



Jeffrey A. Meyers
Commissioner

Lisa M. Morris
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-4827 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

October 22, 2018

20 mac

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Public Health Services, Breast & Cervical Cancer Program (BCCP), to make unencumbered payments not to exceed \$1,838,160 to statewide providers that enter into service agreements with the BCCP to provide breast and cervical cancer screening and diagnostic services, effective upon the date of Governor and Council approval, whichever is later, through June 30, 2022. 63% Federal Funds. 37% General Funds.

Funds are available in the following account for SFY 2019; and are anticipated to be available in SFY 2020, SYF 2021, and SFY 2022, upon the availability and continued appropriation of funds in the future operating budgets, with authority to adjust amounts within the price limitation and adjust encumbrances between State Fiscal Years through the Budget Office without approval from Governor and Executive Council, if needed and justified.

05-95-90-Activity# 902010-Accounting Unit#56590000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, Bureau of Population Health and Community Services, Comprehensive Cancer.

Fiscal Year	Class/Account	Class Title	Job Number	Total Amount
SFY 19	102/500731	Contracts for Prog Svc	90080081	\$459,540
SFY 20	102/500731	Contracts for Prog Svc	90080081	\$459,540
SFY 21	102/500731	Contracts for Prog Svc	90080081	\$459,540
SYF 22	102/500731	Contracts for Prog Svc	90080081	\$459,540
			Total	\$1,838,160

EXPLANATION

The goal of the Breast and Cervical Cancer Program (BCCP) is to reduce morbidity and mortality from breast and cervical cancer in New Hampshire. This goal is accomplished by enrolling clients for screening and diagnostic tests who would not otherwise have access to these services. The

BCCP has been providing screening statewide since 1997, as authorized by the Breast and Cervical Cancer Mortality Prevention and Treatment Act.

The BCCP provides support for breast and cervical cancer screening services that include clinical examinations, pap smears and referral for mammography. The intended audience for the services is clients who are uninsured or under-insured and living at or below 250% of the federal poverty level, between the ages of 21 and 64. Through this program, clients found to have abnormal screening results following their testing receive additional coverage for diagnostic work-up. If necessary, their care is coordinated through the initiation of treatment. Clients are encouraged to return for screening per the United States Preventive Services Task Force Guidelines and to re-enroll in the BCCP if they continue to meet the eligibility criteria. The BCCP program is also a Medicaid pathway to allow those diagnosed through the program to become Medicaid eligible if certain criteria are met.

In 2014, cancer was the leading cause of death in New Hampshire. Breast cancer incidence rates in the state continue to be higher than the national levels, with New Hampshire ranking second highest in the country. Breast cancer is the most frequently diagnosed cancer among women in New Hampshire and in the United States.

Cervical cancer is one of the only preventable cancers when abnormal cells are found through a Pap test. The majority of women in New Hampshire receive routine screening for cervical cancer (85.3%) and New Hampshire is the state with the lowest incidence rate of cervical cancer. Nearly 77% of cervical cancers are diagnosed at the localized stage when the five-year survival rate is 91.3%. Equally important are the number of precancerous cells detected and removed prior to the development of cervical cancer. The early detection of breast and cervical cancer through screening greatly improves cancer patients' survival.

Between State Fiscal Years 2014 and 2018, 12,330 clients received services through the BCCP; 136 were diagnosed with breast cancer and 104 were diagnosed with cervical cancer. The Department seeks to continue to deliver breast and cervical cancer screening services statewide. Currently, there are twenty-two providers that have demonstrated reliable, effective and timely services.

The BCCP publishes a list of allowable Current Procedural Terminology (CPT) codes that providers may bill for clients enrolled in the program based on guidance from the Centers for Disease Control and Prevention (CDC). Rates for reimbursement of specific CPT codes are revised annually by the Centers for Medicare and Medicaid (CMS) and updated for the BCCP. Enrolled providers must submit required data related to enrolled clients and claim forms to the Department. Program staff review enrollment eligibility and data forms to ensure accuracy prior to authorizing the payment of all claims. All program enrollee data and billing information are entered into Med-IT, a web-based data and billing system, that has an interface to NH First. Med-IT has built-in functionality to audit for current provider agreements, remaining account balances, and completeness of enrollment and clinical data prior to payment for services. BCCP reimburses providers only for services actually provided. Once the total grant funds are expended for each fiscal year, no payments are made to any provider.

Soliciting competitive bids for these services through a Request for Proposals (RFP) process was not considered, as offering these services should be available to any provider who qualifies. In limiting the receipt of services to only those providers who have been approved through the RFP process, the Department would be limiting the provider network in most services areas. Enrolling all eligible providers through the Provider Agreement approval process is the best way to ensure access for all New Hampshire residents who require screening and diagnostic services for breast and cervical

cancer. The BCCP would like to offer all qualified providers the opportunity to serve participants in their service area. Any provider registered and in good standing with the New Hampshire Secretary of State's Office will be eligible to participate in this program after completing the Provider Agreement for the Breast and Cervical Cancer Program.

The Division of Public Health Services is requesting authority to make unencumbered payments to the participating providers that choose to engage in this joint effort, in accordance with the attached Provider Agreement that has been reviewed and approved by the Attorney General's Office. Given the large number of potential providers, and the efficient billing process that has already been established through Med-IT, this requested action will result in a more streamlined and efficient contracting process, which will prevent delays in the delivery of such important screening and diagnostic services.

Notwithstanding any other provision of the Contract to the contrary, no services shall be provided after June 30, 2022, and the Department shall not be liable for any payments for services provided after June 30, 2022.

Should the Governor and Executive Council not authorize this Request, the Department's ability to provide access to breast and cervical cancer and diagnostic services will be significantly diminished.

The following deliverables/performance measures/objectives will be used to measure the effectiveness of the Provider Agreements:

- 75% of all mammograms will be provided to program eligible women age 50-64 at all provider screening sites;
- 25% of all mammograms will be provided to eligible women under age 50 at all provider screening sites;
- 20% of newly enrolled women eligible for pap tests who have never had a pap test or have not had a pap test in over five years at all provider screening sites.

Area served: Statewide.

Source of Funds: 63% Federal funds from the Centers for Disease Control and Prevention (CDC). 37% General Funds.

In the event that the Federal (or Other) Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,



Lisa M. Morris
Director

Approved by:



Jeffrey A. Meyers
Commissioner



PROVIDER AGREEMENT

This Agreement dated this _____ day of _____ 20_____, is entered into by and between the State of New Hampshire, Department of Health and Human Services, Division of Public Health Services, Breast and Cervical Cancer Program (hereinafter referred to as the "State") and _____ (Vendor # _____), with a principal place of business of _____, (hereinafter referred to as the "Contractor"). This Agreement is effective upon the signature of both parties and the completion date is June 30, 2022, unless terminated earlier in accordance with Section 9 below.

WHEREAS, the State seeks to enter into a Provider Agreement for the provision of breast and cervical cancer screening and diagnostic services;

WHEREAS, the Contractor seeks to provide breast and cervical cancer screenings and diagnostic services in accordance with the terms and conditions set forth below;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions set forth herein, the parties agree as follows:

1. SCOPE OF SERVICES

- 1.1 The Contractor shall provide breast and cervical cancer screening services and diagnostic services to eligible clients as required by the State's Breast and Cervical Cancer Program (hereinafter referred to as "BCCP");
- 1.2 The Contractor shall identify staff members who will be responsible for BCCP enrollment, data submission, and reporting.
- 1.3 The Contractor shall determine eligibility for breast and cervical cancer screening services. In order for the Contractor to determine that a client is eligible for enrollment in the BCCP, a client must be:
 - 1.3.1 Between the ages of 21-64;
 - 1.3.2 Living at or below 250% of poverty according to the federal poverty guidelines;
 - 1.3.3 Uninsured or have a deductible or co-payment;
 - 1.3.4 A New Hampshire resident (or York county, or bordering town of Maine); and
 - 1.3.5 Ineligible for Medicare or not enrolled in Medicare Part B, if 65 years or older.
- 1.4 For each BCCP client enrolled by the Contractor, the Contractor shall complete the following forms provided by the State:
 - 1.4.1 Enrollment Form;
 - 1.4.2 Informed Consent Form;
 - 1.4.3 Screening Data Reporting Form;
 - 1.4.4 Diagnostic Data Reporting Form, if applicable;
 - 1.4.5 Medicaid Form, if applicable.
- 1.5 The Contractor shall submit the Enrollment Form referenced in Section 1.4.1 above to the BCCP within one week of the client's screening appointment.



- 1.6 The Contractor shall retain the original copy of the Informed Consent Form referenced in Section 1.4.2 above and shall provide a copy to the client. A copy shall also be provided to the BCCP upon request.
- 1.7 The Contractor shall submit the Screening Data Reporting Form referenced in Section 1.4.3 above to the BCCP within one week of receiving the client's screening results.
- 1.8 For each BCCP client enrolled by the Contractor who is referred for further procedures as a result of an abnormal Pap test, the Contractor shall complete a Cervical Cancer Diagnostic and Treatment Data Reporting Form provided by the BCCP. The Contractor shall forward this form to the BCCP within one week of determining the final disposition.
- 1.9 For each BCCP client enrolled by the Contractor who is referred for further procedures as a result of an abnormal clinical breast exam or mammogram, the Contractor shall complete a Breast Cancer Diagnostic and Treatment Reporting Form provided by the BCCP. The Contractor shall forward this form to the BCCP within one week of determining the final disposition.
- 1.10 The Contractor shall ensure that clients enrolled only for diagnostic procedures meet all eligibility requirements of the BCCP.
- 1.11 The Contractor shall enroll clients only for diagnostic testing if:
 - 1.11.1 The client has a symptom, found either by the client or by a provider, and the client was not enrolled in BCCP at the time; or
 - 1.11.2 The client received an abnormal screening test that is not funded by the BCCP and the client requires additional follow-up.
- 1.12 The Contractor shall provide case management for all clients enrolled for diagnostic procedures, from the definitive diagnosis through treatment and follow up.
- 1.13 The Contractor shall comply with the terms, policies and reporting requirements contained in the NH BCCP Policy and Procedures Manual, which may be accessed at the following address:
<https://www.dhhs.nh.gov/dphs/cdpc/documents/bccp-policy-procedure-manual>.

2. FEE SCHEDULE AND PAYMENT CONDITIONS

- 2.1 The Contractor shall complete and submit to the BCCP all required documentation described in Section 1.4 above.
- 2.2 The Contractor shall complete billing in accordance with Current Procedural Terminology (CPT) codes, as specified by the State in a Fee Schedule, which shall be reviewed and adjusted by the State annually. The State shall provide the Contractor with a copy of each revised Fee Schedule.
- 2.3 The Contractor shall submit either a CMS-1500 form or a UB-04 or a mutually agreed upon billing form to the State.



- 2.4 The Contractor agrees not to balance bill clients for services provided by the BCCP.
- 2.5 The Contractor shall mail, fax or email all invoices and required billing forms to the State at the following address:

Breast and Cervical Cancer Program
Division of Public Health Services
Attention: Billing
29 Hazen Drive, Concord, NH 03301-6504
(603) 271-0539 (facsimile)
DPHScontractbilling@dhhs.nh.gov

3. **CONDITIONAL NATURE OF AGREEMENT**

- 3.1 The Contractor acknowledges that this is a fee-for-service Agreement with an aggregate price limitation applicable to multiple vendors, and that no funds will be paid to the Contractor once the price limitation is reached.
- 3.2 Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments, in whole or in part under this Agreement are contingent upon the continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds.
- 3.3 In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination.

4. **PERSONNEL**

- 4.1 The Contractor shall, at its own expense, provide all personnel necessary to perform the Services in this Agreement. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services and shall be properly licensed and otherwise authorized to do so under all applicable laws.

5. **COMPLIANCE WITH LAWS AND REGULATIONS**

- 5.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including but not limited to, the Health Insurance Portability and Accountability Act, HIPAA; Pub. L. 104-191, 110 Stat. 1936 (1996), the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, and civil rights and equal opportunity laws.



6. DATA MANAGEMENT REQUIREMENTS

- 6.1 The Contractor shall manage all confidential information and confidential data related to this Agreement in accordance with the terms of Exhibit A, DHHS Information Security Requirements, which is attached hereto and incorporated by reference herein.

7. ASSIGNMENT/DELEGATION/SUBCONTRACTS

- 7.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the services shall be subcontracted by the Contractor without the prior written notice and consent of the Department.

8. LANGUAGE ASSISTANCE SERVICES

- 8.1 The Contractor shall provide language assistance services to any clients referred by the BCCP who have limited English proficiency and/or a hearing impairment.

9. RIGHT OF TERMINATION

- 9.1 Any one of the following acts or omissions of the Contractor shall constitute an "Event of Default:"
- 9.1.1 Failure to perform the Services satisfactorily or on schedule;
 - 9.1.2 Failure to submit any reports required in this Agreement;
 - 9.1.3 Failure to perform any other covenant, term, or condition of this Agreement.
- 9.2 Upon the occurrence of any Event of Default, the Department may take any one of the following actions:
- 9.2.1 Give the Contractor a written notice specifying the Event of Default, and requiring it to be remedied within thirty (30) days from the date of the notice; and if the Event of Default is not remedied timely, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
 - 9.2.2 Treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.
 - 9.2.3 This Agreement may be terminated by either party by providing a thirty (30) day written notice to the other party.



10. INDEMNIFICATION

10.1 The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, or arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State and shall survive the termination of this Agreement.

11. INSURANCE

11.1 General Liability: The Contractor shall, at its sole expense, obtain and maintain in force comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

11.2 Worker's Compensation: By signing this Agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of NH RSA Chapter 281-A.

12. CONSTRUCTION AND AGREEMENT AND TERMS

12.1 This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns.

13. CONTRACTOR'S RELATION TO THE STATE

13.1 In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

14. ENTIRE AGREEMENT

14.1 This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

New Hampshire Department of Health and Human Services
Provider Agreement for the Breast and Cervical Cancer Program



[Handwritten Signature]

Lisa Morris, Director
NH Division of Public Health Services

10/25/18
Date

[Handwritten Signature]

Jeffrey A. Meyers, Commissioner
NH Department of Health and Human Services

10/25/18
Date

The preceding Provider Agreement, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

[Handwritten Signature]

Name: *Megan A. Jacobs*
Title: *Attorney*

10/30/18
Date

I hereby certify that the preceding Provider Agreement was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting).

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:



DHHS Security Requirements

Exhibit A

A. Definitions

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
2. "Computer Security Incident" shall have the same meaning as "Computer Security Incident" in Section 2.1 of NIST Publication 800-61 Rev. 2, Computer Security Incident Handling Guide.
3. "Confidential Information" or "Confidential Data" means all information owned, managed, created, received from, or on behalf of, the Department of Health and Human Services (DHHS) that is protected by information security, privacy or confidentiality rules and state and federal laws.
4. "End User" means any person or entity (e.g. contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives Confidential Data or derivative therefrom in accordance with the terms of this Provider Agreement.
5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.
6. "Incident" means an act that potentially violates an explicit or implied security policy (which includes successful attempts) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic documents or mail.
7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted or Confidential Data.
8. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health



DHHS Security Requirements

Exhibit A

Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.

9. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.
10. "Virtual Private Network (VPN)" shall mean network technology that creates a secure, private connection between the device and endpoint; hiding IP address and encrypting all data in motion.

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as required or permitted as outlined under the Provider Agreement or is required by law.
2. The Contractor must not disclose any Confidential Information in response to a request for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure unless a subpoena requires such disclosure.
3. The Contractor agrees that Confidential Data or derivative therefrom disclosed to an End User must only be used pursuant to the terms of this Provider Agreement.
4. The Contractor, at DHHS's request, agrees to provide to the authorized representative of the State of New Hampshire physical and logical process procedures systems, documents and logs for the purpose of inspecting to confirm compliance with the terms of the Provider Agreement.

II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If Contractor is transmitting Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. Contractor may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting Confidential Data. With written exception from DHHS Information Security, encrypted thumb drives may be used.
3. Encrypted Email. Contractor may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.



DHHS Security Requirements

Exhibit A

4. Encrypted Web Site. If Contractor is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure (SSL encrypts data transmitted via a Web site).
5. File Hosting Services, also known as File Sharing Sites. Contractor may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data, without written exception from DHHS Information Security.
6. Ground Mail Service. Contractor may only transmit Confidential Data via *certified* ground mail within the continental U.S. and when sent to a named individual.
7. Open Wireless Networks. Contractor may not transmit Confidential Data via an open wireless network unless employing a secure method of transmission or remote access, which complies with the terms and conditions of Exhibit A, such as a virtual private network (VPN) must be used.
8. Remote User Communication. If Contractor is employing remote communication to access or transmit Confidential Data a secure method of transmission or remote access, which complies with the terms and conditions of Exhibit A, must be used.
9. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If Contractor is employing an SFTP to transmit Confidential Data, Contractor will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
10. Transport layer security protocol (TLS) may not be used to transmit Confidential Data without written exception from DHHS Information Security.
11. Wireless Devices. If Contractor is transmitting Confidential Data via wireless devices, all Confidential data must be encrypted to prevent inappropriate disclosure of information and devices password protected.

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

The Contractor will only retain the Confidential Data and any derivative of the Confidential Data for the duration of this Provider Agreement. After such time, the Contractor will have thirty (30) days to destroy the Confidential Data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Provider Agreement. If it is infeasible to return or destroy the Confidential Data, protections pursuant to Exhibit A survive this Provider Agreement.

A. Retention

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Provider Agreement outside of the United States. This physical location requirement shall also apply in the



DHHS Security Requirements

Exhibit A

implementation of cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.

2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department Confidential Information for contractor provided systems accessed or utilized for purposes of carrying out this Provider Agreement.
3. The Contractor agrees to provide or require security awareness and education for/of its End Users in support of protecting Department Confidential Information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2.
5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP /HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the current, updated, and maintained anti-malware (e.g. anti-viral, anti-hacker, anti-spam, anti-spyware) utilities. The environment, as a whole, must have aggressive intrusion-detection and firewall protection.
6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its subcontractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U.S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.
2. Unless otherwise specified, within thirty (30) days of the termination of this Provider Agreement, Contractor agrees to destroy all hard copies of Confidential



Data using a secure method such as shredding.

3. Unless otherwise specified, within thirty (30) days of the termination of this Provider Agreement, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

IV. PROCEDURES FOR SECURITY

- A. Contractor agrees to safeguard the Confidential Data under this Provider Agreement, and any derivative data or files, as follows:
 1. The Contractor will maintain proper security controls to protect Confidential Information collected, processed, managed, and/or stored in the delivery of contracted services.
 2. The Contractor will maintain policies and procedures to protect Confidential Information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).
 3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Confidential Information where applicable.
 4. If the Contractor will be subcontracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will ensure End User(s) will maintain an internal process or processes that defines specific security expectations and monitoring compliance for security requirements that at a minimum, match those for the Contractor, including breach notification requirements.
 5. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable subcontractors prior to system access being authorized.
 6. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.
 7. The Contractor will not store State of New Hampshire or Department data offshore or outside the boundaries of the United States without written exception from DHHS Information Security.
 8. Data Security Breach Liability. In the event of any Breach, Computer Security



DHHS Security Requirements

Exhibit A

Incident, and/or Incident, the Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from the Breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

9. Contractor must comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of Confidential Information at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) and 42 C.F.R. Part 2 that govern protections for individually identifiable health information and as applicable under State law.
10. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of security that is not less than the level and scope of security requirements established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at <https://www.nh.gov/doi/vendor/index.htm> for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.
11. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer and the State's Information Security Officer of any Breach, Computer Security Incident and/or Incident, within twenty-four (24) hours of the time that the Contractor learns of its occurrence, at the email addresses provided in Section VI of this Exhibit.
12. Contractor must restrict access to the Confidential Data obtained under this Provider Agreement to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Provider Agreement.
13. The Contractor is responsible for End User oversight and compliance with the terms and conditions of the Provider Agreement and Exhibit A.

V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer and the State's Information Security Officer of any Breaches, Computer Security Incidents, and/or Incidents within twenty-four (24) hours of the time that the Contractor learns of their occurrence.



DHHS Security Requirements

Exhibit A

DHHS reserves the right to conduct onsite inspections to monitor compliance with this Provider Agreement, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and federal regulations until such time the Confidential Data is disposed of in accordance with this Provider Agreement.

The Contractor must further handle and report Breaches, Computer Security Incidents, and Incidents involving protected health information (PHI) in accordance with the DHHS's documented Incident Handling and Breach Notification procedures and in accordance with the HIPAA Privacy and Security Rules. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

1. Identify Incidents;
2. Determine if personally identifiable information (PII) is involved in Incidents;
3. Report suspected or confirmed Incidents as required in this Exhibit A;
4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and
5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate personal information (PI) must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

VI. PERSONS TO CONTACT

A. DHHS Privacy Officer

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Information Security Officer

DHHSInformationSecurityOffice@dhhs.nh.gov