Contract

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
CONTRACT FOR BREAST AND CERVICAL SCREENING/DIAGNOSTIC SERVICES

1. **Parties to Contract** –

   1.1. Kansas Department of Health and Environment [KDHE]

   1.2. _____ [PROVIDER]

The Parties agree to the following terms and conditions:

2. **Purpose of Contract** –

   2.1. Facilitate access to and provide payment for KDHE Early Detection Works (EDW) breast and cervical cancer screening and diagnostic services to low income, uninsured/underinsured Kansas women

3. **Period of Contract** –

   3.1 This Contract is self-renewing and begins when signed by both parties and all required documents have been fully executed.

4. **Compensation** –

   4.1. PROVIDER will receive the current Medicare reimbursement rate for the services on the Allowable CPT Codes list. Current rates are available from KDHE Early Detection Works (EDW) staff or may be found on the KDHE EDW website at www.kdheks.gov/edw.

   4.2. Compensation is contingent upon KDHE's receipt of Federal funds to provide breast and cervical cancer services.

5. **Services and Duties to be Provided** – PROVIDER shall:

   5.1. Provide allowable breast and cervical services to women who have met eligibility requirements and who have received an enrollment number. This number must be referenced on all submissions to KDHE EDW. The enrollment number expires 4 months after it is issued.

   5.2. Bill KDHE EDW only for breast and cervical services as detailed on the Allowable CPT codes list.

   5.3. Refer only to other KDHE EDW contracted providers for those allowable services not available onsite.

   5.4. Offer all KDHE EDW clients an annual clinical breast examination and breast self-examination instruction.

   5.5. Offer all KDHE EDW clients a mammogram (screening or diagnostic) as recommended by the client's PROVIDER. Screening mammography is defined as two views: craniocaudal and medial lateral oblique views of each breast.

   5.6. Offer all KDHE EDW clients Pap tests based on current American Society for Colposcopy and Cervical Pathology (ASCCP) guidelines.

   5.7. Ensure that all breast and cervical examinations are carried out by an MD, DO or delegated to a Physician Assistant, Nurse Practitioner, or Nurse Clinician.

   5.8. Meet all Mammography Quality Standards Act (MQSA) guidelines. Results will be reported in language based upon the current American College of Radiology (ACR) lexicon.

5.9. Use Clinical Laboratory Improvement Act (CLIA) approved laboratories for interpretation of all laboratory tests. Pap test results will be reported using the current Bethesda system.

5.10. Provide the client with the results of all breast and cervical examinations within 14 days of receiving the test results. Facilitate diagnostic and follow up care in an efficient manner with appropriate diagnostic tests completed within 60 days.

5.11. Obtain signed EDW/Komen for the Cure Consents/Authorizations from each client for release of medical information in accordance with applicable state law. Consent/Authorization forms shall remain in the client's medical record.

5.12. Submit all payment requests to the KDHE EDW program within 30 days of services being provided. Payment requests shall be submitted using the EDW data system following training by KDHE EDW staff.

5.13. Submit claims to the client's insurance company for processing prior to submission of payment requests to KDHE EDW. Documentation of submission and payment or refusal (Explanation of Benefits) is required before KDHE EDW will process payment requests.

5.14. Submit KDHE EDW payment requests on behalf of other providers with whom they have negotiated an agreement for this purpose.

5.15. Acknowledge that as a condition of receiving federal funds, the PROVIDER or their fiscal agent(s) will not charge a KDHE EDW client for any services provided and covered by the KDHE EDW Program, nor refer any unpaid balance for the KDHE EDW covered services to a collection agency. This includes any such payments denied due to failure to submit payment requests per required timelines.

5.16. Notify KDHE EDW within 30 days of changes in EDW contact personnel.

5.17. Notify KDHE EDW of ownership changes and/or address changes within 30 days. A new W-9 from the new owner will be required. New owners agree to abide by the terms of the existing Contract until all previously provided KDHE EDW services have been paid.

5.18. Provide necessary information for the resolution of payment requests within 30 days. Payment requests involving resolution will not be considered complete until all issues have been resolved.

5.19. Keep EDW data system log-ins and passwords confidential to the user.

5.20. Provide information to KDHE EDW for quality assurance reviews and program evaluation to the extent necessary to satisfy federal and other grantor requirements.

5.21. Participate in scheduled site visits and required trainings to ensure the PROVIDER is in compliance with the terms of this Contract.

5.22. Assess the individual and household tobacco use status for women screened using KDHE EDW funding. Refer those who are tobacco users or who have tobacco users in their household to a tobacco cessation program. (A cessation program is available through KDHE. More information can be found at: http://www.kdheks.gov/tobacco/cessation.html). The CDC encourages health care providers to offer tobacco cessation information to all applicable patients and members of their household as a standard of practice, whether they are EDW clients or not.

5.23. Use appropriate safety measures, including physical and technical safeguards, and the technology, policy and procedures for its use, which reasonably protects the confidentiality, integrity and availability of data information and records obtained or maintained in the performance of this Contract.

5.24. Work to prevent the unauthorized access, use, disclosure, modification, destruction, or divulging in any other manner of the data, information and records obtained or maintained in the performance of this Contract, including personal client information received from recipients of services under this Contract, other than as provided for by this Contract or by applicable state and federal law. Any attempted or successful unauthorized access, use, disclosure, modification, or destruction, or divulging in any other

manner of the data, information and records obtained or maintained in the performance of this Contract which PROVIDER becomes aware of shall be reported to KDHE.

5.25. Provide appropriate supervision and training to its employees and agents to ensure compliance with access to and confidentiality and use of data, information and records obtained or maintained in the performance of this Contract, including but not limited to:

a) Complying with the confidentiality and access provisions of this Contract and

b) Protecting confidential data, software and equipment from unauthorized activities, including but not limited to unauthorized access, use, disclosure, modification, or destruction

6. **DUTIES OF KDHE** –

6.1. Pay the PROVIDER directly for breast and cervical cancer services as detailed on the Allowable Current Procedural Terminology (CPT) codes list and approved through KDHE EDW. Exceptions must be approved by KDHE EDW.

6.2. Provide training, technical assistance, trouble-shooting, and/or consultation to the PROVIDER upon request to help resolve issues with use of the data system, submission of payment requests, quality assurance and other aspects of the KDHE EDW program.

7. **Binding Attachments -**

7.1. The provisions found in Attachment A (Contractual Provisions Attachment) and Attachment B (Whistleblower and Non-Debarment Certification) are hereby incorporated in this Contract and made a part hereof. Such provisions shall take precedence over any contrary provisions of this Contract.

8. **Amendment –**

8.1. The terms of this Contract may be amended upon written request of either Party and signed by both Parties, referencing this provision and detailing the changed terms.

9. **Termination –**

9.1. A Party may terminate this Contract upon providing the other party with 30 day written notice.

9.2. KDHE may terminate this Contract without advance notice upon non-performance of the duties under this Contract on the part of PROVIDER or as otherwise provided above.

9.3. This Contract is contingent upon the availability of Federal funds. In the event that such funds are exhausted or no longer available, this Contract may be terminated by KDHE upon 30 day notice in writing and without penalty.

THE PARTIES, through duly authorized representatives, assent to the terms and conditions of this Contract and have executed it as of the date shown below.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT	**PROVIDER**_____
By:	By:
_____	_____
Susan Mosier, MD, MBA,FACS Secretary and State Health Officer	Printed Name _____ Title _____
_____ Date	_____ Date

Attachment A

State of Kansas
Department of Administration
DA-146a (Rev. 06-12)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions**: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation**: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **Disclaimer Of Liability**: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause**: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.
The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties**: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes**: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance**: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information**: **No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.**

12. **The Eleventh Amendment**: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

COMPLIANCE WITH THE "PILOT PROGRAM FOR ENHANCEMENT OF CONTRACTOR EMPLOYEE WHISTLEBLOWER PROTECTIONS"

Congress has enacted a law, found at 41 U.S.C. 4712, encouraging employees to report fraud, waste, and abuse. This law applies to all employees working for contractors, grantees, subcontractors and subgrantees on federal grants and contracts [for the purpose of this document, "Recipient of Funds"]. The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) mandated a pilot program entitled, "PILOT PROGRAM FOR ENHANCEMENT OF CONTRACTOR EMPLOYEE WHISTLEBLOWER PROTECTIONS". 41 U.S.C. 4712 has been amended, enacting a permanent extension of the pilot program.

This program requires all grantees, their subgrantees and subcontractors to:

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

Employees of a contractor, subcontractor, grantee [or subgrantee] may not be discharged, demoted, or otherwise discriminated against as 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 Recipient of Funds acknowledges that as a condition of receiving funds, it has complied with the terms of the "PILOT PROGRAM FOR ENHANCEMENT OF CONTRACTOR EMPLOYEE WHISTLEBLOWER PROTECTIONS", as amended, and has informed its employees in writing and in the predominant native language of the workforce, that by working on any Federal award, the employees are subject to the whistleblower rights and remedies.

NON-DEBARMENT CERTIFICATION AND WARRANTY

The Recipient of Funds acknowledges that KDHE is required to verify that any person or entity receiving funds has not been suspended, debarred or otherwise excluded from receiving federal funds. Verification may be accomplished by 1) checking the System for Award Management (SAM) at www.sam.gov; 2) obtaining a certification from the entity; or 3) by adding a clause or condition to the transaction.

The Recipient of Funds, as a condition of receiving funds, certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency, or by any department or agency of the State of Kansas.

Form **W-9**
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See **Specific Instructions** on page 2.

Name (as shown on your income tax return)

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification (required): ☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Other (see instructions) ▶

☐ Exempt payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

☐☐☐ – ☐☐ – ☐☐☐☐

Employer identification number

☐☐ – ☐☐☐☐☐☐☐

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here **Signature of U.S. person ▶** **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.