

The State of Texas §  
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County of Tarrant §

## COMMUNITY SUBRECIPIENT CONTRACT

### 1. BACKGROUND

Tarrant County, Texas ("County") has received a grant (the "Grant") from the Health Resources and Services Administration ("HRSA") of the Department of Health and Human Services ("HHS"), for **Ryan White Title IV Women, Infants, Children, Youth, and Affected Family Members AIDS Healthcare**, to help the provision of HIV services in the community; and

The County Judge designated the Tarrant County HIV Administrative Agency ("TCAA") as recipient of the Part A funding to make sure funds are used fairly and appropriately, in a way that maximizes linkage of people living with HIV to care, retention in care, and positive medical outcomes.

**Tarrant County Hospital District** ("Subrecipient") is an organization in Tarrant County, Texas, that provides HIV Care and Treatment and has requested an award of Grant proceeds from the County to support the delivery of HIV Care and Treatment services.

The County, acting by the Commissioners Court of Tarrant County, agrees to provide Subrecipient funds from the Grant, to the extent available, in an amount not to exceed **\$14,000.00** in exchange for Subrecipient's agreement to provide HIV Care and Treatment services based upon certain terms and conditions.

Therefore, County and Subrecipient enter into the following Community Subrecipient Contract (the "Contract") based upon the following terms and conditions.

### 2. SCOPE OF WORK

Subrecipient will perform the Scope of Work described in **Attachment 1, A1-2022018**. On receipt of this Contract, Subrecipient will begin and complete the work within the Contract term. Subrecipient will provide services in accordance with Ryan White HIV Program Services: Eligible Individuals and Allowable Use of Funds Policy Clarification Notice #16-02. Subrecipient will also provide services in accordance with the local Standards of Care.

Subrecipient shall use these funds to provide at least one Part D service to (64) unduplicated clients during Contract Year FY 2022 (08/1/2022–07/31/2023). The number of units and clients by service category are found in the Attachment 1 (Scope of Work).

### 3. TERM

The term of this Contract is from **August 1, 2022 to July 31, 2023**.

### 4. AMENDMENTS

This Contract may not be amended without written agreement. However, Subrecipient may move up to 10% of allocated funds within any budget category without written approval of County, except for Equipment or Indirect Cost budget line items, if the movement is consistent with the budget in **Attachment 1**. In order to move any amount over and above a cumulative total of 10% of allocated funds within any budget category, Subrecipient must request the reallocation in writing to County.

The Subrecipient will submit a revised budget narrative to the TCAA prior to the submission of the Subrecipient's first monthly billing to the County following the movement of funds between budget line items.

If the Subrecipient fails to achieve contracted outcome objectives and expenditures (see Policy PM.001.002, Expenditure Monitoring, Units and Clients), the County may require the return of funds with reallocation or redistribution to other entities.

Subrecipient shall be subject to decrease of funds if funding is not utilized at the anticipated rate of expenditures. The anticipated rate of expenditures is one-twelfth of the contract amount by service category per month. The formula for reduction of funds shall be as follows:

- At one quarter of the contract period the Subrecipient shall have expended at a minimum twenty percent (20%) of allocated funds for each service category. If the minimum has not been expended, ten percent (10%) of the unspent funds allocated for that contract period can be swept through a budget reduction at the discretion of the TCAA.
- At one half of the contract period the Subrecipient shall have expended at a minimum forty percent (40%) of allocated funds for each service category. If the minimum has not been expended, fifty percent (50%) of the unspent funds allocated for that contract period can be swept through a budget reduction at the discretion of the TCAA.
- At three quarters of the contract period the Subrecipient shall have expended at a minimum seventy five percent (75%) of allocated funds for each service category. If the minimum has not been expended, one hundred percent (100%) of the unspent funds allocated for that contract period can be swept through a budget reduction at the discretion of the TCAA.

Subrecipient may become eligible for an increase in funding if it has spent funding at the anticipated rate and can present a proposal for the utilization of additional funds by serving additional unduplicated clients and delivering additional units of service.

## **5. SEVERABILITY**

If a court construes a provision of this Contract illegal or invalid, that construction will not affect the balance of the Contract, and the court will delete the illegal or invalid provision, with all other provisions of the Contract to remain in force and effect.

## **6. ASSURANCES, REPRESENTATIONS, AND COMPLIANCE**

a. Subrecipient assures that personnel paid from these funds are duly licensed, certified, registered, permitted, approved and qualified to perform contracted services. Subrecipient represents that all necessary program or facility licenses are current. Subrecipient will notify County immediately if such licenses become invalid during the term of this Contract. The Subrecipient will document these assurances in the year-end program report.

b. Subrecipient assures that funds will not be used to provide items or services for which payment has already been made or reasonably can be expected to be made by third-party payers, including Medicaid, Medicare and/or other federal, state, or local entitlement programs, prepaid health plans, private insurance, or other services provided by community-based organizations. The Subrecipient understands that if services performed under this Contract are available under the state Medicaid plan, then the Subrecipient must enter into a participation agreement under the state Medicaid plan. Subrecipient must ensure funding available through this Contract is used strictly as the payer of last resort.

c. Subrecipient assures that it will adhere to confidentiality requirements, including policies regarding the confidentiality and security of Protected Health Information, the AIDS Workplace Guidelines, the HIV Services Grant Program Rules, and Requirements for Contents of AIDS-related Written Materials. Subrecipient will not engage in activities that advocate or promote the violation of state or federal laws.

d. Subrecipient assures that it will comply with the HRSA Ryan White National Part A Programmatic, Fiscal, and Universal Monitoring Standards applicable to SubGrantees, Subrecipients and Subcontractors as implemented by Tarrant County. The Ryan White National Monitoring Standards detail the minimum acceptable standards contractors must comply with. Adherence to DSHS Standards of Care, Site Visit guidelines, Outcome Measures, Contract requirements and other requirements implemented by Tarrant County often exceed those required by the HRSA Ryan White National Monitoring Standards. Subrecipient assures that it will comply with the National, State and local requirements.

e. Subrecipient assures that it will not transfer a client or patient record through any means, including electronically, to another entity, person, or other Subrecipient without a written consent from the client or patient, or someone authorized to act on his or her behalf; however, the County or HRSA may require Subrecipient, or any subcontractor, to timely transfer a client or patient record to the County or HRSA if the transfer is necessary to protect either the confidentiality of the records or the health and welfare of the client or patient.

f. Subrecipient assures that it will not expend funds from this Grant to lobby Congress, the legislature, or any agency in connection with a particular contract. Subrecipient assures that it will not discriminate against any person on the grounds of race, creed, color, handicap, national origin, gender, sexual orientation, political affiliation, or beliefs.

g. Subrecipient assures in its performance of this Contract that:

- (i) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, Subrecipient will not impose charges on any such individual for the provision of services under the Grant;
- (ii) in the case of individuals with an income greater than 100 percent of the official poverty line, Subrecipient:
  - 1) will impose a charge on each such individual for the provision of such services;
  - 2) will impose the charge according to a schedule of charges that is made available to the public; and
  - 3) will make a reasonable attempt to collect;
- (iii) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, Subrecipient will not, for any calendar year, impose charges in an amount exceeding five (5) percent of the annual gross income of the individual involved;
- (iv) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, Subrecipient will not, for any calendar year, impose charges in an amount exceeding seven (7) percent of the annual gross income of the individual involved; and
- (v) in the case of individuals with an income greater than 300 percent of the official poverty line, Subrecipient will not, for any calendar year, impose charges in an amount exceeding ten (10) percent of the annual gross income of the individual involved.

h. Subrecipient assures that HIV health care and support services provided with assistance made available under this Contract will be provided without regard to the ability of the individual to pay for such services.

i. Funds awarded for Emergency Financial Assistance, short-term medications, must be spent on clients who are pending approval through medication assistance programs or are ineligible for medication assistance programs.

j. Subrecipient assures that for any fees it charges to clients for services, Subrecipient will publicly display its fee schedule. Annual aggregate charges (including fees and co-payments) will not exceed the total allowable annual charges. The term "aggregate charges" applies to the total annual charges that may be collected from a client for all HIV services. Subrecipient will create a tracking mechanism to ensure individual client charges do not exceed the maximum allowable annual charges.

k. Subrecipient assures that if it purchases or reimburses for outpatient drugs, the Subrecipient's drug acquisition practices meet Federal requirements regarding cost-effectiveness and reasonableness, including 42 CFR Sections 50.501-50.504, 45 CFR Part 75.420-475, and other federal law to the extent applicable. The purchase or reimbursement for drugs must comply with the Community AIDS Pharmaceutical Assistance ("CPAP") formulary. If Subrecipient is a drug reimbursement agency or a medical provider that dispenses medication, Subrecipient assures that drug costs are based on the average wholesale price ("AWP") or, when available, the Public Health Services price, whichever is less expensive. Failure to participate, or failure to plan to participate in 340B pricing within 120 days of funding will eliminate organizations from eligibility to be awarded funding in the CPAP service category.

If a Subrecipient receives 340b revenue, this is considered program income and must be spent on allowable items within the grant period. Subrecipients must create a 340b budget.

l. Subrecipient assures that all medical and non-medical case managers will obtain Affordable Care Act Certified Application Counselor status through the Centers for Medicaid and Medicare Services. Subrecipient assures that uninsured clients will be assisted with the process of applying for health insurance through the Marketplace and that documentation of eligibility is maintained in client charts or files. Subrecipient will enroll physicians and clinics in Qualified Health Plans.

m. Subrecipient assures that it will comply with all requirements and guidelines outlined in the most recent HIV Services Standards of Care. Subrecipient will comply with all HRSA and County program policies and operating procedures.

n. Subrecipient assures that this Contract will not be transferred, or otherwise assigned, or any interest in or any right, duty, or obligation under, or any claim arising under, without first obtaining the prior written approval from the HIV Administrative Agency located at 2300 Circle Drive, Suite 2306; Fort Worth, Texas 76119. Any attempt to transfer, or otherwise assign, will be void and will confer no rights upon any third person or entity.

o. Subrecipient assures and represents that its receipt of funding under this Contract will not be used to supplant private, state, local, or other federal funds received by the Subrecipient.

p. Subrecipient assures that case records of patients/clients who are receiving Ryan White services will contain documentation as required by the Standards of Care.

q. Provide Enterprise is the designated client management information system for the Ryan White Program which must be utilized to document and enter all services and required data elements. Subrecipients will be required to purchase Provide Enterprise licensure fees of \$1,500.00 for new users and annual maintenance fees of \$730.00 per licensee. Subrecipients

must utilize RWHAP-related funding including grant funds, program income, pharmaceutical rebates, and/or other funding sources to pay for licensure fees and annual maintenance fees.

r. Subrecipients assure that all Outpatient/Ambulatory Health Services are diagnostic and therapeutic-related activities directly to a client by a licensed healthcare provider in an outpatient medical setting. Outpatient medical settings may include: clinics, medical offices, mobile vans, using telehealth/telemedicine technology, and urgent care facilities for HIV-related visits.

s. Subrecipient assures and represents that the person signing this Contract on behalf of Subrecipient is authorized to execute this Contract on Subrecipient's behalf and to legally bind Subrecipient to all Contract terms.

t. Subrecipient will complete and sign **Attachment 2** in compliance with the Federal Executive Order 12549 "Debarment and Suspension".

**FAILURE TO COMPLY WITH ANY OF THE ASSURANCES AND REPRESENTATIONS CONTAINED IN THIS SECTION 6 HEREIN AS WELL AS ANY OTHER TERM AND CONDITION OF THIS CONTRACT MAY BE GROUNDS FOR TERMINATION OF THIS CONTRACT AND MAY RESULT IN THE WITHHOLDING OF FUTURE AWARDS. SUBRECIPIENT UNDERSTANDS THAT BY ENTERING INTO THIS CONTRACT COUNTY WILL AUDIT SUBRECIPIENT'S PERFORMANCE OF THIS CONTRACT, INCLUDING SUBRECIPIENT'S COMPLIANCE WITH THE ASSURANCES AND REPRESENTATIONS CONTAINED IN THIS SECTION 6 OF THIS CONTRACT.**

## **7. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

This Contract is subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Privacy Regulations, 45 C.F.R. Parts 160 and 164 issued under said Act. The applicable parties, as defined by the HIPAA, will comply with HIPAA and the regulation issued under the HIPAA. By signing this Contract, Subrecipient must comply with **Attachment 3, Business Associate Agreement**, as if fully executed by the parties. Failure to comply with HIPAA and its applicable regulations or failure to execute any documents concerning compliance when requested by County will be a material breach of this Contract and render this Contract null and void. County will make the decision whether or not documents will be required, and the decision of County will be final.

## **8. STANDARDS FOR FINANCIAL MANAGEMENT**

a. In accordance with 45 CFR 75 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, Subrecipient will develop, implement and maintain financial management and control systems, which include at a minimum accurate payroll, accounting and financial reporting records, cost source documentation, effective internal and budgetary controls, and determination of reasonableness, allowability and allocability of costs, and timely and appropriate audits and resolution findings.

b. A separate cost center will be maintained within the general ledger for each Contract, including a 340b specific cost center. Multiple cost centers may be used, provided the total cost in each of the cost centers equals and supports the reimbursement amount and the total cost reported to Tarrant County. A cost center is defined as a unique series of general ledger accounts established for the purpose of accumulating and categorizing expenses related to a specific cost objective. Each cost center will have a unique revenue account(s) that captures all income generated from these activities performed under a specific cost center. The balances reflected in these accounts will be the basis for monthly reimbursement requests.

- c. Subrecipient must maintain an effective accounting system, which will:
- (i) Identify and record valid transactions
  - (ii) Record transactions to the proper accounting period in which transactions occurred
  - (iii) Describe transactions in sufficient detail to permit proper classification
  - (iv) Maintain records that permit the tracing of funds to a level of detail that establishes that the funds have been used in compliance with Contract requirements
  - (v) Adequately identify the source and application of funds of each Grant Contract
  - (vi) Generate current and accurate financial reports in accordance with Contract requirements

d. Subrecipient will provide agency cost allocation plan to Tarrant County Auditor's Office no later than sixty (60) days from effective date of Contract execution.

e. Subrecipient will bill third party payers for services provided under this Contract, at no cost to the client, with the exception of co-payments required by third party payers. These potential payers include private insurance carriers, Medicaid, other available federal, state, local, and private funds, etc. Subrecipient will become a Medicaid provider for applicable program activities funded in this Contract and will maximize efforts to obtain payment from Medicaid and all other available sources.

## 9. PROGRAM INCOME

Program income is defined as the gross income received by a recipient or subrecipient that is directly generated by a grant supported activity or earned only as a result of a federal award during a contract period. Examples of program income include:

- Funds received by billing public or private health insurance for services provided to eligible Ryan White HIV/AIDS Program ("RWHAP") clients;
- Fees, payments, or reimbursement for the provision of specific services such as client care reimbursements received under Medicare, Medicaid, Children's Health Insurance Program;
- Charges imposed on clients for services, as required by RWHAP Parts A, B, and C legislation (sliding fee scale charges);
- The difference between the third-party reimbursement and the 340b drug purchase price (i.e., 340b revenue).

a. Subrecipient must use the 'additive' method for expending program income. Under the 'additive' method, program income must be used for the purposes for which the award was made and may only be used for allowable costs under the award.

b. Subrecipients will be required to have a policy and procedure in place for allocating and tracking program income, revenue, and expenditures.

c. Subrecipient will identify all revenues received from performing contract services as "Program Income." Subrecipient must use Program Income for allowable current costs. Subrecipient must budget and expend the Program Income during the budget period in which it is realized.

d. Program income may be expended on any allowable Ryan White core medical or support service category, clinical quality services, or administrative costs as part of a comprehensive system of care for individuals living with HIV.

e. Program income may be utilized to expand services within the allowable scope of the Ryan White grant.

f. Subrecipient will submit a 340b spending/allocation plan to the Administrative Agency within thirty (30) days of Contract execution.

#### **10. PAYER OF LAST RESORT**

RWHAP funds may not be used for any item or service to the extent that payment has been made or can reasonably be expected to be made by another payment source.

Subrecipients are expected to vigorously pursue enrollment into health care coverage for which their clients may be eligible (e.g., Medicaid, CHIP, Medicare, state-funded HIV/AIDS programs, employer sponsored health insurance coverage, and/or other private health insurance) to extend finite RWHAP grant resources to new clients and/or needed services.

Prior to billing the County, Subrecipient will have a 3<sup>rd</sup> party verification system to verify clients' eligibility for payment by Medicaid/Medicare or private insurance. The County will have the right to withhold all or part of any payments otherwise due in order to reconcile third party, Medicaid/Medicare or insurance reimbursable expenses inappropriately billed to the County

#### **11. ALLOWABLE COST**

Tarrant County will reimburse the allowable costs incurred in performing the scope of work that are sufficiently documented. Subrecipient must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. Tarrant County will determine whether costs submitted by Subrecipient are allowable and eligible for reimbursement. If Tarrant County has paid funds to Subrecipient for unallowable or ineligible costs, Tarrant County will notify Subrecipient in writing, and Subrecipient shall return the funds to Tarrant County within thirty (30) calendar days of the date of this written notice. Tarrant County may withhold all or part of any payments to Subrecipient to offset reimbursement for any unallowable or ineligible expenditure that Subrecipient has not refunded to Tarrant County, or if financial status report(s) required are not submitted by the due date(s). Tarrant County may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Subrecipient's repayment obligations.

The Consolidated Appropriations Act, 2022 (Public Law 17-103), signed into law on March 14, 2022, restricts the amount of direct salary that may be paid to an individual under a Department of Health and Human Services (HHS) grant, cooperative agreement, or applicable contract to a rate no greater than Executive Level II of the Federal Executive Pay Scale. Effective January 2022, the Executive Level II salary level is \$203,700 (formerly \$199,300 in 2021).

According to P.L. 116-260, Sec. 202: "None of the funds appropriated in this title shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II."

#### **12. OVERTIME COMPENSATION**

Subrecipient may only use Grand funds provided under this Contract with prior written approval or authorization for payment of overtime. Subrecipient will be responsible for any overtime pay not authorized.

#### **13. MEETING ATTENDANCE**

Subrecipient will attend all required meetings, as specified by the Administrative Agency, including but not limited to: monthly monitoring calls, quality management, technical assistance, and care coordination trainings during the Contract term. Participation in required meetings and trainings will be specific to the position(s) and role(s) of grant funded position(s).

#### 14. **REPORTS, INSPECTIONS, AND QM PLANS**

a. Subrecipient will submit fiscal, progress, programmatic, and other reports as requested by County in the approved format. Monthly reimbursement requests are due no later than the 22<sup>nd</sup> day of the following calendar month. If the reporting due date falls on a weekend or holiday, the deadline is extended to no later than 5:00 pm Central Time the first weekday immediately following the weekend or holiday.

b. As required by the HRSA and the County, the Subrecipient will collect, update, maintain and report client level data in a manner consistent with the Uniform Reporting System (URS) based on reporting standards established by HRSA. Subrecipient will collect, update, maintain and report all data consistent for reporting in the annual Ryan White Services Report (RSR), as well as other demographic, medical, service, and other required data elements throughout the Contract period. Subrecipient will also enter all Ryan White eligible services in Provide Enterprise for the Ryan White program, this includes all data on clients receiving services providing using RWHAP not just funded services. Subrecipient will participate in all periodic and ongoing Data Improvement activities required by HRSA and the County.

c. In order to protect and retain client data, Subrecipient will incorporate appropriate procedures, including the systematic creation and maintenance of end-user passwords and other security measures outlined in County policies.

d. Penalties for delinquent reporting may include withholding of payments until such time all reports are received, cancellation of the Contract with no obligation to pay for undocumented services, or both.

e. When state or federal funds are involved, any authorized representatives of the local, state or federal government have the right, at all reasonable times, to inspect or otherwise evaluate the work performed or being performed and the premises in which it is being performed. Subrecipient will participate in and provide reasonable access to facilities for assisting said representatives. All inspections and evaluations will be performed in such a manner as will not unduly delay the work.

f. County payment to Subrecipient does not stop the County from determining that certain costs were ineligible for reimbursement or that Program Income was not spent in accordance with this Contract. If the County determines that a cost the County has paid for is ineligible for reimbursement, the Subrecipient must refund the ineligible amount to the County. Additionally, the County may withhold payment to the Subrecipient in order to:

1. Recoup reimbursement for ineligible expenditures;
2. Recoup ineligible use of Program Income; and
3. Encourage Subrecipient compliance with County's reporting requirements, program objectives, or other requirements relating to the Subrecipient's performance under this Contract.

The County reserves the right to redistribute and reallocate funds when necessary.

g. An audit must be completed if required by 2 CFR Part 200.500-520 and or 45 CFR Part 75.501-520. If the guidance does not require a single audit, the Subrecipient must notify County in writing.



## 15. **PARTICIPANT RECORDS**

a. Subrecipient Grants County, HRSA, the Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, the right of timely and unrestricted access to any books, documents, papers, or other records of Subrecipient pertinent to the Contract, in order to make audit, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access by County fiscal and program personnel for the purpose of reviewing, interviewing, evaluating and monitoring related to such documents. This right includes access to records of for-profit enterprises owned by the Subrecipient and collocated with the non-profit in the same building.

b. County retains the right of access to Subrecipient's records or the right to obtain copies of said records for audit, litigation, or other circumstances that may arise. If this Contract is terminated during the Contract term, County may provide written notice to the Subrecipient requesting that the clients receiving services under this Contract have their cases and copies of their records transferred to another Subrecipient. Upon receiving such notice from County, the Subrecipient will take all necessary and reasonable steps to obtain the written consent of the clients for transfer of their cases. The client's case and records will be transferred to another Subrecipient only with client's written consent. Any disclosure or transfer of records will conform to the confidentiality provisions of this Contract.

c. Subrecipient must have written policies and procedures that address the organization, content, compilation, storage, dissemination, transport and accessibility of client records.

d. These documents will be maintained and retained by the Subrecipient in accordance with state and federal retention schedules. If any litigation, claim, or audit involving these records begins before the retention period expires, the Subrecipient must retain the records and documents in accordance with state and federal retention schedule or until litigation, claims, or audit findings are resolved, whichever is later.

## 16. **EQUIPMENT AND SUPPLIES**

a. Subrecipient will purchase and maintain any equipment and supplies procured under this Contract in conformity with applicable federal and state laws, regulations, and rules affecting the purchase of these items with Grant funds. All equipment shall be acquired and paid for within the first ninety (90) days of the Grant start date. Failure to purchase equipment will result in loss of availability of funds for the purchase of equipment.

b. "Equipment" means controlled assets or an article of nonexpendable, tangible personal property having a useful lifetime of more than one year with an acquisition cost of \$5,000.00 or more. "Controlled assets" regardless of the acquisition cost, are defined as desktop and laptop computers, non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. If Subrecipient uses a cost reimbursement payment method for purchase of equipment, then it shall inventory all equipment. Subrecipient shall initiate in the first quarter of the Contract the purchase of all equipment approved in writing. Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter of the Contract will be submitted to the Grants Manager. If seeking reimbursement for equipment purchases, Subrecipient must receive prior approval for equipment purchases.

c. The Subrecipient will maintain, repair, and protect equipment in order to assure its full availability and usefulness. Subrecipient will insure all equipment at its replacement value against any loss, destruction or damage. In the event the Subrecipient is indemnified, insured,

reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the equipment provided under this Contract, it will use the proceeds solely for the repair or replacement of this equipment.

d. Subrecipient must attach a detailed, cumulative listing of equipment inventory to Subrecipient's final request for Grant payment. If there have never been any equipment purchases paid for by funds from the County, Subrecipient must attach a statement to that effect. Subrecipient's final billing for each Grant will not be accepted if this inventory or statement is not attached. Additionally, failure to include the inventory listing or statement may result in an audit finding on Subrecipient's monitoring review and/or delay of reimbursement. Audit findings may cause termination of Contract for cause or suspension of payment of funds.

e. The Subrecipient will execute any necessary documents to transfer title of any equipment purchased with funds from this Contract to either the County, or any other party designated by the County; provided, however, that the County may at its option and to the extent allowed by law, transfer title of such property to the Subrecipient.

f. For the purposes of the contract, Subrecipient may not use funds to make payments to intended recipients of service; to purchase a building or facility; or to improve a building or other facility.

## **17. CONFIDENTIALITY**

Subrecipient will maintain a system to protect client records and other Contract records deemed confidential by law from inappropriate disclosure. This system will encompass mechanisms for the protection and confidentiality of all paper and electronic records. Any disclosure of confidential client information by the Subrecipient, including information required by Section 15, will be in accordance with applicable law. All staff must sign the required Confidentiality Agreement annually.

## **18. ENDING THE HIV EPIDEMIC**

Subrecipient will conduct activities focused on addressing the following four (4) goals in compliance with the National Goals to End the HIV Epidemic and demonstrate measurable progress towards the goals.

- a. Reduce new HIV infections;
- b. Increase access to care and optimize health outcomes for people living with HIV (PLWH);
- c. Reduce HIV-related health disparities and health inequities; and
- d. Achieve a more coordinated national response to the HIV epidemic.

The HIV Care Continuum, at a minimum, should be used as a basis for planning and assessing outcomes.

Ending the HIV Epidemic requirement of eligibility:

As outlined in Notice of Funding Opportunity HRSA-20-078, the only requirement for determining eligibility for EHE service provision is that the individual has a documented HIV diagnosis. All newly diagnosed clients who are provided any services (whether EHE or RWHAP) in an EHE-funded jurisdiction will be counted as an EHE client.

The following eligibility criteria are specific to Rapid Start: Preliminary or Confirmatory HIV+ diagnosis:

- The client is **Newly Diagnosed**: Testing positive for the first time in the past 12 months or has previously tested positive but has not been in care.
- The client is **Returning to Care**: client who has an HIV diagnosis and has not attended an HIV medical visit in the preceding 6 months, nor evidence of prior labs or medication during the same time period.
- The client is **in care and not virally suppressed** or client is **new to the jurisdiction**. The client is currently served by a subrecipient and has a detectable viral load or the client is transferring care from another jurisdiction.

## 19. QUALITY MANAGEMENT

a. The Subrecipient will implement and maintain a Quality Management program which complies with HRSA Clinical Quality Management Policy Clarification Notice #15-02. The Ryan White program requires the establishment of a clinical quality management ("CQM") program that assesses the extent to which care and services provided are consistent with federal, state, and local standards of HIV/AIDS care and services, and develops strategies for ensuring that such services are consistent guidelines for improving access to, and quality of HIV Service. The Subrecipient will:

- (i) Develop a CQM program that improves patient care, health outcomes, and patient satisfaction, and consists of:
  - a. Specific aims based in health outcomes.
  - b. Support by identified leadership.
  - c. Accountability for CQM activities.
  - d. Dedicated CQM resources.
  - e. Use of data and measurable outcomes to determine progress and make improvements to achieve the aims cited above.
- (ii) Have a CQM committee:
  - a. With at minimum two people with HIV.
  - b. That meets at least quarterly, in a stand-alone meeting, with an agenda and meeting minutes.
- (iii) A CQM plan:
  - a. Detailing at minimum two quality improvement projects per calendar year.
  - b. Identifying performance measures to be reviewed.
  - c. Explaining the CQM infrastructure within the agency.
- (iv) Consistent utilization of data and measurable outcomes to make improvements and measure progress towards improving outcomes across the HIV Continuum of Care; and review performance data at least quarterly.
- (v) Dedicate staff responsible for carrying out CQM responsibilities.
- (vi) Involve people with HIV that reflect the population that is being served in quality initiatives.
- (vii) Focus on linkages to HIV medical care and support services.
- (viii) Focus on Viral Load Suppression Focus on Retention in HIV medical care and support services.
- (ix) Track client perception/satisfaction and effectiveness of services.
- (x) Conduct quality management activities, including participation on a County wide CQM committee, and participation in County wide CQM initiatives.
- (xi) Participation by clinical staff in the formulary committee.

Further, the Subrecipient will, upon request, provide evidence that the Quality Management Program is active and on-going. The County may inspect the minutes of the Quality Management

Committee; documentation of quality improvement activities/projects and outcomes; and other summary documents related to quality improvement activities.

b. All funded service categories should have two (2) identified performance measures and the corresponding performance measure data collected. Provide Enterprise is the data collection system for performance measure data to demonstrate health outcomes. The two (2) performance measures which apply to all funded service categories are annual retention in care and viral load suppression.

## 20. TERMS AND CONDITIONS OF PAYMENT

a. Tarrant County agrees to pay Subrecipient for reimbursable costs under the Grant only to the extent that Grant funds are available. Tarrant County will pay in accordance with the approved budget for each funded category listed in **Attachment 1**.

b. Tarrant County approves and pay reimbursement requests within thirty (30) days of receipt of a complete request. Errors in the reimbursement request, including sufficient documentation, may result in payment delays. It is the responsibility of the Subrecipient to submit a complete and accurate reimbursement request. Payment is considered made on the date postmarked.

c. Subrecipient will submit complete monthly reimbursement requests through Provide Enterprise within 22 days following the end of each month. If the 22<sup>nd</sup> falls on a weekend or holiday, the deadline for the reimbursement request is extended to no later than 5:00 pm Central Time the first weekday immediately following the weekend or holiday. A final close-out bill may be submitted no later than thirty (30) days following the end of the contract term. Reimbursement requests should be submitted in Provide, and signature pages submitted to the Administrative Agency. To be considered a complete request, the following must be included:

- Cover page signed by the Subrecipient's authorized signatory
- Provide Enterprise reimbursement requests
- Provide Enterprise activity report with monthly service utilization data

The reimbursement request must contain supporting documentation including service utilization reports. The following may be requested to substantiate a reimbursement request:

- General Ledger (monthly, generated from Subrecipient's accounting system); or other supporting documentation acceptable to the Subrecipient
- Timesheets or Payroll Report (monthly, generated from Subrecipient's payroll system) The timesheets must demonstrate time and effort. They must be supported by daily activity logs which reflect time spent on each grant.
- Cost-Based Reimbursement Monthly Expense Report

Reimbursement requests will be reviewed to assure compliance with approved budget, federal cost principles, and contract goals.

d. Subrecipient shall enter client eligibility data into Provide Enterprise within twenty-four (24) hours of conducting eligibility and enter service delivery data into Provide Enterprise within five (5) business days of providing the service.

e. Subrecipient agrees that administrative costs will not exceed the amount listed on the Scope of Work, described in **Attachment 1**.

f. Subrecipient understands that acceptance of funds directly under the Contract or indirectly through a Subcontract under the Contract acts as acceptance of the authority of any

county, state, or federal entity providing the funds to conduct an audit or investigation in connection with those funds. Entities with the authority to conduct an audit or investigation include, but are not limited to, the Tarrant County Auditor's Office (TCAO), the Texas State Auditor's Office (SAO), or any successor agency to these entities. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the TCAO or SAO must provide the TCAO or SAO with access to any information the TCAO or SAO considers relevant to the investigation or audit. Subrecipient agrees to cooperate fully with the TCAO, SAO, or its successor in the conduct of the audit or investigation, including providing all records requested. Subrecipient will ensure that this clause concerning the authority to audit funds received indirectly by Subrecipient through Subrecipient and the requirement to cooperate is included in any Subcontract it awards.

g. Independent Single or Program-Specific Audit. If Subrecipient within Subrecipient's fiscal year, expends a total amount of at least **SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000)** in federal funds awarded, Subrecipient shall have a single audit or program-specific audit in accordance with the 2 CFR 200. The \$750,000 federal threshold amount includes federal funds passed through by way of state agency awards. The audit must be conducted by an independent certified public accountant and in accordance with applicable OMB Circulars, Government Auditing Standards.

h. Within thirty (30) calendar days of receipt of the audit reports required by the Independent Single or Program-Specific Audit section, Subrecipient shall submit copies to the following:

- (i) Tarrant County  
Auditor's Office  
100 E. Weatherford – RM 506A  
Fort Worth, Texas 76196-0103
- (ii) Tarrant County Administrative Agency  
Grants Manager at [lmuttiah@tarrantcounty.com](mailto:lmuttiah@tarrantcounty.com)  
Financial Analyst [rvseymore@tarrantcounty.com](mailto:rvseymore@tarrantcounty.com)
- (iii) Federal Audit Clearinghouse at  
<https://harvester.census.gov/facweb/faqs.aspx>

If Subrecipient fails to submit the audit report as required by the Independent Single or Program-Specific Audit section within thirty (30) calendar days of receipt by Subrecipient of an audit report, Subrecipient shall be subject to Tarrant County sanctions and remedies for non-compliance with this Contract.

## 21. TERMINATION

a. Unless otherwise provided for, this Contract may be terminated by either of the parties by providing written notice to the other party at least thirty (30) days prior to the intended date of termination. Termination under these circumstances does not nullify a reimbursable cost incurred for performance prior to the date of termination.

b. This Contract may be terminated by the County in the event that federal or state laws or other requirements should be amended or judicially interpreted so as to render continued fulfillment of this Contract, on the part of either party, impossible. If the parties cannot amend the Contract to continue the services required by this Contract, then, upon written notification by the County to Subrecipient, the parties will be discharged from any further obligations created under the terms of this Contract, except for the equitable settlement of the accrued costs prior to the date of termination.

## **22. PERSONNEL**

a. All personnel funded by this Contract must be employees of Subrecipient, which is solely responsible for the employees' direction and control. Subrecipient's staff will possess education, credentials and work experience specified within the job description, and must meet the minimum standards set forth by local Standards of Care. Any personnel who have direct contact with clients must undergo criminal background checks prior to such direct contact. Subrecipient shall not permit any person who engaged in or was alleged to have engaged in an activity subject to reporting under this section to perform direct client services or have direct contact with clients. Employee positions that become vacant and that remain vacant for sixty (60) days will result in a return of funds.

b. Each personnel file must contain the following:

- (i) A copy of the employee's completed criminal background check.
- (ii) A copy of the employee's driver's license or official state ID card.
- (iii) A signed copy of the employee's job description.
- (iv) Relevant signed confidentiality forms.
- (v) A copy of appropriate licensure (if applicable).
- (vi) Documentation of annual HIV training updates.
- (vii) Form I-9 Employment Eligibility Verification.

## **23. INDEPENDENT SUBRECIPIENT**

Subrecipient is an independent Subrecipient under the terms of this Contract and is not an officer, agent, servant or employee of the County.

## **24. ENFORCEMENT**

It is expressly understood and agreed that enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, will be strictly reserved to the parties, and nothing contained in this Contract will give or allow any claim or right of action whatsoever by any other person not a party to this Contract. This Contract shall be interpreted under the laws of the State of Texas. The venue for any lawsuit arising out of this Contract will be the Fort Worth Division of the Northern District of Texas if the lawsuit arises in Federal Court; or Tarrant County, Texas if the matter arises in State Court.

## **25. CONTRACT COMPLIANCE**

County may withhold funds or terminate this Contract upon thirty (30) calendar days written notice to the Subrecipient for non-compliance with Contract terms. Non-compliance occurs when a discrepancy is found between the actual delivery of services and what the Contract requires, including the Contract's administrative requirements.

## **26. GRIEVANCE**

Subrecipient agrees to maintain a client grievance procedure that delineates procedures for clients to seek redress for grievances with Subrecipient. The grievance procedure will be prominently displayed on Subrecipient's premises and will state that partial funding for the Subrecipient comes from Grants administered by Tarrant County, Texas. Subrecipient will inform clients that grievances may be presented to Tarrant County Administrative Agency after all remedies with Subrecipient have been exhausted.

## **27. 1295 COMPLIANCE**

Subrecipient acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties in the attached Form 1295 and has acknowledged the completeness of this disclosure by filing the Form 1295, attached as **Attachment 6**, with the Texas Ethics Commission as required by law. The electronic 1295 form can be accessed at the following: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

## **28. PROHIBITION ON BOYCOTT OF ISRAEL**

Subrecipient verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. The term "boycott Israel" is as defined by Texas Government Code Section 808.001, effective September 1, 2017.

## **29. BOYCOTT OF ENERGY COMPANIES PROHIBITED**

In compliance with Section 2274.002 of the Texas Government Code, Subrecipient verifies that it does not boycott energy companies and will not boycott energy companies during the term of this Contract. "Boycott energy company" is defined in Section 809.001(1) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).

## **30. BOYCOTT OF FIREARM ENTITIES OR FIREARM TRADE ASSOCIATIONS PROHIBITED**

In compliance with Section 2274.002 of the Texas Government Code, Subrecipient verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the Contract against a firearm entity or firearm trade association. "Discriminate against a firearm entity or firearm trade association" is defined in Section 2274.001(3) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

## **31. MISCELLANEOUS PROVISIONS**

### **a. Force Majeure**

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected

Party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected Party's obligation to comply with such covenant will be suspended, and the affected Party will not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure will promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice will set forth the extent and duration thereof.

**b. No Waiver of Sovereign Immunity**

Nothing in the Contract will be construed as a waiver of sovereign immunity by the County.

**c. Entire Contract and Modification**

The Contract constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Contract will be harmonized with this Contract to the extent possible by the County.

**d. Proper Authority**

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Any Services or Work performed by Subrecipient before this Contract is effective or after it ceases to be effective are performed at the sole risk of Subrecipient with respect to compensation.

**32. CONTRACT ATTACHMENTS**

- a. Attachment 1: **A1-2022018**
- b. Attachment 2: Debarment and Suspension Certification
- c. Attachment 3: Business Associate Agreement
- d. Attachment 4: Pilot Program for Enhancement of Employee Whistleblower Protection
- e. Attachment 5: Federal Award Identification Checklist
- f. Attachment 6: 1295 Compliance Form

**33. NOTICES**

All written notices required under this Contract, including proposed amendments, must be addressed and sent to:

COUNTY:

**Tarrant County**

Address: Tarrant County Administrative Agency  
2300 Circle Drive, Suite 2306  
Fort Worth, TX 76119  
Attn: Grants Manager

**SUBRECIPIENT:**

TARRANT COUNTY HOSPITAL DISTRICT  
1500 S. Main Street  
Fort Worth, TX 76104  
Attn: Dr. Karen Duncan, MD



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth below.

SIGNED AND EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

TARRANT COUNTY HOSPITAL DISTRICT  
1500 S. Main Street  
Fort Worth, TX 76104  
Attn: Dr. Karen Duncan, MD

By: Karen Duncan

Title: President & CEO

Date: 09/20/2022



COUNTY OF TARRANT

STATE OF TEXAS

\_\_\_\_\_  
**B. Glen Whitley**  
County Judge

APPROVED AS TO FORM:

James Marvin Nichols  
Criminal District Attorney's Office\*

CERTIFICATION OF  
AVAILABLE FUNDS: \$14,000.00

\_\_\_\_\_  
Tarrant County Auditor

\*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

## ATTACHMENT 1, A1-2022018 SCOPE OF WORK

### 1. Performance Measures

**Tarrant County Hospital District** will provide services listed below that meet or exceed the performance goals found at <http://hab.hrsa.gov/deliverhivaidscares/habperformmeasures.html>, including the number of clients to be served and units of service to be performed for each service category.

Part D FY 22-23 (08/01/2022-07/31/2023)		CURRENT BUDGET		
Service Categories		\$ Amount	# Clients	# Units
Referral for Health Care and Support Services		\$ 14,000.00	64	447

### 2. Special Provisions

Funding under the Contract for the following budgetary items is contingent upon County receiving the funds through the Health Resources and Services Administration ("HRSA").

Part D FY 22-23 (08/01/2022-07/31/2023)	
Budget Line Item	Current Budget
Personnel	\$ 11,118.98
Fringe	\$ 2,881.02
Travel	\$ -
Equipment	\$ -
Supplies	\$ -
Contractual	\$ -
Other	\$ -
Subtotal Part D FY 22-23 Budget	\$ 14,000.00

Total reimbursements will not exceed \$14,000.00, of which \$0.00 may be used for administrative costs.

### 3. Conditions of Award

- a. EO 13166, August 11, 2000, requires recipients receiving Federal financial assistance to take steps to ensure that people with limited English proficiency can meaningfully access health and social services. A program of language assistance should provide for effective communication between the service provider and the person with limited English proficiency to facilitate participation in, and meaningful access to, services. The obligations of recipients are explained on the OCR website at <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/index.html>.
- b. Eligibility for RWHAP and EHE is required to be determined as follows:
  - i. In accordance with HRSA PCN 21-02 RWHAP client eligibility determination requirements, client eligibility is to be conducted upon initial enrollment and as directed by local policy for timely eligibility confirmations to assess changes to income/residency status.
  - ii. In accordance with Ending the HIV Epidemic (EHE) eligibility requirements, proof of HIV positivity is needed to complete the EHE Enrollment in Provide Enterprise. Within 45-60 days, a RWHAP eligibility determination will be completed.

- c. The following goals are applicable to this Contract for medical providers:

Description	Standard
Viral Load Suppression	90%
Retention in Care	90%
Rapid Start Protocol	Medication initiation within 72 hours of initial diagnosis or upon return to care

- d. This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term, go to: <https://www.hrsa.gov/sites/default/files/hrsa/grants/manage/trafficking-in-persons.pdf>.

If you are unable to access this link, please contact the Administrative Agency to obtain a copy.

- e. This award is subject to the requirements of Section 3300 of the Texas Health and Human Services (HHS), Abuse and Neglect Reporting. For the full text, go to: <https://www.hhs.texas.gov/handbooks/family-planning-program-policy-manual/3300-abuse-neglect-reporting>

If you are unable to access this link, please contact the Administrative Agency to obtain a copy.

- f. To serve persons most in need and to comply with Federal law, services must be widely accessible. Services must not discriminate on the basis of age, disability, sex, race, color, national origin or religion. The HHS Office for Civil Rights provides guidance to grant and cooperative agreement recipients on complying with civil rights laws that prohibit discrimination on these bases. Please see <https://www.hhs.gov/civil-rights/for-individuals/index.html>.
- g. Subrecipient will maintain referral relationships to facilitate individuals' access to HIV-related health services. These referral relationships include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, immunization centers, Tuberculosis treatment facilities, and other entities constituting points of access to services described in Section 2652(a) of the Ryan White HIV/AIDS Treatment Modernization Act of 2006.
- h. The County will review Subrecipient's performance of this Contract. Subrecipient's compliance with the obligations and duties imposed by this Contract will be a factor in any future allocation of Ryan White Grant funds during this Contract Term.
- i. Subrecipient will submit an end-of-year program report within sixty (60) days following the close of the contract year, September 29, 2023.

#### 4. Counties to be Served

Hood, Johnson, Parker and Tarrant.



**DEBARMENT/SUSPENSION CERTIFICATION INDICATING THAT YOU ARE IN COMPLIANCE WITH THE BELOW FEDERAL EXECUTIVE ORDER.**

**Debarment:**

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all subrecipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Name: Dr. Karen Duncan, MD

Company: Tarrant County Hospital District

Street Address: 1500 S. Main St.

City, State, Zip: Fort Worth, TX 76104

Phone: 817-702-1234

Fax: 817-702-7330

Email: grants@jpshealth.org

Signature: *Karen Duncan*

Date: 09/20/2022

STATE OF TEXAS §

§ **AMENDED BUSINESS ASSOCIATE AGREEMENT**

COUNTY OF TARRANT §

This Business Associate Agreement (“BA Agreement”) is between Tarrant County, Texas, (“COUNTY”), and **Tarrant County Hospital District** (“Business Associate”), for the purpose of complying with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Standards for Privacy of Individually Identifiable Health Information (the “Privacy Rule”), and the Standards for Security of Electronic Protected Health Information (the “Security Rule”) promulgated thereunder, and the Health Information Technology for Economic and Clinical Health Act (Division A, Title XIII and Division B, Title IV, of the American Recovery and Reinvestment Act of 2009, Pub. L 111-5) (the “HITECH Act”), and the regulations implementing the HITECH Act and other applicable law with regard to the provision of services to Tarrant County.

Business Associate and COUNTY are engaged in a business relationship whereby Business Associate provides certain services to COUNTY (“Business Relationship”).

As part of this Business Relationship, Business Associate performs or assists in performing a function or activity on behalf of COUNTY that involves the use and/or disclosure of Protected Health Information (as defined in 45 CFR § 164.501).

## **1. Definitions**

“Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR § 160.103, and in reference to the party to this agreement shall mean the COUNTY.

“Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR § 160.103, and in reference to the party to this agreement, shall mean **Tarrant County Hospital District**.

Terms used but not otherwise defined in the BA Agreement shall have the same meaning given to such terms in HIPAA, the HITECH Act, or any implementing regulations promulgated thereunder, including but not limited to the Privacy Rule and the Security Rule.

## **2. Purpose**

Business Associate has a legal and ethical responsibility to safeguard the privacy of individuals and protect the confidentiality of their health information. Business Associate may hear things that relate to Protected Health Information, or read or see computer or paper files containing confidential or Protected Health Information, even though Business Associate may not be directly involved in providing services. Business Associate may create documents containing Protected Health Information if directed to do so by COUNTY. Because Business Associate may have contact with Protected Health Information, COUNTY requests that Business Associate agrees to the following as a condition of Business Associate’s assignment.

### 3. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in the Business Relationship or this BA Agreement, Business Associate may:

- 3.1 use and/or disclose Protected Health Information to perform functions, activities, or services for or on behalf of COUNTY, provided that such use and/or disclosure,
  - (a) would not violate the Privacy Rule if done by COUNTY;
  - (b) is reasonably limited to the minimum necessary information to accomplish the intended purpose of the use or disclosure;
  - (c) is in compliance with each applicable requirement of 45 CFR § 164.504(e);
  - (d) is in compliance with the HITECH Act and its implementing regulations;
- 3.2 use or disclose Protected Health Information as required by law;
- 3.3 use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;
- 3.4 use Protected Health Information to provide Data Aggregation services relating to the health care operations of COUNTY.

All other uses and/or disclosures not authorized by the Business Relationship or this BA Agreement are prohibited.

- 3.5 Business Associate agrees to use and disclose confidential information only in the following manner:
  - (a) Business Associate will provide core medical and support services to eligible patients.
  - (b) Business Associate will maintain referral relationships as specified in the Community Subrecipient Contract.
  - (c) Business Associate collects client data and updates to Provide Enterprise and, if applicable, AIDS Regional Information and Evaluation System (ARIES) database.

### 4. Responsibilities of Business Associate

With regard to the use and/or disclosure of Protected Health Information, Business Associate agrees:

- 4.1 not to use and/or disclose Protected Health Information other than as permitted or required by the Business Relationship or this BA Agreement or as Required by Law;
- 4.2 to use appropriate safeguards to prevent the use and/or disclosure of Protected Health Information other than as provided for by the Business Relationship or this BA Agreement;

- 4.3** to protect any Protected Health Information taken off-site from COUNTY from disclosure to others, and to return all Protected Health Information in any form to COUNTY or destroy such Protected Health Information in a manner that renders it unreadable and unusable by anyone else, if COUNTY agrees to the destruction;
- 4.4** to comply with the Security Rule provisions set forth in 45 CFR Part 164, Subpart C, including provisions relating to Security Standards General Rules (45 CFR § 164.306), Administrative Safeguards (45 CFR § 164.308), Physical Safeguards (45 CFR § 164.310), Technical Safeguards (45 CFR § 164.312), Organizational Requirements (45 CFR § 164.314) and Policies and Documentation (45 CFR § 164.316), and to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information Business Associate creates, receives, maintains, or transmits on behalf of COUNTY.
- 4.5** to report to COUNTY any Security Incident of which it becomes aware within 2 business days, and to report any potential Breach of Unsecured Protected Health Information within 2 business days of discovery. Any such report shall include the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during any such Security Incident or potential Breach. Any such report shall also include all other information known to Business Associate at the time of the report (such as the type of Protected Health Information involved in the event, the nature of the information, etc.) or promptly thereafter as such other information becomes available;
- 4.6** to notify COUNTY in writing within 2 business days of any use and/or disclosure of Protected Health Information that is not provided for by the Business Relationship or this BA Agreement;
- 4.7** to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this BA Agreement, or as the result of any Security Incident or potential Breach, using mitigation actions that are disclosed to COUNTY in advance and authorized by COUNTY, all at the sole cost and expense of Business Associate;
- 4.8** to work cooperatively with COUNTY in connection with COUNTY's investigation of any potential Breach and in connection with any notices COUNTY determines are required as a result, and to refrain from giving any notice itself unless COUNTY expressly agrees in advance and in writing to Business Associate giving notice and to the form, content and method of delivery of such notice, all at the sole cost and expense of Business Associate;
- 4.9** to ensure that all agents and/or subcontractors that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such Protected Health Information;

- 4.10** to provide access (at the request of, and in the time and manner designated by COUNTY) to Protected Health Information in a Designated Record Set to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR § 164.524 and to notify COUNTY of any requests for access it receives from an individual within 2 business days of receipt;
- 4.11** to make any amendment(s) (at the request of, and in the time and manner designated by COUNTY) to Protected Health Information in a Designated Record Set that COUNTY directs pursuant to 45 CFR § 164.526 and to notify COUNTY of any amendment requests it receives from an individual within 2 business days of receipt;
- 4.12** to document such disclosures of Protected Health Information and information related to such disclosures as would be required for COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528;
- 4.13** to provide to COUNTY, in a time and manner designated by COUNTY, information collected in accordance with 4.12 of this BA Agreement, to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 (and HITECH Act § 13405(c) when such requirements are effective as to COUNTY);
- 4.14** to the extent Business Associate is to carry out an obligation of COUNTY under the Privacy Rule provisions set forth at 45 CFR Part 164, Subpart E (any such obligation to be carried out only when so directed by COUNTY pursuant to the Business Relationship or this BA Agreement), to comply with the requirements of the Privacy Rule that apply to COUNTY in the performance of such obligation;
- 4.15** to make its internal practices, books, and records relating to the use and/or disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of COUNTY available to COUNTY;
- 4.16** to cooperate with any investigation by the Secretary of Health and Human Services, or his agent, or an oversight agency, in a time and manner designated by COUNTY or the Secretary, for purposes of determining if COUNTY or Business Associate is in compliance with the Privacy Rule;
- 4.17** if Business Associate is aware of a pattern of activity or practice by COUNTY that constitutes a material breach or violation of COUNTY's obligations under this BA Agreement,
- (a)** to give written notice of such pattern or practice to COUNTY within 2 business days of its discovery and to take reasonable steps to cure the breach or end the violation,
- (b)** if Business Associate determines that such steps appear to have been unsuccessful, to give COUNTY written notice of such determination and to report the problem to the Secretary and provide COUNTY with a copy of any



such report at least 2 business days in advance of its submission to the Secretary.

## **5. Responsibilities of COUNTY with Respect to Protected Health Information**

If deemed applicable by COUNTY, COUNTY shall:

- 5.1** provide Business Associate with the notice of privacy practices that COUNTY produces in accordance with 45 CFR §164.520 as well as any changes to such notice;
- 5.2** provide Business Associate with any changes in, or revocation of, permission by Individual to the use and/or disclosure of Protected Health Information, if such changes affect Business Associate's permitted or required uses and/or disclosures;
- 5.3** notify Business Associate of any restriction to the use and/or disclosure of Protected Health Information that COUNTY has agreed to in accordance with 45 CFR § 164.522.

## **6. Sanctions**

Business Associate understands that violation of this agreement may result in sanctions, including, but not limited to, termination of the ability to perform services on behalf of COUNTY.

## **7. Disclosures Required by Law**

Nothing in this agreement prevents Business Associate from making a disclosure of Protected Health Information, if required by law to make such a disclosure.

## **8. Term and Termination**

**8.1 Term.** This agreement will begin on **August 1, 2022** and will terminate when all of the Protected Health Information provided by COUNTY to Business Associate or created or received by Business Associate on behalf of COUNTY is destroyed or returned to COUNTY, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such Protected Health Information, in accordance with 8.3 below, or at termination of the Business Relationship between COUNTY and Business Associate.

**8.2 Termination for Cause.** COUNTY may immediately terminate the Business Relationship and/or this BA Agreement if COUNTY determines that Business Associate has breached a material term of this BA Agreement.

**8.3 Effect of Termination.** Upon termination of the Business Relationship and/or this BA Agreement, for any reason, Business Associate agrees to return or destroy all Protected Health Information received from COUNTY, or created or received by Business Associate on behalf of COUNTY. If permitted by COUNTY, Protected Health Information shall be destroyed in a manner that renders it unreadable and unusable by anyone else. Discharge or termination, whether voluntary or not, shall not affect Business Associate's ongoing obligation to safeguard the confidentiality of

Protected Health Information and to return or destroy any such information in Business Associate's possession.

This Section 8.3 shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate.

In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide in writing to COUNTY notification of the conditions that make return or destruction infeasible. Upon mutual written agreement of the Parties, Business Associate shall extend the protections of this BA Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information for as long as Business Associate maintains such Protected Health Information.

## **9. Miscellaneous**

### **9.1 INDEMNIFICATION.**

**NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE UNDERLYING AGREEMENT(S), AT BUSINESS ASSOCIATE'S EXPENSE, BUSINESS ASSOCIATE AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS COVERED ENTITY AND COVERED ENTITY'S EMPLOYEES (THE "INDEMNITEES") AGAINST ALL DAMAGES, FINES, PENALTIES, COSTS OR EXPENSES (INCLUDING REASONABLE FEES OF ATTORNEYS AND EXPERTS) AND ALL LIABILITY TO THIRD PARTIES ARISING FROM ANY MATERIAL BREACH OF THIS AGREEMENT BY BUSINESS ASSOCIATE OR ITS EMPLOYEES, DIRECTORS, OFFICERS, SUBCONTRACTORS, AGENTS OR OTHER MEMBERS OF BUSINESS ASSOCIATE'S WORKFORCE. BUSINESS ASSOCIATE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.**

**COUNTY MAY EMPLOY ATTORNEYS SELECTED BY IT TO DEFEND ANY SUCH ACTION, THE COSTS AND EXPENSES OF WHICH WILL REMAIN THE RESPONSIBILITY OF BUSINESS ASSOCIATE. COUNTY WILL PROVIDE BUSINESS ASSOCIATE WITH TIMELY NOTICE OF THE EXISTENCE OF SUCH PROCEEDINGS AND SUCH INFORMATION, DOCUMENTS AND OTHER COOPERATION AS REASONABLY NECESSARY TO ASSIST BUSINESS ASSOCIATE IN ESTABLISHING A DEFENSE TO SUCH ACTION.**

**THESE INDEMNITIES SURVIVE TERMINATION OF THIS BA AGREEMENT, AND COUNTY RESERVES THE RIGHT, AT ITS OPTION AND EXPENSE, TO PARTICIPATE IN THE DEFENSE OF ANY SUIT OR PROCEEDING THROUGH COUNSEL OF ITS OWN CHOOSING.**

**9.2 Survival.** The respective rights and obligations of Business Associate survive the termination of the Business Relationship and/or this BA Agreement.

**9.3 Notices.** Any notices pertaining to this BA Agreement must be given in writing and will be deemed duly given when personally delivered to a Party or a Party's authorized representative, as listed below, or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid.

A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

**If to Business Associate:**

Tarrant County Hospital District  
1500 S. Main Street  
Fort Worth, TX 76104  
Attn: Dr. Karen Duncan, MD

**If to Covered Entity:**

Tarrant County  
2300 Circle Drive, Suite 2306  
Fort Worth, TX 76119  
Attn: Grants Manager

**9.4 Amendments.** This BA Agreement may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. The Parties, however, agree to amend this Agreement from time to time as necessary, in order to allow COUNTY to comply with the requirements of the Privacy Rule, the Security Rule, HIPAA, the HITECH Act and its implementing regulations.

**9.5 Interpretation.** Any ambiguity in this BA Agreement shall be resolved in favor of a meaning that permits COUNTY to comply with the Privacy Rule.

**9.6 Third Parties.** Nothing in this BA Agreement is intended, nor shall be deemed, to confer any benefits on any third party.

**9.7 Assignments.** Neither Party may assign its rights or obligations under this BA Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld.

**9.8 Independent Contractor.** This BA Agreement does not create any relationship between the Parties other than that of independent parties contracting with each other for the sole purpose of effecting the provisions of this BA Agreement and any other agreements between them evidencing their Business Relationship.

**9.9 Governing Law and Venue.** This BA Agreement will be interpreted under the laws of the State of Texas. The venue for any lawsuit arising out of this BA Agreement will be the Fort Worth Division of the Northern District of Texas, if the lawsuit arises in Federal Court, or Tarrant County, Texas, if the matter arises in State Court.

**9.10 Third Party Interpretation.** This agreement shall not be interpreted to inure to the benefit of a third party not a party to this contract. This agreement may not be interpreted to waive any statutory or common law defense, immunity, including governmental and sovereign immunity, or any limitation of liability, responsibility, or damage to any Party to this contract, Party's agent, or Party's employee, otherwise provided by law.

**9.11 Form 1295 Compliance.** The Tarrant County Hospital District acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties in the attached Form 1295, and has acknowledged the completeness of this disclosure by filing the Form 1295, attached as Exhibit A, with the Texas Ethics Commission as required by law.

**9.12 Required Attachments.** This BA Agreement will be considered incomplete without the submission of the completed Form 1295 as referenced in section 9.11.

COUNTY shall be responsible to include Form 1295, attached as Exhibit A, to this BA Agreement prior to Business Associate review and execution. For the purposes of this BA Agreement, the following statement applies in regard to Form 1295:

- ☐ Exhibit A is a required component of this BA Agreement. Form 1295 is attached and must be completed prior to approval of this BA Agreement by COUNTY.
- ☒ The Parties involved in this BA Agreement are governmental entities and are not required by the Texas Ethics Commission to complete their Form 1295.

Approved on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Commissioners Court Order  
No. \_\_\_\_\_.

**SIGNED AND EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**BUSINESS ASSOCIATE**

Karen Duncan

Signature

Karen Duncan, M.D.

Printed Name

President & CEO

Title

09/20/2022

Date

**COUNTY OF TARRANT  
STATE of TEXAS**

\_\_\_\_\_  
B. Glen Whitley  
County Judge

**APPROVED AS TO FORM:**

James Marvin Nichols  
Criminal District Attorney's Office\*

\*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Resources and Services  
Administration

Office of Federal Assistance Management

Rockville, MD 20857

DEC 23 2013

**TO:** HRSA Grantees

**FROM:** Chief Grants Management Officer, HRSA  
Associate Administrator, OFAM

**SUBJECT:** Pilot Program for Enhancement of Employee Whistleblower Protection

Congress has enacted many whistleblower protection statutes to encourage employees to report fraud, waste, and abuse. You should be aware that the latest whistleblower protection statutes went into effect on July 1, 2013. The statute, 41 U.S.C. § 4712, applies to all employees working for contractors, grantees, subcontractors, and subgrantees on federal grants and contracts. The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, enacted January 2, 2013) mandates a pilot program entitled "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections." This program requires all grantees, their subgrantees, and subcontractors to:

1. Inform their employees working on any federal award they are subject to the whistleblower rights and remedies of the pilot program;
2. Inform their employees in writing of employee whistleblower protections under 41 U.S.C. § 4712 in the predominant native language of the workforce; and,
3. Contractors and grantees will include such requirements in any agreement made with a subcontractor or subgrantee.

The statute (41 U.S.C. § 4712) states that an "employee of a contractor, subcontractor, grantee [or subgrantee] may not be discharged, demoted, or otherwise discriminated against as a reprisal for "whistleblowing." In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.

Whistleblowing is defined as making a disclosure "that the employee reasonably believes is evidence of any of the following:

- 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 (including the competition for, or negotiation of, a 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, grantee, or subgrantee who has the responsibility to investigate, discover, or address misconduct.

The requirement to comply with, and inform all employees of, the "Pilot Program for Enhancement of Contract Employee Whistleblower Protections" is in effect for all grants, contracts, subgrants, and subcontracts issued beginning July 1, 2013 through January 1, 2017.



Michael J. Nelson

**Federal Award Identification Checklist**  
(Grants Awarded After 12/26/2014)

	Part A	Part B / State-R	Part D	State Services
1. Subrecipient Name	Tarrant County Hospital District (JPS)	Tarrant County Hospital District (JPS)	Tarrant County Hospital District (JPS)	Tarrant County Hospital District (JPS)
2. Subrecipient DUNS Number	068368901	068368901	068368901	068368901
3. Federal Award Identification Number (FAIN)	2 H89HA00047-27-00	Contract # HHS001122200005	2 H12HA24819-10-00	Contract # 537-18-0013-00001 (State Funds)
4. Federal Award Date	Original Award: January 2022 (Subject to #2 CFR 200)	February 2022 (Subject to #2 CFR 200)	July 2022 (Subject to #2 CFR 200)	May 2022
5. Subaward Period of Performance Start and End Date	March 1, 2022 - February 28, 2023	April 1, 2022 - March 31, 2023	August 1, 2022 - July 31, 2023	September 1, 2022 - August 31, 2023
6. Amount of Federal Funds Obligated by This Action	\$0	\$0	\$14,000	\$0
7. Total Amount of Federal Funds Obligated to the Subrecipient	\$1,449,179	\$343,835	\$14,000	\$120,138
8. Total Amount of the Federal Award	\$5,181,236	\$1,718,966	\$566,009	\$438,069
9. Federal Award Project Description, as required by FFATA	HIV Emergency Relief Project Grants	Pass-through Grant from HRSA through DSHS for HIV & AIDS Services	Ryan White Part D Women, Infants, Children, Youth and Affected Family Members	HIV/SRVS HIV/STD Prevention and Care Branch State Services
10. Name of Federal Awarding Agency	Health Resources & Service Administration (HRSA)	Pass-through from HRSA to Texas Department of State Health Services (DSHS)	Health Resources & Service Administration (HRSA)	Pass-through from HRSA to Texas Department of State Health Services (DSHS)
11. Pass-Through Entity	Tarrant County	Tarrant County	Tarrant County	Tarrant County
12. Contact Information for Awarding Official	Tarrant County 100 E. Weatherford Street Fort Worth, TX 76196-0001	Tarrant County 100 E. Weatherford Street Fort Worth, TX 76196-0001	Tarrant County 100 E. Weatherford Street Fort Worth, TX 76196-0001	Tarrant County 100 E. Weatherford Street Fort Worth, TX 76196-0001
13. CFDA Number and Name	93.914 HIV Emergency Relief Project Grants	93.917 HIV Care Formula Grants	93.153 Ryan White Part D Provides HIV/AIDS Services to Women, Infants, Children, Youth and Affected Family Members	HIV/SRVS HIV/STD Prevention and Care Branch State Services
14. Identification if the Award is R&D	N/A	N/A	N/A	N/A
15. Indirect Cost Rate	N/A	N/A	N/A	N/A