



## Uses and Disclosures of Protected Health Information (PHI)

### Policy # 2.7 Business Associates

Original Effective  
Date: 6/21/2016

Revised Date:  
10/24/2016

**Purpose:** Outline a policy and procedures for ensuring that Travis County has entered into appropriate business associate agreements and manages the business associate relationship appropriately.

**Policy:** Travis County executes business associate agreements that define the use and disposition or destruction of PHI that is shared with certain contractors so that they can provide services needed by one or more covered components.

#### **Procedures:**

##### About Business Associates

Travis County often requires the assistance of a third party to conduct the business of its covered components. When it is necessary for the third party to acquire, access, use or disclose PHI or the contractor “creates, receives, maintains, or transmits” PHI on behalf of a covered component to provide the services described in the contract, the third party is a “business associate” under HIPAA. Contractors that maintain or store PHI on behalf of a covered component are also business associates, even if they do not actually access, or use the PHI. Examples of these contractors include third party document scanning companies, document storage companies, \*and IT companies whose maintenance agreements require access that could include PHI.

HIPAA requires Travis County to enter into a contract, or “business associate agreement” (BAA) that defines how this PHI can be used by these contractors.

##### Solicitation Development or Contract Modification Requests

1. When a solicitation request is developed by a department or when a contract is modified in a way that results in a contractor’s need to acquire, access, use or disclose, create, receive, maintain, or transmit PHI on behalf of a covered component, project managers responsible for the request for a solicitation conduct a thorough review of information flows that could involve PHI related to the service. The Privacy Officer or Security Officer is available to assist these workforce members with this review.
2. When requesting the procurement from the Purchasing Agent, the Purchasing Agent’s designated Buyer, the project manager provides a copy of a completed Form 9, “Vendor BAA Assessment” to the

Privacy Officer for review by electronic mail with a copy to the designated Buyer. The Privacy Officer consults with any appropriate parties, including the Security Officer, to determine whether a Business Associate Agreement is required.

3. The Purchasing Agent includes appropriate information related to HIPAA and Travis County requirements in solicitations for services that result in new business associates.
  - a. If the preferred respondent to the solicitation is either unwilling or unable to comply with applicable HIPAA requirements, the workforce members must either select another respondent or project managers and workforce members must modify the requested service arrangement so that no PHI is acquired, accessed, used, disclosed, created, received, maintained, or transmitted by the preferred respondent on behalf of a covered component so that there are no applicable HIPAA requirements and a business associate agreement is no longer necessary.
4. The Buyer, the project manager, or other responsible workforce members must attempt to include the right to review all practices, policies and books of the business associate to ensure compliance in each business associate agreement.
5. If a workforce member becomes aware that an existing contractor might acquire, access, use, disclose create receive, maintain, or transmit PHI on behalf of a covered component and is unsure of whether or not a Business Associate Agreement is in place, the workforce member reports this information to the Privacy Officer as soon as possible and the contractor is consulted to determine whether the contractor does provide any of these services on behalf of a covered component. If so, the Purchasing Agent and project manager and other involved workforce members negotiate a modification to the services contract with the contractor and the County and contractor must enter into a business associate agreement unless other or additional remedies can be implemented.

#### Contract Award/Modification

1. The County Attorney's office develops the business associate agreement for execution in conjunction with services contracts in which the contractor will acquire, access, use, disclose create receive, maintain, or transmit PHI on behalf of a covered component.

#### Business Associate Database

1. The Purchasing Agent, or the Purchasing Agent's designee, maintains a list of Business Associates with copies of their Business Associate Agreements on a Sharepoint site. The Privacy Officer and the Security Officer, and others who might require access, have access to this site.

#### Breaches Reported by Business Associates

2. Business Associates are contractually required to report breaches to Travis County. Workforce Members that receive reports of breaches in performance of business associate agreements by business associates should immediately contact the Privacy Officer or the Security Officer.