered Entity. If an Individual makes a request to amend PHI directly to Business Associate, Business Associate shall notify Covered Entity of the request within three (3) business days of such request and will cooperate with Covered Entity and allow Covered Entity to send the response to the Individual.

**j. Access to Books and Records.** Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by Business Associate on behalf of Covered Entity available to Covered Entity, or to the Secretary, for the purpose of the Secretary determining Covered Entity's or Business Associate's compliance with HIPAA. Business Associate also agrees to make these records available to Covered Entity, or Covered Entity's contractor, for periodic audit of Business Associate's compliance with the Privacy and Security Rules. Upon Covered Entity's request, the Business Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Business Associate's subcontractors, if any.

**k. Accountings.** Business Associate agrees to document disclosures of PHI and information related to such disclosures that would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA. This should include a process that allows for an

accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:

- i. the date of disclosure;



- ii. the name of the entity or person who received the PHI, and if known, the address of the entity or person;
- iii. a brief description of the PHI disclosed; and
- iv. a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.

**l. Requests for Accountings.** Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner reasonably requested by Covered Entity, information collected in accordance with Section 5.k. of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA. If an Individual makes a request for an accounting of disclosures of PHI directly to Business Associate, Business Associate shall notify Covered Entity of the request within three (3) business days of such request and will cooperate with Covered Entity and allow Covered Entity to send the response to the Individual. The duty of the Business Associate and its agents and subcontractors to assist Covered Entity with any HIPAA required accounting of disclosures survives the termination of the Contract.

**m. Privacy Requirements.** To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the covered Entity in the performance of such obligation(s).

**n. Data Ownership.** The PHI, and any related information created or received from or on behalf of Covered Entity, is and shall remain the property of Covered Entity. Neither Business Associate nor its agents or subcontractors shall hold any data ownership rights with respect to the PHI.

**o. Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, workforce or agents assisting Business Associate in the performance of its obligations under this Agreement, available to Covered Entity at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its officers or employees based upon claimed violations of HIPAA, the HIPAA Regulations or other laws relating to security and privacy, which involves action or inaction by Business Associate, except where Business Associate or its subcontractor, workforce or agent is a named as an adverse party.

**p. Remuneration for PHI.** Business Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI without the written authorization of the individual. Business Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITE CH Act.

6. Term and Termination.

a. **Term.** This Agreement shall be effective as of the date of the Contract and shall terminate upon termination of the Contract or on the date Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

b. **Termination for Cause.** Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement. Covered Entity may, at its sole discretion, allow Business Associate a reasonable period of time to cure the material breach before termination.

c. **Duties at Termination.**

i. Upon termination of the Contract for any reason, Business Associate shall return or destroy, at Covered Entity's option, all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

ii. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction of the PHI infeasible, for so long as Business Associate maintains such PHI. This shall also apply to all agents and subcontractors of Business Associate.

d. **Judicial or Administrative Proceedings.** Covered Entity may terminate this Agreement, effective immediately, if (1) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HIPAA Regulations, or other security or privacy laws or (2) a finding or stipulation that Business Associate has violated any standard or requirement of HIPAA, the HIPAA Regulations, or other security or privacy laws is made in any administrative or civil proceeding in which Business Associate is a party or has been joined. Business

Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.

e. **Notices.** Any notices required under this Agreement will be sent in writing via certified mail, return receipt requested and also via electronic mail.

**For Business Associate:**

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**For Covered Entity:**

Pamela Kendrick, CHPC  
 Privacy Officer  
 Alabama Department of Public Health  
 201 Monroe Street  
 Montgomery, AL 36104  
 Phone: (334) 206-9324  
 Fax: (334) 206-5874  
 pamela.kendrick@adph.state.al.us

f. **Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement.

7. **Miscellaneous.**

a. **No Third-Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

b. **Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

c. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

d. **Amendment.** The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA rules and any other applicable law.

IN WITNESS WHEREOF, the authorized representatives of the parties sign effective the date above.

**BUSINESS ASSOCIATE**

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

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

**COVERED ENTITY**

Alabama Department of Public Health

By: \_\_\_\_\_

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

Title: \_\_\_\_\_