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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF LONG TERM SUPPORTS AND SERVICES

Lori A. Weaver
Commissioner

Melissa A. Hardy
Director

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

September 29, 2023

The Honorable Ken Weyler, Chairman
Fiscal Committee of the General Court and

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

REQUESTED ACTION

Pursuant to the provisions of RSA 14:30-a, VI authorize the Department of Health and Human Services, Division of Long Term Supports and Services to accept and expend funds from the Centers for Medicare & Medicaid Services, entitled Money Follows the Person Rebalancing Demonstration, in the amount of $939,252 effective upon Fiscal Committee and Governor and Executive Council approvals through June 30, 2025. Funding source: 100% Federal Funds.

05-095-048-481010-89200000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS; HHS: DLTSS-ELDERLY & ADULT SVCS; GRANTS FOR SOCIAL SVC PROG; MONEY FOLLOWS THE PERSON

Class/Object	Class Title	Current Adjusted Authorized Budget	Increase /(Decrease) Amount	Revised Budget
Revenue				
000-400146 - 16	Federal Funds	$819,801	$939,252	$1,759,053
	General Funds	$0	$0	$0
	Total Revenue	$819,801	$939,252	$1,759,053
Expense				
020 - 500200	Current Expenses	$2,640	$0	$2,640
038 - 500175	Technology Software	$200	$0	$200
039 - 500188	Telecommunications	$4,800	$0	$4,800
041 - 500801	Audit Fund Set Aside	$862	$917	$1,779
042 - 500620	Additional Fringe Benefits	$14,834	$0	$14,834
059 - 500117	Temp Full Time	$171,691	$21,000	$192,691
060 - 500601	Benefits	$80,199	$0	$80,199
070 - 500705	In State Travel Reimburseme	$3,584	$0	$3,584
074 - 500589	Grants for Pub Asst and Rel	$530,491	$917,335	$1,447,826
080- 500710	Out Of State Travel Reimb	$10,500	$0	$10,500
	Total Expense	$819,801	$939,252	$1,759,053

EXPLANATION

This request is being made to accept and expend awarded grant funds to administer the Money Follows the Person (MFP) Rebalancing Demonstration Program. The Department of Health and Human Services (DHHS), Bureau of Elderly and Adult Services (BEAS) submitted a proposal to receive funding under a new opportunity titled Money Follows the Person Demonstration Expansion. On August 16, 2022, BEAS was notified funding would be available to New Hampshire for a planning phase with an anticipated start date of September 1, 2022. BEAS has begun the Planning Phase during which BEAS is working with an MFP Stakeholder Consultative Group to design and develop an MFP Demonstration that supports and strengthens the home and community based system of care for New Hampshire's older adults and adults with chronic illnesses. BEAS will also have the opportunity to implement capacity building initiatives during and after the Planning Phase. Funding has been made available for planning and capacity building for up to $5 million through the project period that ends September 30, 2026. The authority for the MFP Demonstration is section 6071 of the Deficit Reduction Act of 2005.

Over the past two decades, DHHS has leveraged multiple federal funding opportunities to advance long term supports and services (LTSS) system reform, including earlier rounds of MFP funding to establish the NH Community Passport Program (CPP) in 2007. CPP helped nearly 300 individuals transition from nursing homes to community settings between 2007-2015. Today, the Choices for Independence waiver program, which helps older adults and adults with chronic illnesses to continue living independently, continues CPP's focus to provide the necessary services and supports for people to age in place.

The Project Director convenes an MFP Consultative Group of internal and external stakeholders to support the planning and implementation of the MFP Demonstration. The Department contracts with The Center on Aging and Community Living (CACL) at the University of New Hampshire (UNH) to support the system assessment and gap analysis of home and community-based services (HCBS) and facilitate a process to develop an MFP Operational Protocol (OP). The OP will be a clear plan for using funds to advance state rebalancing strategies, including direct service workforce challenges, i.e., workforce capacity, recruitment, retention, and training needs. The OP will also outline a strategy for identifying and enrolling participants, including partnering with and training transition coordination and housing support providers. The OP will outline how BEAS will collaborate with providers and ensure services are delivered in a person-centered, coordinated fashion and will leverage cross-agency collaboration with state and local housing agencies, community-based organizations, social service agencies, aging/disability networks, and HCBS beneficiaries. BEAS also contracts with CACL for technical support with data and evaluation throughout the grant, including implementing the National Core Indicators – Aging and Disability.

During the planning phase, DHHS will use MFP funds to engage technical experts and contracts with Human Services Research Institute (HSRI) to provide a Home and Community Based System (HCBS) assessment, gap analysis and recommendations and assess nursing facility bed needs and capacity. HSRI will provide recommendations on what additional providers or services are needed, particularly for self-directed services and equitable care for historically underserved communities. This process will include identifying barriers to HCBS capacity and develop partnerships and strategies to address them.

The funds are to be budgeted as follows:

Funds in class 041, Audit Fund Set Aside, for financial and compliance audits.

Funds in class 059, Temp Full Time, are needed to pay for two (2) full-time temporary positions titled Administrator IV (LG 33 – Position #9T3285) and Business Systems Analyst I (LG 28 – Position #9T3286).

Funds in class 074, Grants for Pub Asst and Rel, are to contract with the CACL at UNH to provide project support. BEAS has a successful history of working with CACL on related projects. CACL is well positioned to support the MFP process, leveraging its effective relationships with a range of stakeholders. In addition,

funds are being used to contract with HSRI. The Department selected the Contractor through a competitive bid process using a Request for Proposals (RFP) that was posted on the Department's website from March 10, 2023 through April 7, 2023. HSRI will perform a system assessment and gap analysis that looks at a range of demographic data, including race and ethnicity, age, and gender at the state and county levels.

Area served: Statewide.

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

Respectfully Submitted,

For:

Lori A. Weaver
Commissioner

Division for Long Term Supports and Services
Money Follows the Person

Fiscal Situation: Account 05-95-48-481010-89200000

Agency Income:	
Grant Award 1LICMS331877	$5,000,000.00
Total Funds Available	**$5,000,000.00**
SFY 23 Expenses	($141,802.24)
Prior Fiscal Year Expenses	**($141,802.24)**
SFY 2023 Adjusted Authorized Appropriations	($819,801.08)
Year 3 to 5 of Grant Budget Amount	($2,575,313.00)
Allocated Indirect Costs	($515,165.00)
Total Appropriations	**($3,910,279.08)**
Net Grant Funds Remaining	$947,918.68
This Request	**$939,252.00**

Department of Health and Human Services

Centers for Medicare & Medicaid Services

Notice of Award

Award# 1LICMS331877-01-00
FAIN# 1LICMS331877
Federal Award Date: 08/22/2022

Recipient Information

1. Recipient Name
HEALTH AND HUMAN SERVICES, NEW HAMPSHIRE DEPT OF
129 Pleasant St
New Hampshire Dept of Health and Human Services
Concord, NH 03301-3852
[NO DATA]

2. Congressional District of Recipient
02

3. Payment System Identifier (ID)
1026000618B5

4. Employer Identification Number (EIN)
026000618

5. Data Universal Numbering System (DUNS)
011040545

6. Recipient's Unique Entity Identifier (UEI)
LA2HR1U97VC6

7. Project Director or Principal Investigator
Ms. Wendi Aultman
Wendi.Aultman@dhhs.nh.gov
603-271-9068

8. Authorized Official
Melissa Hardy
Director Division of Long-Term Support - Services
melissa.a.hardy@dhhs.nh.gov
603-271-0643

Federal Agency Information

Office of Acquisitions and Grants Management

9. Awarding Agency Contact Information
Ms. Courtney Whitten
Grants Management Specialist
courtney.whitten@cms.hhs.gov
410-786-0362

10. Program Official Contact Information
Mr. Jeffrey Clopein
Project Officer
jeffrey.clopein@cms.hhs.gov
410-786-7252

Federal Award Information

11. Award Number
1LICMS331877-01-00

12. Unique Federal Award Identification Number (FAIN)
1LICMS331877

13. Statutory Authority
Section 6071 of the DRA of 2005

14. Federal Award Project Title
Welcome Home: Expanding Home and Community Based Care for Older Adults in New Hampshire

15. Assistance Listing Number
93.791

16. Assistance Listing Program Title
Money Follows the Person Rebalancing Demonstration

17. Award Action Type
New

18. Is the Award R&D?
No

Summary Federal Award Financial Information

19. Budget Period Start Date	09/01/2022 - End Date 09/30/2026	
20. Total Amount of Federal Funds Obligated by this Action		$5,000,000.00
20a. Direct Cost Amount		$4,484,835.00
20b. Indirect Cost Amount		$515,165.00
21. Authorized Carryover		$0.00
22. Offset		$0.00
23. Total Amount of Federal Funds Obligated this budget period		$0.00
24. Total Approved Cost Sharing or Matching, where applicable		$0.00
25. Total Federal and Non-Federal Approved this Budget Period		$5,000,000.00
26. Period of Performance Start Date	09/01/2022 - End Date 09/30/2026	
27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Period of Performance		$5,000,000.00

28. Authorized Treatment of Program Income
ADDITIONAL COSTS

29. Grants Management Officer - Signature
Mrs. Monica Anderson
Grants Management Officer

30. Remarks

See Remarks (continuation)

Department of Health and Human Services

Centers for Medicare & Medicaid Services

Notice of Award

Award# 1LICMS331877-01-00
FAIN# 1LICMS331877
Federal Award Date: 08/22/2022

Recipient Information

Recipient Name
HEALTH AND HUMAN SERVICES, NEW HAMPSHIRE DEPT OF
129 Pleasant St
New Hampshire Dept of Health and Human Services
Concord, NH 03301-3852
[NO DATA]

Congressional District of Recipient
02

Payment Account Number and Type
1026000618B5

Employer Identification Number (EIN) Data
026000618

Universal Numbering System (DUNS)
011040545

Recipient's Unique Entity Identifier (UEI)
LA2HR1U97VC6

31. Assistance Type
Cooperative Agreement

32. Type of Award
Other

33. Approved Budget (Excludes Direct Assistance)

I. Financial Assistance from the Federal Awarding Agency Only
II. Total project costs including grant funds and all other financial participation

a. Salaries and Wages	$945,917.00
b. Fringe Benefits	$523,596.00
c. Total Personnel Costs	$1,469,513.00
d. Equipment	$0.00
e. Supplies	$23,080.00
f. Travel	$66,440.00
g. Construction	$0.00
h. Other	$30,602.00
i. Contractual	$2,895,200.00
j. TOTAL DIRECT COSTS	$4,484,835.00
k. INDIRECT COSTS	$515,165.00
l. TOTAL APPROVED BUDGET	$5,000,000.00
m. Federal Share	$5,000,000.00
n. Non-Federal Share	$0.00

34. Accounting Classification Codes

FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	OBJECT CLASS	CFDA NO.	AMT ACTION FINANCIAL ASSISTANCE	APPROPRIATION
2-5991736	MFP331877A	1LI	412K	93.791	$5,000,000.00	75-2023-0516

Remarks (Continuation)

This notice of award approves application dated 05/26/2022 for MFP Expansion Planning Grant funding. The MFP approved budget is $5,000,000. The total financial assistance for this action and to be funded is $5,000,000. The recipient has the calendar year awarded plus up to 4 additional fiscal years to expend this funding. An annual budget is required.

The updated CMS Standard Terms and Conditions dated 07.01.2022, the Recipient-specific terms and conditions and the MFP Program Terms and Conditions are attached.

AWARD ATTACHMENTS

HEALTH AND HUMAN SERVICES, NEW HAMPSHIRE DEPT OF 1LICMS331877-01-00

1. CMS Standard Terms and Conditions 07.01.2022
2. Recipient Specific Terms and Conditions_New Hampshire
3. MFP Program Terms and Conditions 2022

Centers for Medicare & Medicaid Services
Standard[1] Grant/Cooperative Agreement[2] Terms and Conditions

GENERAL

1. **Recipient.** The Recipient is the non-federal entity that receives a Federal award directly from CMS to carry out an activity under this Federal program.

2. **Acceptance of Application & Terms of Agreement.** By drawing or otherwise obtaining funds from the Health and Human Services (HHS) Payment Management System, the recipient acknowledges acceptance of the terms and conditions of the award and is obligated to perform in accordance with the requirements of the award. If the recipient cannot accept the terms, the recipient should notify the Grants Management Officer (GMO) within thirty (30) days of receipt of this award notice. Once an award is accepted by a recipient, the contents of the Notice of Award (NoA) are binding on the recipient unless and until modified by a revised NoA signed by the GMO.

   Certification Statement: By drawing down funds, the recipient certifies that proper financial management controls and accounting systems, to include personnel policies and procedures, have been established to adequately administer Federal awards and funds drawn down. Recipients of Department of Health and Human Services' (DHHS) grants or cooperative agreement awards must comply with all terms and condition of their awards, including: (a) terms and conditions included in the HHS Grants Policy Statement in effect at the time of a new, noncompeting continuation, or renewal award, including the requirements of HHS grants administration regulations; (b) requirements of the authorizing statutes and implementing regulations for the program under which the award is funded; (c) applicable requirements or limitations in appropriations acts; and (d) any requirements specific to the particular award specified in program policy and guidance, the Notice of Funding Opportunity (NOFO), or the Notice of Award (NoA) including Standard and Program Terms and Conditions, and as applicable, Recipient Specific Terms and Conditions.

3. **Funding for Recipients.** All funding provided under this award shall be used by the Recipient exclusively for the program referenced in the Notice of Award and described in the Notice of Funding Opportunity and delineated in the Recipient's approved application. This includes any approved revisions, as applicable, made subsequent to the Recipient's approved application.
   - Per 45 CFR §75.309(a), a non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance (except as described in 45 CFR §75.461) and any costs incurred before the HHS awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.
   - Funds available to pay allowable costs during the period of performance include both Federal funds awarded and carryover balances.

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[1] Standard Terms and Conditions include all possible grants administrative requirements for CMS awards. All standard terms and conditions apply unless the requirement is not applicable based on the project awarded. Recipients should contact their assigned Grants Management Specialist if they have questions about whether an administrative term and condition applies.

[2] A Cooperative Agreement is an alternative assistance instrument to be used in lieu of a grant whenever substantial Federal involvement with the recipient during performance is anticipated. The difference between grants and cooperative agreements is the degree of Federal programmatic involvement rather than the type of administrative requirements imposed. Therefore, statutes, regulations, policies, and the information contained in these Standard Terms and Conditions that are applicable to grants also apply to cooperative agreements, unless otherwise stated.

- Federal award funds must supplement, not replace (supplant) nonfederal funds. All recipients who receive awards under programs that prohibit supplanting by law must ensure that federal funds do not supplant funds that have been budgeted for the same purpose through non-federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-federal resources occurred for reasons other than the receipt of expected receipt of federal funds.
- Any funds used for any purpose other than for the approved program, including disallowed costs, should be returned to the United States Treasury. Instructions for returning funds including interest earned in excess of $500 are available at https://pms.psc.gov/grant-recipients/returning-funds-interest.html.

4. **Uniform Administrative Requirements, Cost Principles, and Audit Requirements.** The NoA issued is subject to the administrative requirements, cost principles, and audit requirements that govern Federal monies associated with this award, as applicable, in the Uniform Guidance – 2 Code of Federal Regulations (CFR) § 200 as codified by HHS at 45 CFR § 75.

5. **The HHS Grants Policy Statement (HHS GPS).** This award is subject to the requirements of the HHS GPS that are applicable to the Recipient based on the Recipient type and the purpose of this award [available at http://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf]. The general terms and conditions in the HHS GPS will apply as indicated unless there are statutory, regulatory, or award-specific requirements to the contrary.

6. **Fraud, Waste, and Abuse.** The HHS Office of the Inspector General (OIG) maintains a toll-free number (1-800-HHS-TIPS [1-800-447-8477]) for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements as well as the HHS OIG website at https://oig.hhs.gov/fraud/report-fraud/index.asp. Information also may be submitted by email to hhstips@oig.hhs.gov or by mail to Office of the Inspector General, U.S. Department of Health & Human Services, Attn: HOTLINE, 330 Independence Ave., SW, Washington, DC 20201. Such reports are treated as sensitive material and submitters may decline to give their names if they choose to remain anonymous.

7. **Medicare and Medicaid anti-kickback statute (42 U.S.C. § 1320a-7b(b) (PDF - 250 KB).** Recipient is subject to this statute and acknowledges there is a risk of criminal and administrative liability under this statute, specifically under 42 U.S.C. § 1320-7b(b) Illegal remunerations. This statute states, in part, that:

   Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

   shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

   a. in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a federal health care program, or

   b. in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a federal health care program,

8. **Payment.** The Division of Payment Management (DPM) does not award grants. The issuance of grant awards and other financial assistance is the responsibility of the awarding agencies. Once an award is made, the funds are posted in recipient accounts established in the

Payment Management System (PMS). Recipients may then access their funds by using the PMS funds request process.

The PMS funds request process enables Recipients to request funds using a Personal Computer with an Internet connection. The funds are then delivered to the recipient via Electronic Funds Transfer (EFT). If you are a new grant recipient, please go to https://pms.psc.gov/grant-recipients/access-newuser.html to find information to register in PMS. If you need further help with that process, please contact the One-DHHS Help Desk via email at pmssupport@psc.gov or call (877) 614-5533 for assistance.

9. **GrantSolutions and email addresses.** Recipients must have and maintain an account with GrantSolutions (GS) in order to communicate, receive, and obtain documentation from CMS. If the designated Recipient Authorized Organizational Representative (AOR) and Project Director (PD) do not already have accounts in GS, they should contact GS immediately upon receipt of award to complete a user account form. Any change in personnel with access to GS, must also be communicated to CMS and GS staff so that the key responsible individuals are current and correct within the GS system.

10. **Reservation of Rights.** Nothing contained in this Agreement is intended or shall be construed as a waiver by the United States Department of Justice, the Internal Revenue Service, the Federal Trade Commission, HHS Office of the Inspector General, or CMS of any right to institute any proceeding or action against Recipient for violations of any statutes, rules or regulations administered by the Government, or to prevent or limit the rights of the Government to obtain relief under any other federal statutes or regulations, or on account of any violation of this Agreement or any other provision of law. The Agreement shall not be construed to bind any Government agency except CMS, and this Agreement binds CMS only to the extent provided herein, unless prohibited by law. The failure by CMS to require performance of any provision shall not affect CMS's right to require performance at any time thereafter, nor shall a waiver of any breach or default result in a waiver of the provision itself.

ADMINISTRATIVE AND PUBLIC POLICY REQUIREMENTS

11. **Prior Approval Requirements.** CMS anticipates that the recipient may need to modify the recipient's award budget or other aspects of its approved application during performance to accomplish the award's programmatic objectives. In general, recipients are allowed a certain degree of latitude to rebudget within and between budget categories to meet unanticipated needs and to make other types of post-award changes, provided that the changes still meet the statutory program requirements and the regulatory requirements under 45 CFR 75, as applicable.

    Items that require prior approval (i.e. formal written approval) from the GMO, as stated in the Standard Terms and Conditions and HHS grant regulation 45 CFR 75, must be submitted in writing. Based on the nature, extent, and timing of the request, the GMO may approve, deny, or request additional material to further document and evaluate your request.

    A Recipient must request approval of post-award changes to its award through submission of an amendment in GrantSolutions (based upon the applicable change request). Only an amended NoA signed by the GMO is considered valid. Verbal authorization is not approval and is not binding on CMS. Recipients who proceed do so at their own risk.

    Amendment Type guidance:

- If budget revision change request impacts more than one budget category, utilize Revision (Budget) amendment type.
- If budget revision change request only impacts one budget category, utilize Revision (NoA Other) amendment type.
- If the change requested does not match a possible amendment type from the selection list in GrantSolutions, utilize Revision (NoA Other) amendment type.

Prior approval is required for <u>but is not limited to</u>:

- Changes in Key Personnel and Level of Effort,
- Budget Revisions (see also Standard Term and Condition *Revision of Budget and Program Plans*),
- Changes in Scope,
- Carryover Requests,
- Travel Requests (as detailed below)
    - For attendance at any conference[3], including those sponsored by CMS, recipients must submit a detailed breakdown of costs associated with attending the conference for prior written approval. All costs must be individually itemized. This breakdown should include all costs associated with travel to the conference and a brief narrative explaining the program related purpose/how attending the conference will further the objectives of the program.
    - <u>Note</u>: All federally funded travel must be tracked through a travel log which includes: traveler/position, destination, length of stay, mileage, per diem, reason for the trip, airfare, and any other reimbursable expenses. Recipients must also consult and comply with requirements outlined under 45 CFR §75.474, *Travel Costs*.
- Purchase of Technology
    - Purchase of technology items (both those classified as equipment and those classified as supplies), over an above that which is already approved in the budget must be approved by the Grants Management Officer (regardless of acquisition cost).
    - <u>Note</u>: All technology items, regardless of classification as equipment or supply must still be individually tagged and recorded in an equipment/technology data. This database should information any information necessary to properly identify and locate the item. For example, serial # and location of equipment (e.g. laptops, tablets, etc.).
- No Cost Extensions,
- Lifting of Funding Restrictions;
- Removal of Corrective Action Plans;
- any costs to support rearrangement, alteration, reconversion, or capital expenditures (refer to 45 CFR §§75.439 and 75.462).

Activities that require prior approval are further detailed in HHS grant regulation 45 CFR §§ 307 and 474.

12. Revision of Budget and Program Plans. Recipients must consult and comply with requirements outlined under 45 CFR §75.308, *Revision of budget and program plans*. Please

[3] OMB Memorandum M-12-12 employs, and HHS has adopted the following definition for a conference from the Federal Travel Regulation (FTR): A "conference" is defined as "[a] meeting, retreat, seminar, symposium or event that involves attendee travel. The term 'conference' also applies to training activities that are considered to be conferences under 5 CFR 410.404."

note that CMS is not waiving any prior approval requirements outlined in this section of the regulation or as stated in these Standard Terms and Conditions. Additionally, in accordance with §75.308(e), CMS requires prior approval for budget revisions where the transfer of funds among direct cost categories or programs, functions and activities in which the Federal share of the project exceeds the Simplified Acquisition Threshold ($250,000) and the **cumulative amount** of such transfers exceeds or is expected **to exceed 10 percent** of the total budget as last approved. CMS cannot permit a transfer that would cause any Federal appropriation to be used for purposes other than those consistent with the appropriation.

13. **Conflict of Interest Policies.** In accordance with 45 CFR §75.112, these terms and conditions establish the conflict of interest policy requirements for recipients receiving federal discretionary grant funding from CMS. Recipient must comply with the conflict of interest policy requirements outlined in **Attachment A** to these Standard Terms and Conditions.

14. **Bankruptcy.** In the event the Recipient or one of its subrecipients enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Recipient agrees to provide written notice of the bankruptcy to the CMS Grants Management Specialist and CMS Project Officer (PO). This written notice shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing and sent to the CMS Grants Management Specialist and PO. This notice shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, a copy of any and all of the legal pleadings, and a listing of Government grant and cooperative agreement numbers and grant offices for all Government grants and cooperative agreements against which final payment has not been made.

Public Policy Requirements

Public policy requirements are requirements with a broader national purpose than that of the Federal sponsoring program or award that an applicant/recipient must adhere to as a prerequisite to and/or condition of an award. Public policy requirements are established by statute, regulation, or Executive order. In some cases, these requirements relate to general activities such as preservation of the environment, while, in other cases they are integral to the purposes of the award-supported activities. An application funded with the release of federal funds through a grant award does not constitute or imply compliance with federal statute and regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulations.

Recipient should consult these terms and conditions, the applicable Appropriations Law, and Exhibit 3 of the HHS Grants Policy Statement, titled *Public Policy Requirements*, located in Section II, pages 3-6, for information on potential additional public policy requirements.

15. **Accessibility Provisions.** You must administer your project in compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age and, in some circumstances, religion, conscience, and sex (including gender identity, sexual orientation, and pregnancy). This includes taking reasonable steps to provide meaningful access to persons with limited English proficiency and providing programs that are accessible to and usable by persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. See https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.html and https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html.

    - You must take reasonable steps to ensure that your project provides meaningful access to persons with limited English proficiency. For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your

programs or activities by limited English proficient individuals, *see* https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html and https://www.lep.gov.

- For information on your specific legal obligations for serving qualified individuals with disabilities, including providing program access, reasonable modifications, and taking appropriate steps to provide effective communication, *see* http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html.

- HHS funded health and education programs must be administered in an environment free of sexual harassment, *see* https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html.

- For guidance on administering your project in compliance with applicable federal religious nondiscrimination laws and applicable federal conscience protection and associated anti-discrimination laws, *see* https://www.hhs.gov/conscience/conscience-protections/index.html and https://www.hhs.gov/conscience/religious-freedom/index.html.

Recipients should review and comply with the reporting and review activities regarding accessibility requests outlined in **Attachment B**, to these Standard Terms and Conditions.

16. **Prohibition on certain telecommunications and video surveillance services or equipment.** As described in CFR 200.216, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:

(1) Procure or obtain,

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

ii. Telecommunications or video surveillance services provided by such entities or using such equipment.

iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity

owned or controlled by, or otherwise, connected to the government of a covered foreign country.

17. **Human Subjects Protection.** If applicable to Recipient's program, the Recipient bears ultimate responsibility for protecting human subjects under the award, including human subjects at all sites, and for ensuring that a Federal-wide Assurance (FWA) approved by the Office for Human Research Protections (OHRP) and certification of Institutional Review Board (IRB) review and approval have been obtained before human subjects research can be conducted at each collaborating site. For more information about OHRP, FWA, and IRBs, please see the following link: http://www.hhs.gov/ohrp/index.html. Recipients may not draw funds from the payment system, request funds from the paying office, or make obligations against Federal funds for research involving human subjects at any site engaged in nonexempt research for any period not covered by both an OHRP-approved assurance and IRB approval consistent with 45 CFR Part 46. Costs associated with IRB review of human research protocols are not allowable as direct charges under grants and cooperative agreements unless such costs are not covered by the organization's indirect cost rate.

    HHS requires Recipients and others involved in grant/cooperative agreement-supported research to take appropriate actions to protect the confidentiality of information about and the privacy of individuals participating in the research. Investigators, IRBs, and other appropriate entities must ensure that policies and procedures are in place to protect identifying information and must oversee compliance with those policies and procedures.

18. **Nondiscrimination.** The Recipient and Subrecipients will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C.§§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

19. **Trafficking in Persons.** 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, refer to **Attachment C** to these Standard Terms and Conditions.

20. **Employee Whistleblower Protections.** As a recipient of this award you must comply with the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, 41 U.S.C. § 4712) "Enhancement of contractor protection from reprisal for disclosure of certain information," and 48 CFR part 3 subpart 3.9, "Whistleblower Protections for Contractor Employees." Note that use of the term "contract," "contractor," "subcontract," or "subcontractor" for the purpose of this term and condition, should be read as "grant,",

"grantee," "subgrant," or "subgrantee." For more information see: https://oig.hhs.gov/fraud/whistleblower/.

21. **Mandatory Disclosures.** Consistent with 45 CFR §75.113, applicants and recipients must disclose in a timely manner, in writing to CMS, with a copy to the HHS Office of the Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Additionally, subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to CMS and to the HHS OIG at the following addresses:

    U.S. Department of Health & Human Services
    Centers for Medicare & Medicaid Services
    Office of Acquisition and Grants Management
    Attn: Director, Division of Grants Management, Mandatory Grant Disclosures
    7500 Security Blvd, Mail Stop B3-30-03
    Baltimore, MD 21244-1850

    Materials should also be scanned and emailed to your Grants Management Specialist.

    AND

    U.S. Department of Health & Human Services
    Office of Inspector General
    ATTN: Mandatory Grant Disclosures, Intake Coordinator
    330 Independence Avenue, SW, Cohen Building
    Room 5527
    Washington, DC 20201

    Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or
    Email: MandatoryGranteeDisclosures@oig.hhs.gov

    Failure to make required disclosures can result in any of the remedies described in 45 CFR §75.371, *Remedies for noncompliance*, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

22. **Suspension and Debarment Regulations.** Recipient must comply with 45 CFR §75.213, which states that non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689 at 2 CFR parts 180 and 376. These regulations restrict awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

23. **FY 2022 Appropriations Provision.** U.S. Department of Health & Human Services (HHS) recipients must comply with all terms and conditions outlined in their grant award(s), including grant policy terms and conditions contained in applicable HHS Grants Policy Statements, and requirements imposed by program statutes and regulations, Executive Orders, and HHS grant administration regulations, as applicable; as well as any requirements or limitations in any applicable appropriations acts.

    This award is subject to the "Consolidated Appropriations Act, 2022" (Division H – Departments of Labor, Health and Human Services, and Education, and Related Agencies

Appropriations Act, 2022), see https://www.congress.gov/bill/117th-congress/house-bill/2471/text. Recipients must also review and comply with applicable General Provisions (refer to Division H, Title II, Department of Health and Human Services (see General Provisions 201-240) and Title V (see General Provisions 501-530) included within the Appropriations Law for the Department of Health and Human Services (HHS). These provisions may apply to all recipients of HHS federal funding OR may apply directly to recipients of federal funding from one or more HHS agencies. These provisions are available via https://www.congress.gov/bill/117th-congress/house-bill/2471/text.

As is noted under Division H, Title II, General Provisions, Section 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. This salary cap applies to direct salaries and to those salaries covered under indirect costs, also known as facilities and administrative (F & A) costs[4]. Please consult the following link to determine the applicable current salary cap: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/EX.pdf.

COST PRINCIPLES

Centers for Medicare and Medicaid Services (CMS) grant awards provide for reimbursement of actual, allowable costs incurred and are subject to the Federal cost principles. The cost principles establish standards for the allowability of costs, provide detailed guidance on the cost accounting treatment of costs as direct or indirect, and set forth allowability and allocability principles for selected items of cost.

Applicability of a particular set of cost principles depends on the type of organization. CMS recipients must comply with the cost principles set forth in HHS regulations at 45 CFR Part 75, Subpart E with the following exceptions: (1) hospitals must follow Appendix IX to part 75 and commercial (for-profit) organizations are subject to the cost principles located at 48 CFR subpart 31.2[5].

Guidelines for determining direct and F&A costs charged to Federal awards are provided in 45 CFR §§75.412 to 75.419. Requirements for development and submission of indirect (F &A) cost rate proposals and cost allocation plans are contained in Appendices III-VII and Appendix IX to Part 75.

For-profit entities which receive the preponderance of their federal awards from HHS may contact the Division of Financial Advisory Services (DFAS), Indirect Cost Branch, available at http://oamp.od.nih.gov/dfas/indirect-cost-branch to negotiate an indirect cost rate. Otherwise, for-profit organizations are limited to the 10% de minimis rate in accordance with 45 CFR §75.414(f).

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[4] Per the HHS Grants Policy Statement, page II-39 (Salaries and Wages), "If there is a salary limitation, it does not apply to consultant payments or to contracts for routine goods and services, but it does apply to subrecipients (including consortium participants)." Though the salary limitation does not apply to consultant costs, recipient must still provide justification to include examples of typical market rates for this service in your area.

[5] There are no cost principles specifically applicable to grants to for-profit organizations. Therefore, the cost principles for commercial organizations set forth in the FAR (48 CFR subpart 31.2) generally are used to determine allowable costs under CMS grants to for-profit organizations. As provided in those costs principles, allowable travel costs may not exceed those established by the FTR (available on-line at http://gsa.gov/portal/content/104790). The cost principles in 45 CFR 75, Appendix IX, determine allowable costs under CMS grants to proprietary hospitals.

24. **Prohibited Uses of Grant or Cooperative Agreement Funds.** The following list contains costs that are prohibited for all CMS programs. Recipient should consult the Program Terms and Conditions for other prohibited costs specific to the grant or cooperative agreement program.

- To match any other Federal funds.
- To provide services, equipment, or supports that are the legal responsibility of another party under Federal, State, or Tribal law (e.g., vocational rehabilitation or education services) or under any civil rights laws. Such legal responsibilities include, but are not limited to, modifications of a workplace or other reasonable accommodations that are a specific obligation of the employer or other party.
- To provide goods or services not allocable to the approved project.
- To supplant existing State, local, tribal, or private funding of infrastructure or services, such as staff salaries, etc.
- To be used by local entities to satisfy State matching requirements.
- To pay for construction.
- To pay for capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life as a direct cost except with the prior written approval of the Federal awarding agency.
- In accordance with 45 CFR §75.476, the cost of independent research and development, including their proportionate share of indirect costs, are unallowable.
- In accordance with 45 CFR §75.216(b), except for grants awarded under the Small Business Innovative Research (SBIR) and Small Business Technology Transfer Research (STTR) programs (15 U.S.C. 638), no HHS funds may be paid as profit to any recipient even if the recipient is a commercial (for-profit) organization. Profit is any amount in excess of allowable direct and indirect costs.
- To expend funds related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body.
    - Per 45 CFR §75.215, Recipients are subject to the restrictions on lobbying as set forth in 45 CFR §93.
    - Recipients must also comply with lobbying restrictions outlined in the applicable Appropriations Law.
- Costs of promotional items and memorabilia, including models, gifts, and souvenirs;
- Costs of advertising and public relations designed solely to promote the non-Federal entity.

POST AWARD MONITORING AND REPORTING

25. **Continued funding** is contingent on satisfactory progress, compliance with the terms and conditions, and the availability of funds. The NoA identifies the project period, which may include multiple 12-month budget periods. If a project period is comprised of multiple budget periods, the recipient must submit a non-competing continuation application each year as a prerequisite to continued funding.

Recipients must demonstrate satisfactory performance during the previous funding cycle(s) to be issued additional year funding; or, in the case of multi-year awards where all funding is

issued in the first year, to ensure continued access to funding. Recipients should refer to the NOFO and Program Terms and Conditions for additional information on satisfactory progress. Additionally, as is noted in 45 CFR Part 75, CMS will do a review of risks posed by applicants prior to award (applicant should review the factors in their entirety at §75.205). At-risk recipients, including those which do not comply with reporting requirements or have outstanding audit findings, may not receive a non-competing continuation award. Alternatively, recipients could receive decreased funding or their award could be terminated in accordance with 2 CFR 200.340 "Termination" if they fail to perform the requirements of the award.

26. **Reporting Requirements.** Recipients must comply with the reporting requirements outlined in the Standard and Program Terms and Conditions of award. Failure to submit reports on time may be basis for withholding financial assistance payments, suspension, termination or denial of continued funding. Recipient's failure to timely submit such reports may result in a designation of "high risk" for the recipient organization and may jeopardize potential future funding from the U.S. Department of Health & Human Services. The general information and guidance for financial and programmatic reporting provided below supplements the specifics included in the Program Terms and Conditions.

A. PROJECT AND DATA INTEGRITY

Recipient shall protect the confidentiality of all project-related information that includes personally identifying information.

The Recipient shall assume responsibility for the accuracy and completeness of the information contained in all technical documents and reports submitted. The CMS Project Officer shall not direct the interpretation of the data used in preparing these documents or reports.

At any phase in the project, including the project's conclusion, the Recipient, if so requested by the CMS Project Officer, must deliver to CMS materials, systems, or other items used, developed, refined or enhanced in the course of or under the award. The Recipient agrees that CMS shall have a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use and authorize others to use the items for Federal government purposes.

B. SYSTEM OF AWARD MANAGEMENT (SAM) AND UNIVERSAL ENTITY IDENTIFIER (UEI) REQUIREMENTS

This award is subject to the requirements of 2 CFR part 25, Appendix A which is specifically incorporated herein by reference. For the full text of 2 CFR part 25, refer to **Attachment D** to these Standard Terms and Conditions. Recipient must maintain current information in the system at all times when an award is active or if there is an application pending review. Recipient must review and update the information at least once a year after the initial registration to remain active, and more frequently if required by changes in the information. This requirement flows down to subrecipients and contractors under awards or subawards.

Note that **Appendix XII to 2 CFR 200** applies and recipients must accurately address the proceedings questions as part of the registration process in SAM. See also Standard Term and Condition, *Federal Awardee Performance and Integrity Information System (FAPIIS)*. Please consult the SAM website (https://www.sam.gov/SAM) for more information.

C. SUBAWARD REPORTING AND EXECUTIVE COMPENSATION (FFATA)

This award is subject to the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by Section 6202 of Public Law 110-252 and implemented by 2 CFR Part 170. Recipients must report information for each first-tier subaward of $30,000 or more in Federal funds and executive total compensation for the Recipient's and Subrecipients' five most highly compensated executives as outlined in Appendix A to 2 CFR Part 170. Information about the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) is available at www.fsrs.gov. For the full text of the award term, refer to **Attachment E** to these Standard Terms and Conditions.

D. FEDERL AWARDEE PERFORMANCE AND INTEGRITY INFORMATION SYSTEM (FAPIIS)

CMS award recipients are subject to the reporting requirements established by Public Law 112-239, National Defense Authorization Act for Fiscal Year 2013 and provided in **Appendix II to 2 CFR Part 200 and 45 CFR Part 75, Appendix XII**. CMS recipients that have currently active Federal grants, cooperative agreements, and procurement contracts from all Federal awarding agencies with a cumulative total value greater than $10,000,000 must report and maintain information in the System for Award Management (SAM) about civil, criminal, and administrative proceedings in connection with the award or performance of a Federal award that reached final disposition within the most recent five-year period. The recipient must also make semiannual disclosures regarding such proceedings. Proceedings information will be made publicly available in the designated integrity and performance system (currently FAPIIS). For the full text of the award term, refer to **Attachment F** to these terms and conditions.

E. FINANCIAL REPORTING

HHS recipients are required to record recipient expenses in real-time as well as submit semi-annual or annual expenditure FFRs as described below.

Recipients report on Federal expenditures, Recipient Share (if applicable), and Program Income (if applicable and/or allowable) at least annually via the Payment Management System. Instructions on how to complete the FFR can be found (after logging on) at: https://pms.psc.gov/pms-user-guide/federal-financial-report.html. Frequency of expenditure reporting, whether semi-annual or annual, is stipulated in the Program Terms and Conditions of award.

- Expenditures information is reflected through completion of lines 10.d through 10.o of the FFR.
- The expenditures FFR must also include information on indirect costs if approved as part of grant award (line 11).
- As appropriate, all lines of the form must be completed/verified. CMS will review and either approve or reject the expenditure report submitted. If rejected, Recipient must take appropriate action to correct the issue and resubmit the report.

Quarterly and semi-annual expenditure reports are due no later than 30 days following the applicable six-month period. Annual expenditure FFRs are due no later than 90 days following the applicable budget period end date or 12-month period for multi-year budget periods and final FFRs are due no later than 120 days following the project period end date.

The final FFR must show cumulative expenditures under the award and any unobligated balance of federal funds and as appropriate, all other parts of the form must be completed. The final expenditure report cannot show any unliquidated obligations.

Per 45 CFR §75.309(b), a non-Federal entity must liquidate all obligations incurred under the award not later than 120 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the final FFR. This deadline may be extended with prior written approval from the CMS Grants Management Specialist.

F. PROGRAMMATIC REPORTING

In accordance with 45 CFR §75.301, *Performance Measurement*, Recipients must relate financial data to performance accomplishments of the Federal award and provide cost information to demonstrate cost effective practices (e.g., through unit cost data). Performance will be measured in a way that will help CMS and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices.

G. PUBLIC REPORTING (STEVENS AMENDMENT)

Recipients, consistent with the language of the Stevens Amendment, when issuing statements, press releases, publications, requests for proposals, bid solicitations, and other documents – such as toolkits, resource guides, websites, and presentations (hereafter "statements") – describing the projects or programs funded in whole or in part with U.S. Department of Health and Human Services (HHS) federal funds, must clearly state: (1) the percentage and dollar amount of the total costs of the program or project which will be funded with Federal money; and (2) the percentage and dollar amount of the total costs of the project or program that is funded by non-governmental sources.

When issuing statements resulting from activities supported by HHS financial assistance, the recipient entity must include an acknowledgement of federal assistance using one of the following or a similar statement (see immediately below). For additional supplemental information, please see Standard Terms and Conditions 17. Acknowledgement of Sponsors.

If the HHS Grant or Cooperative Agreement is NOT funded with other non-governmental sources:

> This **[project/publication/program/website, etc.] [is/was]** supported by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling **$XX** with 100 percent funded by CMS/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by CMS/HHS, or the U.S. Government.

The HHS Grant or Cooperative Agreement IS partially funded with other nongovernmental sources:

> This **[project/publication/program/website, etc.] [is/was]** supported by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling **$XX** with **XX** percentage funded by CMS/HHS and **$XX** amount and **XX** percentage funded by non-government source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by CMS/HHS, or the U.S. Government.

The federal award total must reflect total costs (direct and indirect) for all authorized funds (including supplements and carryover) for the total competitive segment up to the time of the public statement.

Any amendments by the recipient to the acknowledgement statement must be coordinated with the HHS Awarding Agency.

If the recipient plans to issue a press release concerning the outcome of activities supported by HHS financial assistance, it should notify CMS in advance to allow for coordination.

H. ACKNOWLEDGEMENT OF SPONSORS (DISCLAIMER AND REVIEW REQUIREMENTS)

All publications, press announcements, posters, oral presentations at meetings, seminars, and any other information-dissemination format, including but not limited to electronic/digital media (e.g. social media platforms) that is related to this project must include a formal acknowledgement of support as well as a disclaimer as stated above in Standard Term and Condition 16. Public Reporting. It is the policy of the Department of Health and Human Services (HHS) that the results and accomplishments of the activities it funds should be made available to the public. The Recipient is expected to make the results and accomplishments of its activities available to the research community and to the public at large.

(a) The Recipient shall submit the following to the CMS Project Officer for review and comment unless specified otherwise in the Program Terms and Conditions:
   (i) At least 30 days prior to its release:
      - publications that report results from or describe information obtained through this award. Note: One copy of each publication, regardless of format, resulting from work performed under an HHS project must accompany the annual or final progress report submitted to CMS.
      - any external formal presentation of any report or statistical or analytical material based on information obtained through this award. Formal presentation includes papers, articles, professional publication, speeches, and testimony.
      - external presentation-related material, such as abstracts, power point presentations or other slide decks, posters, and videos.
      - all public materials specific to the program including but not limited to, brochures, recruitment materials, informational materials, advertisements, website copy, website pages, videos, and op-ed articles.
   (ii) At least 7 days prior to release:
      - any press release or media advisory concerning the outcome of activities supported through this award.
      - all media interviews, media requests, releases of information, filming, and broadcasts.

(b) For 1 year after completion of the project, the Recipient shall continue to submit for review and comment all publications, presentations, and communications resulting from this award or based on information obtained through this award, including papers, articles, professional publications, power point presentations, posters, speeches, announcements, and testimony in any format, including digital technology.

(c) It is the policy of the Department of Health and Human Services that the Recipient must communicate to CMS how the dollar amounts and funding percentages are calculated, including whether or not indirect costs have been incorporated. Recipient must submit this information to CMS for review and comment for each applicable type of result/accomplishment according to the same timeline schedule outlined in 17(a).

(d) Specifically excluded from the review and comment process are internal presentations, information discussions, in general, class lectures, and informal meetings and conversations with community leaders. However, if such a presentation or slide deck is later re-purposed for a public event, it will need to be submitted in advance for CMS review.

(e) One copy of each publication resulting from work performed under an HHS grant-supported project must accompany the final progress report.

I. USE OF DATA AND WORK PRODUCTS (REPORTING)

At any phase of the project, including the project's conclusion, the Recipient, if so requested by the CMS Project Officer, shall submit copies of analytic data file(s) with appropriate documentation, representing the data developed/used in end-product analyses generated under the award. The analytic file(s) may include primary data collected, acquired or generated under the award and/or data furnished by CMS. The content, format, documentation, and schedule for production of the data file(s) will be agreed upon by the Principal Investigator/Project Director and the CMS Project Officer. The negotiated format(s) could include both file(s) that would be limited to CMS's internal use and file(s) that CMS could make available to the general public.

All data provided by CMS will be used for the research described in this grant award only and in connection with the Recipient's performance of its obligations and rights under this program. Recipient has an obligation to collect and secure data for future monitoring by CMS. The Recipient will return any data provided by CMS or copies of data at the conclusion of the project. All proprietary information and technology of the Recipient are and shall remain the sole property of the Recipient.

In the course of this research, whenever the Principal Investigator/Project Director determines that a significant new finding has been developed, he/she will communicate it to the CMS Project Officer before formal dissemination to the general public. The Recipient shall notify CMS of research conducted for publication.

J. TANGIBLE PERSONAL PROPERTY REPORTING

The Tangible Personal Property Report (SF-428) is a standard form to be used by awarding agencies to collect information related to tangible personal property when required by a Federal financial assistance award. This form allows recipients to request specific disposition of federally-owned property and acquired equipment. This form also provides a means for calculating and transmitting appropriate compensation to CMS for residual unused supplies. The form consists of the cover sheet (SF-428) and three attachments to be used as required: Annual Report, SF-428-A; Final (Award Closeout) Report, SF-428-B; and a Disposition Request/Report, SF-428-C. A Supplemental Sheet, SF-428-S, may be used to provide detailed individual item information.

Recipients are required to complete the SF-428, SF-428-B and the SF-428-S (as applicable) at the time of award closeout. The report covers federally owned property, acquired equipment with an acquisition cost of $5,000 or more, and residual unused supplies with a total aggregate fair market value exceeding $5,000 not needed for any other federally sponsored programs or projects.

K. PATENTS AND INVENTIONS

In accordance with 45 CFR §75.322(c), all Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401. If applicable, Recipients must report any inventions on an annual basis using the non-competing continuation application or annual progress report for multi-year budget periods. A Final Invention Statement and Certification (Form HHS 568) must be completed and submitted within 120 days following the expiration or termination of a grant or cooperative agreement. The Statement must include all inventions which were conceived or first actually reduced to practice during the course of work under the grant or award, from the original effective date of support through the date of completion or termination. The Statement shall include any inventions reported previously for grants and cooperative agreements as part of a non-competing continuation application or annual progress report. Recipients must also provide details about all inventions that have been licensed but not patented, and include details on income resulting from HHS-funded inventions and patents. Unpatented research products or resources—research tools—may be made available through licensing to vendors or other investigators. Income earned from any resulting fees must be treated as program income. This reporting requirement is applicable to grants and cooperative agreements issued by the U.S. Department of Health & Human Services in support of research and research-related activities. For further guidance, please see the HHS Grants Policy Statement: *Patents and Inventions* and *Inventions Reporting*.

L. AUDIT REPORTING

The audit requirements in 45 CFR Part 75, Subpart F apply to each recipient fiscal year that begins on or after December 26, 2014. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with 45 CFR 75 and must submit an audit reporting package to the Federal Audit Clearinghouse (FAC), the OMB designated repository of record. In accordance with 45 CFR 75.513(c)(1), HHS grant awarding agencies are required to ensure that single or program-specific audits are completed and reported by recipients within nine months after the end of the audit period (recipient fiscal year end date). **Recipients must comply with the following:**

i. **Within 3 business days of submission of the audit reporting package to FAC**, provide certification (to include evidence of submission) as a Grant Note in GrantSolutions labeled: "HHS FAC Certification" (Subject)/ "FAC_CERT_mm.dd.yyyy" (File Name).;

OR

ii. **Upon the Recipient's audit reporting package deadline**, the Recipient must certify in writing to the GMS that their entity did not meet the $750,000 threshold during its FY. This certification is uploaded as a Grant Note in GrantSolutions labeled: "FAC Certification" (Subject)/ "FAC_CERT_mm.dd.yyyy" (File Name).
Records must still be available for review or audit by appropriate officials of CMS, pass-through entity, and Government Accountability Office (GAO).

For questions and information concerning the FAC submission process, please contact the Federal Audit Clearinghouse (entity which assists Federal cognizant and oversight agencies in obtaining audit data and reporting packages) at 888-222-9907 or https://harvester.census.gov/facweb/Default.aspx.

Commercial Organizations (for-profits including for-profit hospitals) should consult §75.216 for limitations on profit and program income. As explained in 45 CFR §75.501(i) and §75.216, commercial organizations have two options regarding audits:

(1) A financial related audit (as defined in the Government Auditing Standards, GPO Stock #020-000-00-265-4) of a particular award in accordance with Government Auditing Standards. In those cases where the recipient receives awards under only one HHS program, or, if awards are received under multiple HHS programs, a financial related audit of all HHS awards in accordance with Government Auditing Standards; or
(2) An audit that meets the requirement contained in 45 CFR part 75, subpart F (as explained above).

Commercial organizations should submit audits directly to the following electronic address:

AuditResolution@hhs.gov with a copy to KC_OIG_Audit@cms.hhs.gov and the Grants Management Specialist identified in box XX on the Notice of Award.

(Do not send audits for commercial organizations to the Federal Audit Clearinghouse (FAC).

As explained under 45 CFR§75.501(h), *For-profit subrecipient,* since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also §75.352 Requirements for pass-through entities.

For information related to potential consequences for failure to apply with the aforementioned audit requirements, please see Standard Term and Condition 33. *Remedies for Non-Compliance* and 45 CFR §75.371, *Remedies for noncompliance.*

SUBRECIPIENT PASS-THROUGH REQUIREMENTS

The recipient, as the awardee organization, is legally and financially responsible for all aspects of this award including funds provided to subrecipients, in accordance with 45 CFR § 75.351 – 75.352, Subrecipient monitoring and management.

27. **Subaward Reporting.** Refer to 31. Reporting Requirements, *Subaward Reporting and Executive Compensation (FFATA).*

28. **Affirmative Duty to Track All Parties to the Award.** Recipient must at a minimum regularly track all parties to the award in both the GSA database that is known as the System for Award Management (SAM) and The Office of the Inspector General (OIG) List of Excluded Individuals and Entities (LEIE). The purpose of this affirmative duty is to track all parties that include health care, commercial, non-profit, and other people and entities in order to report immediately to the CMS Project Officer (PO) and Grants Management Specialist those that cannot participate in federal programs or receive federal funds. The Recipient cannot have any persons or entities on the award that cannot participate in federal programs or receive federal funds. If any of these systems are not publicly available, then the Recipient

must comply with the purpose and intent of this requirement using a process that meets at least the level of scrutiny provided by these databases.

The Recipient shall provide the CMS PO and Grants Management Specialist with the National Provider Identifier (NPI), Tax ID, and EIN, as applicable, of all Key Personnel and/or Entities to the award that may include Subrecipients. This list shall be provided to CMS as a Grant Note in GrantSolutions within thirty (30) days from the start of the award and must be maintained up-to-date in real time throughout the award.

29. **Pass Through Entities, Subrecipients, and Contractors.** As outlined in 45 CFR §75.351, *Subrecipient and contractor determinations*, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or contractor. A pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (45 CFR §75.2, *Definitions*). As described in 45 CFR §75.351, a subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient while a contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics for both types of relationships are included in 45 CFR §75.351. All pass-through entities must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the information outlined in 45 CFR §75.352, *Requirements for pass-through entities,* at the time of subaward and if any of these data elements change, include the changes in subsequent subaward modifications.

30. **Subrecipient Equal Treatment.** The Recipient must comply with 45 CFR Part 87, including the provision that no State or local government Recipient nor any intermediate organization receiving funds under any program shall, in the selection of service providers, discriminate for or against an organization's religious character or affiliation.

31. **Recipient's Responsibility for Subrecipients.** The Recipient is responsible for the performance, reporting, and spending for each Subrecipient. The Recipient will ensure the timeliness and accuracy of required reporting for each site of service and Subrecipient under the award. The Recipient is responsible for the performance and progress of each site of service or Subrecipient toward the goals and milestones of the program. The Recipient will take necessary corrective action for any site of service or Subrecipient that is not meeting the goals and milestones of the program, as set forth in the NOFO.

REMEDIES FOR NONCOMPLIANCE

If a Recipient fails to comply with Federal statutes, regulations, or the terms and conditions of a Federal award, the HHS awarding agency or pass-through entity may impose additional conditions, as described in 45 CFR §75.207, *Specific award conditions*. If CMS or the pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, CMS or the pass-through entity may take one or more actions as set forth in 45 CFR §75.371, *Remedies for noncompliance*. Remedies include termination of the award.

32. **Termination.** The Federal award may be terminated in whole or in part as stated in 2 CFR § 200.340.

CMS may terminate this award, or any part hereof, if the Recipient fails to comply with the terms and conditions of this award, or provisions of law pertaining to agreement performance. CMS may also terminate the award if the recipient can no longer effectuate the program goals or agency priorities.

Alternatively, CMS and the recipient may terminate the award through mutual agreement, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. Alternatively, the recipient may notify CMS, or the pass-through entity, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated.

CLOSEOUT

33. **Withdrawal.** If the Recipient decides to withdraw from this award prior to the end of the project period, it must provide written notification (both hard copy and via email) to the CMS Grants Management Specialist at least fifteen (15) days in advance of the date of official withdrawal and termination of these terms. The letter must be signed by the AOR and other appropriate individuals with authority. CMS will not be liable for any withdrawal close-out costs that are borne by the Recipient. Recipients have three (3) days to return all unused grant funds.

34. **Disposition of Federally Owned Property, Equipment, and Residual Unused Supplies.** Upon completion (or early termination) of a project, Recipient must take appropriate disposition actions. Recipients of funding from CMS should proceed in accordance with the guidance provided within this term and condition.

    Recipient must complete and submit the **SF-428 Cover Letter, SF-428-B Tangible Personal Property Report, Final Report** (also see Standard Term and Condition #12, Reporting Requirements). The Tangible Personal Property Report (SF-428) is a standard form to be used by awarding agencies to collect information related to tangible personal property when required by a Federal financial assistance award. This form allows recipients to request specific disposition of federally-owned property and acquired equipment. This form also provides a means for calculating and transmitting appropriate compensation to CMS for residual unused supplies. As noted in 1.b of this report, if your agency is in possession of Federally-owned property or acquired equipment (defined as nonexpendable personal property with an acquisition cost of $5,000 or more under the award), you must also submit a **SF-428-S, Supplemental Sheet**, that lists and reports on all Federally-owned or acquired equipment under the specific grant or cooperative agreement award. If there is no tangible personal property to report, select "d." in section 1 of the SF-428-B and indicate "none of the above." Recipient must request specific disposition instructions from CMS if the Recipient has federally-owned property or if the following guidance is insufficient for the Recipient to properly complete disposition.

    - Items of equipment with a current per unit fair market value of $5,000 or less may be retained, sold or otherwise disposed of with no further obligation to CMS.
    - Except as provided in 45 CFR §75.319(b), items of equipment with a current per-unit fair market value in excess of $5,000 may be retained by the non-Federal entity or sold. If there is no longer a use for the equipment under the original project or program or for other activities currently or previously supported by CMS or other HHS awarding agencies, except as otherwise provided in Federal statutes and regulations, CMS is entitled to an amount calculated by multiplying the current market value or proceeds from sale by CMS's percentage of participation in the cost of the original purchase. If the equipment is sold, CMS may permit the non-Federal entity to deduct and retain

from the Federal share $500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.

- Reportable Residual Unused Supplies, which in the aggregate exceed $5,000 in fair market value which cannot be used by the original project or program nor are needed for other activities currently or previously supported by CMS, other HHS awarding agencies, or another Federal agency, must be retained by the Recipient for use on other activities or sold, but Recipient must, in either case, compensate the Federal government for its share. CMS is entitled to an amount calculated by multiplying the current fair market value or proceeds from sale by CMS's percentage of participation in the cost of the original purchase.
- In certain instances, the non-Federal entity may transfer title to the property to the Federal government or to an eligible third party subject to prior approval by CMS. In such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.

35. **Records Retention.** Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the HHS awarding agency or pass-through entity in the case of a subrecipient. HHS awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are stated in 45 CFR §75.361.

Conflict of Interest Policy

CMS requires recipients to establish safeguards to prevent employees, officers, or agents of the non-Federal entity such as consultants, contractors, members of governing bodies, and others who may be involved in grant-supported activities from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial or other gain for themselves or others, such as those with whom they have family, business, or other ties. These safeguards must be reflected in written standards of conduct. Except as provided below, CMS does not require a recipient to establish separate standards of conduct if it maintains such standards for its non-grant-supported activities, as long as those standards are consistent with State, local, and tribal laws and regulations, and cover, at a minimum, expected conduct in regard to financial interests, gifts, gratuities and favors, nepotism, and such other areas for governmental organizations as political participation and bribery.

Definitions:

"Principal Investigator/Project Director (PI/PD)" means the individual(s) designated by the recipient to direct the project or program being supported by the grant. The PI/PD is responsible and accountable to officials of the recipient organization for the proper conduct of the project, program, or activity. This designation also includes co-principal investigators/co-project directors, and any other person at the organization who is responsible for the design, conduct, or reporting of grant activities funded or proposed for funding by CMS.

"Significant financial interest" means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interest (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights).

This term does not include:

a. salary, royalties or other remuneration from the applicant organization;

b. income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;

c. income from service on advisory committees or review panels for public or nonprofit entities;

d. an equity interest that, when aggregated for the PI/PD and the PI/PD's spouse and dependent children, meets both of the following tests: does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or

e. salary, royalties or other payments that, when aggregated for the PI/PD and the investigator's spouse and dependent children, are not expected to exceed $10,000 during the prior twelve-month period.

The term "or other interest" means a non-financial benefit which results in a potential or real conflict of interest. The potential or real conflict of interest poses the same possible harms received from a financial conflict of interest such as bias due to personal gain. Such benefits may be received from a tangible or intangible personal benefit.

"Organizational conflicts of interest" means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

"Responsible representative" means the individual(s), named by the applicant/recipient organization, who is authorized to act on behalf of the applicant/recipient and to assume responsibility for the obligations imposed by federal laws, regulations, requirements, and conditions that apply to CMS grant awards.

Requirements:

The majority of CMS' grant programs are not supported by Public Health Service (PHS) funding; therefore, CMS is not subject to the requirements of 42 CFR Part 50, Subpart F, "Promoting Objectivity in Research." Notwithstanding, CMS expects grant activities (including research activities) to be free from bias by any conflicting interest of the PI/PD and any other person regardless of title or position, who is responsible for the design, conduct, or reporting of grant activities which may include collaborators or consultants.

Recipient's conflict of interest policies must reflect the following:

- Have a written and enforced administrative process to eliminate conflicting financial or other interests with respect to CMS grant/cooperative agreement funds awarded. This process should ensure:
  - The merits for determining a conflict of interest are clearly articulated in writing – i.e., the assigned reviewer(s) can reasonably determine that a significant or other interest could directly and significantly affect the design, conduct, or reporting of CMS-funded grant activities. This process should be inclusive of the appearance of such conflicts.
  - Each PI/PD discloses to a responsible representative of the Recipient all significant financial and/or other interests including personal relationships of the PI/PD (for example, PI/PD's spouse, dependent children, etc.): (i) that would reasonably appear to be affected by the grant activities funded or proposed for funding by CMS; or (ii) in entities whose financial or other interests would reasonably appear to be affected by such activities.
  - One or more objective persons (1) reviews the potential conflict of interest; (2) determines whether a potential (appearance of) or real conflict of interest exists; and (3) Establishes what conditions, or restrictions, should be imposed to eliminate the conflict of interest.
  - This information is conveyed to the Responsible Representative for the organization who is designated to act on behalf of the applicable CMS award.

- Prior to expending funds under a new CMS award, the Responsible Representative must inform the applicable CMS Grants Management Specialist and Project Officer of any real or potential conflict of interest. The report must detail Recipient's plan to eliminate the conflict prior to spending CMS funding on the activities in question.

- Require that similar reports for subsequently identified conflicts be made within 30 days of identifying them. Funding for those specific activities should cease until the aforementioned steps are completed.
- Require that continual updates be made for any real or potential conflicts of interest not fully resolved. Recipient must make additional information available to the CMS Grants Management Specialist and Project Officer, upon request, as to how it is handling (or had handled) the real or potential conflict of interest.
- Recipients must maintain records of all disclosures and of all actions taken to resolve conflicts of interest for at least three years beyond the termination or completion of the grant to which they relate, or until the resolution of any CMS action involving those records, whichever is longer.
- The Recipient's policy must include adequate enforcement mechanisms, and provide for sanctions where appropriate.

Recipient may resolve such conflicts of interest through one or more of the following options outlined below. This is not an exhaustive list and Recipient may pursue other remedies.

- Modification of approved project to remove potential or real conflict of interest.
- Termination of agreement or other services that create potential or real conflict of interest.
- Removal of individuals with potential or real conflict of interest.
- Severance of relationships that create potential or real conflicts of interest.
- Divestiture of significant financial interests.

Recipient must ensure that CMS award funds are administered in accordance with conflict of interest policies that meet, at a minimum, the standards outlined above, inclusive of pass-through entities, subrecipients, contractors, or collaborators. Each entity must have its own policies in place that meet these requirements or mandate that the PIs/PDs working for such entities follow those of the Recipient.

Procurement:

The Recipient must also maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts in accordance with **45 CFR §75.327 General procurement standards**. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.

Accessibility Provisions

CMS and its recipients are responsible for complying with federal laws regarding accessibility. The grantee may receive a request from a beneficiary or member of the public for information in accessible formats. All successful applicants under this announcement must comply with the following reporting and review activities regarding accessibility requests:

Accessibility Requirements:

1. Public Notification: If you have a public facing website, you shall post a message no later than **30** business days after award that notifies your customers of their right to receive an accessible format. Sample language may be found at: https://www.medicare.gov/about-us/nondiscrimination/nondiscrimination-notice.html. Your notice shall be crafted applicable to your program.

2. Processing Requests Made by Individuals with Disabilities:
    a. Documents:
        i. When receiving a request for information in an alternate format (e.g., Braille, Large print, etc.) from a beneficiary or member of the public, you must:
            1. Consider/evaluate the request according to civil rights laws.
            2. Acknowledge receipt of the request and explain your process within **2** business days.
            3. Establish a mechanism to provide the request.
        ii. If you are unable to fulfill an accessible format request, CMS may work with you in an effort to provide the accessible format as funding and resources allow. You shall refer the request to CMS within **3** business days if unable to provide the request. You shall submit the request, using encrypted e-mail (to safeguard any personally identifiable information), to the AltFormatRequest@cms.hhs.gov mailbox with the following information:
            1. The e-mail title shall read "Grantee (Organization) Alternate Format Document Request."
            2. The body of the e–mail shall include:
                a. Requester's name, phone number, e-mail, and mailing address.
                b. The type of accessible format requested, e.g., audio recording on compact disc (CD), written document in Braille, written document in large print, document in a format that is read by qualified readers, etc.
                c. Contact information for the person submitting the e-mail – Organization (Grantee), name, phone number and e-mail.
                d. The document that needs to be put into an accessible format shall be attached to the e-mail.
                e. CMS may respond to the request and provide the information directly to the requester.

iii. The Grantee shall maintain record of all alternate format requests received including the requestor's name, contact information, date of request, document requested, format requested, date of acknowledgment, date request provided, and date referred to CMS if applicable. Forward quarterly records to the AltFormatRequest@cms.hhs.gov mailbox.

b. Services
   i. When receiving a request for auxiliary aids and services (e.g., sign language interpreter) from a beneficiary or member of the public, you must:
      1. Consider/evaluate the request according to civil rights laws.
      2. Acknowledge receipt of the request and explain your process within 2 business days.
      3. Establish a mechanism to provide the request.
   ii. If you are unable to fulfill an accessible service request, CMS may work with you in an effort to provide the accessible service as funding and resources allow. You shall refer the request to CMS within 3 business days if unable to provide the service. You shall submit the request, using encrypted e-mail (to safeguard any personally identifiable information), to the AltFormatRequest@cms.hhs.gov mailbox with the following information:
      1. The e-mail title shall read "Grantee (Organization) Accessible Service Request."
      2. The body of the e–mail shall include:
         a. Requester's name, phone number, e-mail, and mailing address.
         b. The type of service requested (e.g., sign language interpreter and the type of sign language needed).
         c. The date, time, address and duration of the needed service.
         d. A description of the venue for which the service is needed (e.g., public education seminar, one-on-one interview, etc.)
         e. Contact information for the person submitting the e-mail – Organization (Grantee), name, phone number and e-mail.
         f. Any applicable documents shall be attached to the e-mail.
         g. CMS will respond to the request and respond directly to the requester.
   iii. The Grantee shall maintain record of all accessible service requests received including the requestor's name, contact information, date of request, service requested, date of acknowledgment, date service provided, and date referred to CMS if applicable. Forward quarterly records to the AltFormatRequest@cms.hhs.gov mailbox.

3. Processing Requests Made by Individuals with Limited English Proficiency (LEP):
   a. Documents:
      i. When receiving a request for information in a language other than English from a beneficiary or member of the public, you must:
         1. Consider/evaluate the request according to civil rights laws.
         2. Acknowledge receipt of the request and explain your process within 2 business days.
         3. Establish a mechanism to provide the request as applicable.
      ii. If you are unable to fulfill an alternate language format request, CMS may work with you in an effort to provide the alternate language format as funding and resources allow. You shall refer the request to CMS within 3 business days if unable to provide the request. You shall submit the request, using encrypted e-mail (to safeguard any personally identifiable

information), to the AltFormatRequest@cms.hhs.gov mailbox with the following information:

1. The e-mail title shall read "Grantee (Organization) Alternate Language Document Request."
2. The body of the e–mail shall include:
    a. Requester's name, phone number, e-mail, and mailing address.
    b. The language requested.
    c. Contact information for the person submitting the e-mail – Organization (Grantee), name, phone number and e-mail.
    d. The document that needs to be translated shall be attached to the e-mail.
    e. CMS may respond to the request and provide the information directly to the requester.

iii. The Grantee shall maintain record of all alternate language requests received including the requestor's name, contact information, date of request, document requested, language requested, date of acknowledgment, date request provided, and date referred to CMS if applicable. Forward quarterly records to the AltFormatRequest@cms.hhs.gov mailbox.

b. Services

i. When receiving request for an alternate language service (e.g., oral language interpreter) from a beneficiary or member of the public, you must:
    1. Consider/evaluate the request according to civil rights laws.
    2. Acknowledge receipt of the request and explain your process within 2 business days.
    3. Establish a mechanism to provide the request as applicable.

ii. If you are unable to fulfill an alternate language service request, CMS may work with you in an effort to provide the alternate language service as funding and resources allow. You shall refer the request to CMS within 3 business days if unable to provide the service. You shall submit the request, using encrypted e-mail (to safeguard any personally identifiable information), to the AltFormatRequest@cms.hhs.gov mailbox with the following information:
    1. The e-mail title shall read "Grantee (Organization) Accessible Service Request."
    2. The body of the e–mail shall include:
        a. Requester's name, phone number, e-mail, and mailing address.
        b. The language requested.
        c. The date, time, address and duration of the needed service.
        d. A description of the venue for which the service is needed (e.g., public education seminar, one-on-one interview, etc.)
        e. Contact information for the person submitting the e-mail – Organization (Grantee), name, phone number and e-mail.
        f. Any applicable documents shall be attached to the e-mail.
        g. CMS will respond to the request and respond directly to the requester.

iii. The Grantee shall maintain record of all alternate language service requests received including the requestor's name, contact information, date of request, language requested, service requested, date of acknowledgment, date service provided, and date referred to CMS if applicable. Forward quarterly records to the AltFormatRequest@cms.hhs.gov mailbox.

Please contact the CMS Office of Equal Opportunity and Civil Rights for more information about accessibility reporting obligations at AltFormatRequest@cms.hhs.gov.

Award Term – Trafficking in Persons

a. **Provisions applicable to a recipient that is a private entity.**

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

   i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

   ii. Procure a commercial sex act during the period of time that the award is in effect; or

   iii. Use forced labor in the performance of the award or subawards under the award.

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –

   i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

   ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

      A. Associated with performance under this award; or

      B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 376.

b. **Provision applicable to a recipient other than a private entity.** We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

   i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 376.

c. **Provisions applicable to any recipient.**

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. **Definitions.** For purposes of this award term:

1. "Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

APPENDIX A TO PART 25—AWARD TERM

I. SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

A. Requirement for System for Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for unique entity identifier

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you.

2. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

C. Definitions

For purposes of this award term:

1. *System for Award Management (SAM)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at *http://www.sam.gov*).

2. *Unique entity identifier* means the identifier required for SAM registration to uniquely identify business entities.

3. *Entity,* as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

a. A Governmental organization, which is a State, local government, or Indian Tribe;

b. A foreign public entity;

c. A domestic or foreign nonprofit organization;

d. A domestic or foreign for-profit organization; and

e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. *Subaward:*

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).

c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. *Subrecipient* means an entity that:

a. Receives a subaward from you under this award; and

b. Is accountable to you for the use of the Federal funds provided by the subaward.

Centers for Medicare & Medicaid Services
Standard Grant/Cooperative Agreement Terms and Conditions
Attachment E

Award Term - Federal Financial Accountability and Transparency Act (FFATA)
Subaward and Executive Compensation Reporting Requirement

I. Reporting Subawards and Executive Compensation.

a. *Reporting of first-tier subawards.*

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates $30,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to http://www.fsrs.gov.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at http://www.fsrs.gov specify.

b. *Reporting Total Compensation of Recipient Executives.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –

i. the total Federal funding authorized to date under this award is $30,000 or more;

ii. in the preceding fiscal year, you received –

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm).

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at / https://www.sam.gov/SAM/

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if –

i. in the subrecipient's preceding fiscal year, the subrecipient received –

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm).

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions*

If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:

i. Subawards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. *Executive* means officers, managing partners, or any other employees in management positions.

3. *Subaward*:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec._.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites, or property) for the executive exceeds $10,000.

Centers for Medicare & Medicaid Services
Standard Grant/Cooperative Agreement Terms and Conditions
Attachment F

Award Term and Conditions for Recipient Integrity and Performance Matters

REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five year period; and

c. If one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgement of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to this requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised

Money Follows the People (MFP) Rebalancing Expansion Project

Recipient Specific Terms and Conditions

Recipient: New Hampshire Department of Health and Human Services

FY22

1. **General**. In addition to all CMS Standard Terms and Conditions and Program Terms and Conditions, Recipient is subject to the following Recipient-specific Terms and Conditions. The Centers for Medicare and Medicaid Services (CMS) may add or otherwise amend these Recipient Specific Terms and Conditions as necessary at any point during the MFP Demonstration performance and project period.

2. **Purpose:** The purpose of this Recipient Specific Terms and Conditions is to provide the terms and restrictions of the new MFP Expansion program being implemented in the State of New Hampshire.

3. **Term**. The recipient must report on the progress of these recipient-specific terms and conditions during monthly meetings with the Project Officer and Grants Management Specialist until all terms are met. **The first monthly meeting was be scheduled within thirty (30) days of the start date of the notice of award.** Additional meetings may be scheduled to resolve these matters timely, if and when necessary.

4. **Term.** The recipient must provide the following documents signed by the Authorized Organizational Representative within forty-five (45) days of the start date of the notice of award:
    a. **Standard Form 424A: Budget Information – Non-Construction**
    b. **MFP Budget Workbook – uploaded as a grant note on 9/1/2022**

5. **Term: Contractual Category:** Recipient must discuss second (2) contract with the Grants Management Specialist (GMS) and the Grants Management Officer (GMO) before approval is granted. Funds may be restricted if task is not completed timely.

Money Follows the Person (MFP) Demonstration
Program Terms and Conditions

I. Preface

The following are the Program Terms and Conditions ("PTCs") for the Money Follows the Person (MFP) demonstration ("demonstration"), to enable the "Recipient" as identified on line 1 of the Notice of Award (NoA) to operate the demonstration.

The requirements contained in the Notice of Funding Opportunity (NOFO), FON# CMS-1LI-22-001, is incorporated by reference as Program Terms and Conditions attached to this NoA. In the event of any inconsistency between the provisions of these Program Terms and Conditions and the provisions of the NOFO, the provisions of these Program Terms and Conditions must prevail.

These PTCs are in effect from January 1, 2022 through the project period end date identified on line 19 of the Recipient's NoA. The demonstration period for the Recipient is the date of the period of performance issued in the Recipient's NoA.

The PTCs have been arranged into the following subject areas:

I. Preface
II. Program Authority and Objectives
III. General Program Requirements
IV. General Participant Eligibility Requirements
V. MFP Qualified Home and Community-Based Services
VI. Allowable and Required Services and Activities
VII. Quality Assurance and Quality Improvement
VIII. Operational Protocol
IX. General Reporting Requirements

Additional attachment(s) have been included to provide supplementary information and guidance for specific PTCs:

Attachment A Description of MFP Qualified Home and Community-Based Services (HCBS)

II. Program Authority and Objectives

The authority for the MFP demonstration is section 6071 of the Deficit Reduction Act of 2005 (DRA). Section 6071 of the DRA has been amended by: section 2403 of Patient Protection and Affordable Care Act; section 2 of the Medicaid Extenders Act of 2019; section 5 of the Medicaid Services Investment and Accountability Act of 2019; section 4 of the Sustaining Excellence in Medicaid Act of 2019; section 205 of the Further Consolidated Appropriations Act, 2020 (CAA); section 3811 of the Coronavirus Aid, Relief, and Economic Security Act, 2020; section 2301 of the Continuing Appropriations Act, 2021 and Other Extensions Act; section 1107 of the Further Continuing Appropriations Act, 2021, and Other Extensions Act; and section 204 of the Consolidated Appropriations Act, 2021 (CAA).

As stated in section 6071(a) of the DRA, the program purposes and objectives of MFP are:

(1) Increase the use of HCBS, rather than institutional long-term services and supports (LTSS), in the Medicaid program;
(2) Eliminate barriers or mechanisms, whether in state law, the state Medicaid plan, the state budget, or otherwise, that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to receive support for appropriate and necessary LTSS in the settings of their choice;
(3) Increase the ability of state Medicaid programs to assure continued provision of HCBS to eligible individuals who choose to transition from an institution to a community setting; and
(4) Ensure that procedures are in place (at least comparable to those required under the qualified HCBS program) to provide quality assurance for eligible individuals receiving Medicaid HCBS and to provide for continuous quality improvement in such services.

III. General Program Requirements

1. Adequacy of Infrastructure. The Recipient will ensure the availability of adequate resources for implementation and monitoring of the demonstration, including outreach and enrollment; maintaining eligibility systems; timely access to HCBS waiver programs and state plan HCBS; effective transition coordination; and reporting on financial, quality measures, and other demonstration components. The state must assure access to an approved Medicaid HCBS program for MFP participants during the 365-day enrollment period or 366-day enrollment period in a leap year, if applicable.

2. Communication. The Recipient must have and maintain an account with GrantSolutions (GS) in order to communicate, receive, and obtain documentation from CMS. If the designated Recipient Authorized Organizational Representative (AOR) and the principal investigator/program director (PI/PD) do not already have accounts in GS, the Recipient must require the individual to contact GS immediately upon receipt of award to complete a user account form. Any change in personnel with access to GS must also be communicated to CMS and GS staff so that the key responsible individuals are current and correct within the GS system.

3. Program Guidance. The Recipient must operate their MFP program in accordance with MFP program guidance, which includes but is not limited to, MFP instructions, MFP frequently asked questions and answers, or other guidance posted on the CMS Medicaid.gov MFP webpage to support the efficient administrative and operational components of the demonstration and award.

4. Operational Protocol. The Recipient must develop and amend as necessary an Operational Protocol (OP) that details how the state will adhere to statutory and program requirements as specified in section VIII of these PTCs.

5. Public Development Process. Similar to the requirement in section 6071(c)(1) of the DRA for MFP applications, the Recipient must provide assurance that it has engaged, and will continue to engage, in a public development/stakeholder engagement process. Recipients are expected to engage a broad community of stakeholders, including but not limited to, Medicaid agency leadership, participants in HCBS programs, residents in

long-term care facilities, family members and other caregivers, HCBS providers, the aging and disability network, health plans, housing providers, and the direct care workforce, to inform the state's approach to the design of the MFP demonstration, delivery of services and activities, and the ways in which the state can leverage the MFP demonstration to expand and enhance the HCBS system. The public development/stakeholder engagement process must be documented in the OP.

6. CMS Program Monitoring. CMS will assign a specific Project Officer to the Recipient to discuss ongoing demonstration operations, including but not limited to actual or anticipated developments affecting the demonstration. Examples include implementation activities, trends in reported data on program performance, transition benchmark achievements, supplemental budgetary spending, and progress on HCBS capacity building and rebalancing initiatives. This program monitoring may be conducted by phone, document review, on-site visit, or other appropriate means, such as by reviewing program progress reports. CMS will provide updates on any programmatic aspect of the demonstration, as well as federal policies and issues that may affect the demonstration. The Recipient and CMS will meet at a minimum once a month via a call, except in cases when a legal holiday or an unexpected state or federal business disruption may occur. CMS and the Recipient will jointly develop the agenda for the calls. This monitoring will serve to assess compliance with program requirements.

7. State Monitoring. The Recipient must conduct monitoring and oversight of the MFP demonstration operational activities, including, but not limited to:

a. The Recipient must monitor the services delivered under the demonstration using appropriate quantitative and qualitative measures.
b. The Recipient must monitor the quality and cost-effectiveness of program operations and the delivery of services.
c. The Recipient must implement processes for identifying issues, communicating issues to the appropriate entities, and taking corrective action.

8. Person-Centered Planning. The Recipient must use person-centered planning processes to identify MFP participants' LTSS needs, and the resources available to meet those needs, and to provide access to additional service and support options as needed. The Recipient assures that it will use person centered planning tools in compliance with the characteristics set forth in 42 C.F.R. § 441.301(c)(1)-(3).

9. MFP Service Area(s) and Target Populations. Consistent with the requirements in section 6071(c)(4) and section 6071(c)(5) of the DRA for MFP applications, the Recipient is required to specify the MFP participant target population(s) they plan to recruit and enroll in the demonstration program and to specify the geographic service area(s) of the demonstration. Individuals targeted for program participation must meet the eligibility criteria set forth in section 6071(b)(2) of the DRA, and as described in section IV of these PTCs. Additionally, the Recipient is required to specify the projected numbers of eligible individuals in each target group for each year of the demonstration program. The Recipient must also describe the target population(s). The Recipient must include all of the information stated in this paragraph in its OP.

10. Corrective Action Plan. If the Recipient does not comply with the Program Terms and Conditions of the demonstration, CMS may issue a Corrective Action Plan (CAP).

The CAP will identify the compliance concerns and summarize actions to date; detail possible enforcement actions; recommend steps, solutions, and deadlines for addressing the concern; and require the Recipient to submit a written plan to address the compliance concerns in response to the CAP. Failure to comply with these requirements may be a basis for applying a CAP in addition to the consequences defined in Standard Terms and Conditions (STC) 4 and STC 26.

IV. General Participant Eligibility Requirements

11. Individual Eligibility. An individual must meet certain MFP eligibility requirements to qualify for participation in the MFP demonstration. An individual must reside in an MFP-qualified inpatient facility as described in PTC 13 and must meet the definition of "eligible individual" in section 6071(b)(2) of the DRA.

12. Income Eligibility. Section 6071(d)(3) of the DRA expressly authorizes the waiver of the income and resource eligibility rules at section 1902(a)(10)(C)(i)(III) of the Social Security Act in order to permit a Recipient to apply institutional eligibility rules to individuals transitioning to community-based care.

13. Inpatient Facility. As defined by section 6071(b)(3) of the DRA, the term "inpatient facility" means "a hospital, nursing facility, or intermediate care facility for individuals with [intellectual or developmental disabilities]. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State Medicaid plan for services provided by such institution."

14. Institution for Mental Diseases (IMD) Exclusion. The term "institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. The paragraph following section 1905(a)(31)(B) of the Social Security Act generally prohibits states from receiving "any [Medicaid] payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an [IMD]." Medicaid beneficiaries ages 21 through 64 residing in an IMD who are receiving services that are covered under a Substance Use Disorder or Serious Mental Illness section 1115 demonstration and who meet the MFP individual eligibility criteria may transition from an IMD to the community under the demonstration.

15. Qualified Residence. As defined by section 6071(b)(6) of the DRA the term "qualified residence" means, "with respect to an eligible individual":

- a home owned or leased by the individual or the individual's family member;
- an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and
- a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

V. MFP Qualified Home and Community-Based Services (HCBS).

16. Qualified HCBS. Section 6071(b)(5) of the DRA defines "qualified HCB program" as follows: "The term 'qualified HCB program' means a program providing home and community-based long-term care services operating under Medicaid, whether or not operating under waiver authority."

The qualified HCBS program[1] is the Medicaid service package(s) that the Recipient will make available to a demonstration participant when they move to a community-based residence. This program can be comprised of any Medicaid home and community-based state plan and waiver program services. Awardees are permitted to claim an MFP-enhanced match rate as described in PTC 22 for the first 365-day post-transition period or 366-day enrollment period in a leap year, if applicable for qualified HCBS for demonstration participants who transition from an institutional LTSS setting into the community. A list of MFP-qualified HCBS is included as Attachment A.

17. MFP Demonstration Services. MFP demonstration services are qualified HCBS that could be provided, but are not currently provided, under the Recipient's Medicaid program. See Attachment A for a list of qualified HCBS. MFP demonstration services may be helpful to recipients in states that do not have comprehensive transition services included in HCBS waiver programs or in the State Plan.

The Recipient is expected to test and offer MFP Demonstration Services specific to the state's demonstration for MFP participants. These MFP Demonstration Services must be identified through a person-centered planning process. Demonstration Services are reimbursed at an MFP-enhanced match rate. MFP Demonstration Services are not required to continue after the conclusion of the MFP demonstration program or for the participant, at the end of the 365-day enrollment period (or 366-day enrollment period, in the case of a leap year). The Recipient must submit demonstration service descriptions in the OP. Recipients must submit an amendment to the OP when adding or removing MFP Demonstration Services.

18. Self-Directed Supports. The Recipient must provide resources to support participants or the participant's authorized representative (e.g., a surrogate, parent, or legal guardian) in directing their own care when that care is provided by an individual provider. If the Recipient elects to provide self-directed services (as defined in section 6071(b)(8) of the DRA) under the MFP demonstration, the Recipient must provide assurances that the services meet the requirements set forth in section 6071(c)(12) of the DRA in its OP.

19. Continuity of Qualified HCBS. In accordance with section 6071(c)(2) of the DRA, the MFP demonstration must operate in conjunction with a qualified HCBS program to assure continuity of services for eligible individuals. The demonstration operates in conjunction with a qualified HCBS program that is in operation in the state for such

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[1] For the purposes of these PTCs, CMS will use the term "HCBS program" when referencing section 6071 of the DRA definition of an "HCB program".

individuals in a manner that assures continuity of Medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance and meet the program requirements for the receipt of HCBS.

20. Home and Community-Based Setting Requirements. The Recipient must ensure that home and community-based settings have all the qualities required by 42 C.F.R. § 441.301(c)(4)(i), and other such qualities that the Secretary determines to be appropriate based on the needs of the individual as indicated in their person-centered plan. In a provider owned or controlled setting, the additional qualities required by 42 C.F.R. § 441.301(c)(4)(vi) must be met. Specific to this demonstration, section 6071(b)(6)(C) of the DRA ("a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside") applies.

21. Informed Choice. Consistent with section 6071(c)(6) of the DRA, CMS will require that individuals identified as potential demonstration participants have been provided with individual choice regarding participation in the demonstration. Specific requirements must be addressed in the OP, for assurances and proposed processes that ensure:

- each eligible individual or the individual's authorized representative will be provided the opportunity to make an informed choice regarding whether to participate in the MFP demonstration; and
- each eligible individual or the individual's authorized representative will have input into, and approve the selection of the qualified residence in which the individual will reside and the setting in which the individual will receive HCBS.

22. MFP-Enhanced FMAP. Qualified HCBS and demonstration services (see PTC 16 and 17) receive MFP-enhanced reimbursement. The "MFP-enhanced FMAP" for a state, for a fiscal year (as defined in section 6071(e)(5) of the DRA), is equal to the published FMAP for the state, increased by a number of percentage points equal to 50 percent of the number of percentage points by which the FMAP for the state is less than 100 percent; but, in no case shall the MFP-enhanced FMAP for a state exceed 90 percent.

The MFP-enhanced FMAP rate may be applied to qualified HCBS and MFP demonstration services under a fee-for-service or managed care delivery system. A state may not claim the MFP-enhanced FMAP for any expenditures other than those listed in Attachment A.

The Recipient must develop and administer appropriate billing methodologies and controls for qualified HCBS and demonstration services eligible for the MFP-enhanced FMAP. The Recipient will not submit claims for demonstration expenditures through the Medicaid Budget and Expenditure System (MBES); however, the Recipient is expected to include aggregate expenditures in the MBES under the CMS 64.9i and 10i and 10Pi (as needed) forms. The Recipient must continue to submit non-demonstration expenditures for MFP participants on the regular CMS 64 form.

VI. Allowable and Required Services and Activities

23. Transition Coordination Services. Consistent with section 6071(c)(6) of the DRA, the Recipient must provide comprehensive person-centered transition coordination services that includes the provision of housing-related supports to assist an MFP participant to locate and secure MFP-qualified accessible, affordable community-based housing. Recipients have flexibility in defining the specific set of services that satisfy the following components:

- Person-centered service planning;
- Comprehensive transition services;
- Care coordination; and
- Promotion of community-integration.

The Recipient must include state-selected performance measures in the Work Plan subject to CMS review and approval to monitor and report on the performance of transition coordination services and housing-related supports, identify opportunities for service improvement, and provide a measure of progress toward achieving program goals around the provision of these services. The Recipient will report on the performance measures in the Work Plan as described in PTC 49. The Recipient agrees to participate in a CMS-sponsored housing-related services and supports learning collaborative at date(s) specified by CMS. The MFP project director and MFP programs employing MFP housing specialist(s) and/or housing coordinator(s) are expected to participate.

24. Supplemental Services. Supplemental services are short-term services to support an MFP participant's transition that are otherwise not allowable under the Medicaid program. Supplemental services are not expected to continue after the demonstration period or MFP participants' 365-day enrollment period(s) or 366-day enrollment period in a leap year, if applicable, following an inpatient facility stay of over 60 continuous days. Federal funding is available to cover 100 percent of supplemental services. The Recipient must submit supplemental service descriptions in the OP. Recipients must submit an amendment to the OP when adding or removing supplemental services. Certain supplemental services have additional requirements that the Recipient must adhere to when implementing the service. These requirements will be issued in MFP policy guidance documents. The Recipient must describe how the requirements are to be met in the OP.

25. Administrative Activities—Program Operations. The Recipient shall use demonstration administrative funding to cover expenses required to execute the planning and operation of the program. This includes making investments in technology, tools, stakeholder engagement, marketing, and human resources that will allow the state program to build capacity to serve MFP target populations and pursue program goals in accordance with state priorities and the objectives of the MFP demonstration. MFP funding is available to cover up to 100 percent of the cost of administrative activities directly attributable to the operation of the state's MFP demonstration. Examples of reimbursable activities include MFP travel expenses, training, outreach and marketing, IT

infrastructure to accommodate MFP financial and evaluation reporting requirements, and key personnel.[2]

26. Administrative Activities—Required Personnel. The Recipient must fund two full-time equivalent (FTE) positions to operate and administer the program: (1) MFP project director; and (2) MFP data and quality analyst. MFP grant funding is available to cover up to 100 percent of the cost of these two FTE personnel positions.

a. MFP Project Director: The Recipient shall ensure the continuous employment of a dedicated full-time equivalent MFP project director through the end of the Recipient's period of performance. CMS expects the Recipient to hire an MFP project director with sufficient Medicaid and long-term services and supports experience to develop, monitor, and operationalize the administrative and financial obligations of the demonstration as well as having the necessary skills to implement MFP and HCBS infrastructure activities and state system relationship building. A full-time equivalent MFP project director may include one of the following position types:

- A full-time (1.0 full-time equivalent (FTE)) state employee;
- A full-time (1.0 FTE) contracted personnel position with an employee/employer relationship with the state grant administering department; or
- A full-time (1.0 FTE) university position within a university organization that is recognized as a state entity with a memorandum of agreement with the Recipient or state administering department.

The Recipient must submit a prior approval request, specifically a principal investigator/program director (PI/PD) amendment in GrantSolutions to include the MFP project director resume or Curriculum Vitae. The resume must include a description of relevant work experience demonstrating program management experience pertaining to Medicaid LTSS; a description of budget, finance, communication, and technology skills; and a description of leadership and partnership building experience.

Should the named MFP project director discontinue full-time employment, the Recipient must submit an interim plan prior to the position vacancy to CMS on how the Recipient will assure the continuation of demonstration administration and operations while the state pursues, within a reasonable time-frame, the hiring of a new MFP project director. The Recipient must submit a prior approval for any new MFP project director applicant subject to the same terms as described above. This would include an interim or temporary PI/PD.

b. MFP Data and Quality Analyst: The Recipient shall ensure the continuous employment of a dedicated full-time equivalent MFP data and quality analyst through the end of the period of performance. CMS expects the Recipient to hire an MFP data and quality analyst with sufficient data quality skills to perform data quality measurement and metric generation, data aggregation into quality performance indicators, and data interpretation,

[2]Key personnel (wt): individuals, in addition to the principal investigator/program director (PI/PD) and the authorized organizational representative (AOR), identified by the OPDIV in the Notice of Award (NoA) that are considered critical to the project, i.e., their removal or absence from the project would have a significant impact on the approved project. The AOR who has the delegated authority to execute decisions on behalf of the recipient and the PI/PD are always considered both a "key person" and a "principal", as defined below. Other key personnel generally are not considered "principals" for purposes of suspension and debarment.

as well as the ability to develop various data reporting structures and formats. A full-time equivalent MFP data and quality analyst may include one of the following position types:

- A full-time (1.0 FTE) state employee;
- A full-time (1.0 FTE) contracted personnel position with an employee/employer relationship with the state grant administering department; or
- A full-time (1.0 FTE) university position within a university organization that is recognized as a state entity with a memorandum of agreement with the state grant administering department.

27. Administrative Activities—Additional Uses of Funds to Expand and Enhance the State's HCBS System. The Recipient may use award funding for administrative activities to expand and enhance the state's HCBS system under the Medicaid program. The Recipient must describe administrative activities to expand and enhance the state's HCBS system in the OP and must follow applicable reporting requirements as described in PTC 41. MFP funding is available to cover up to 100 percent of the cost of administrative activities to implement the state's MFP project and to expand and enhance the state's HCBS system.

28. National Evaluation. The Recipient must cooperate with CMS and the CMS-directed national program evaluation's contractor tasked with the evaluation of the MFP demonstration. As required under section 6071(g)(2) of the DRA, the Secretary must submit a final report to the President and Congress not later than September 30, 2026, and section 6071(i)(1) of the DRA requires the Secretary to submit a Best Practices Report not later than September 30, 2022, providing the findings and conclusions on the conduct and effectiveness of the MFP demonstration and best practices from MFP state demonstration projects. The Recipient will be required to provide information and data to inform the CMS Evaluation Reports in a form and manner and by a deadline specified by CMS.

29. Cooperation with the Contractor for Quality Assurance and Improvement, and Technical Assistance and Oversight. The Recipient must fully cooperate with the CMS-designated contractor to support quality assurance and improvement, oversight, and technical assistance activities. The Recipient must participate in certain technical assistance activities and venues as directed by CMS throughout the Recipient's period of program performance.

30. Annual MFP Intensive Meeting. The Recipient agrees to attend an annual meeting of MFP demonstration projects for the duration of the Recipient's period of program performance. The location, date, and time of the meeting is to be determined. Grant award funds may be used to cover expenses associated with attending an annual meeting of MFP demonstration projects. The MFP project director and the MFP data and quality analyst are expected to attend.

VII. Quality Assurance and Quality Improvement

31. Quality Management Strategy and Plan. In accordance with section 6071(c)(11)(A) of the DRA, Recipients are required to develop and implement a

comprehensive and integrated quality management strategy and plan, subject to CMS review and prior approval. The plan will focus on quality assurance and quality improvement for HCBS under the state Medicaid program, including a plan to assure the health and welfare of individuals participating in the MFP demonstration. Such a strategy enhances the state's capacity to assure that the LTSS system operates as designed and that the critical processes of discovery, remediation, and systems improvement occur in a structured and routine manner.

The plan must include targeted system performance requirements to which the critical processes apply, aligning with assurances defined within the section 1915(c) HCBS waiver program, including that 1) the state conducts level of care need determinations consistent with the need for institutionalization; 2) plans of care are responsive to participants' needs; 3) qualified providers serve participants; 4) health and welfare of participants is protected; (5) State Medicaid Agency retains administrative authority over the program; and (6) the state provides financial accountability of the program.

32. 24-Hour Back-Up System. The quality management plan must include a 24-hour back-up system for critical services. The plan should address, at a minimum, the back-up systems related to (1) critical services, (2) transportation, (3) direct care workers, (4) repair and replacement for durable medical equipment (DME) and other equipment (including provision of loaning equipment while repairs are being made), and (5) access to medical care (including how participants are assisted with initial appointments, how to make appointments, and how to resolve appointment or care issues). The Recipient must describe how the requirement will be met in the OP.

33. Continuous Quality Improvement. To ensure that procedures are in place and comparable to those required under Medicaid's qualified HCBS program, the Recipient will be required to implement a CMS-defined set of nationally standardized HCBS quality measures to provide quality assurance for eligible individuals receiving Medicaid HCBS and to provide for continuous quality improvement in such services. See PTC 43 for reporting requirements on the HCBS quality measures.

34. Continuous Quality Improvement Technical Assistance. In accordance with section 6071(f) of the DRA, technical assistance will be available under MFP to support the Recipient in developing a comprehensive quality management strategy to include use of data collection tools and resources, reporting, data quality monitoring, and program evaluation methods. The MFP Quality and Data Analyst must participate in quality improvement technical assistance activities.

VIII. Operational Protocol

35. Operational Protocol Components. The Operational Protocol (OP) is the operational guide that outlines the Recipient's demonstration and addresses how the Recipient will meet the objectives of the MFP program. The Recipient must leverage input from stakeholders, including HCBS participants and providers, to design the program and operational elements of the MFP demonstration and prepare the OP. The OP shall describe the operational approach and project implementation plan, including program benchmarks and program content where applicable, for the following program components:

- Target population and service area
- Reporting
- Project Administration
- Recruitment and Enrollment
- Outreach/Marketing/Education
- Stakeholder Engagement
- Benefits and Services
- Transition and Housing Services
- Self-Direction and Informal Caregiving
- Quality Measurement, Assurance, and Monitoring
- Continuity of Care Post-Transition
- Equity
- Public Health Emergencies
- Tribal Initiative (if applicable)

CMS reserves the right to amend or add new OP elements during the demonstration period. The Recipient must submit the OP to CMS for review and approval. Only after CMS approval of the OP may the Recipient enroll participants in MFP and request reimbursement for MFP-funded services and claim the MFP-enhanced FMAP. The MFP-enhanced match will be available prospectively upon the date of CMS's approval of the OP, not retrospectively.

36. Operational Protocol – Amendment Process. The Recipient must amend its MFP OP in response to changes in federal or state law, regulation, or policy impacting MFP eligibility, enrollment, or program operations and when responding to new needs that affect MFP operations, inclusive of changes to any of the required MFP OP elements. Recipient requests to amend the OP must be submitted to CMS for approval no later than 30 days prior to the planned date of implementation of the change and may not be implemented until approved. OP amendment requests must include the following:

(a) An explanation of the stakeholder process used by the Recipient consistent with the Recipient requirements described in the OP to reach a decision regarding the requested amendment;

(b) A detailed description of the amendment, including impact on MFP program participants which isolates, by MFP program target populations, the impact, and includes Medicaid beneficiaries eligible for LTSS;

(c) An implementation date for the amendment provisions;

(d) A data analysis which identifies the impact of the proposed amendment on the current CY budget and for the demonstration period of performance. If applicable, a revised budget must be submitted through the GrantSolutions Grants Management Module; and

(e) A description of how the MFP program sustainability plan will be modified to incorporate the amendment provisions.

IX. General Reporting Requirements.

37. Reporting. Consistent with section 6071(c)(13) of the DRA, the Recipient must collect, and report to CMS and/or its contractors data related to MFP Demonstration Project progress and goal achievement. The Recipient is required to report projected and actual financial information on demonstration expenditures. Additionally, the Recipient must comply with reporting requirements for grant accountability as stated in the Standard Terms and Conditions of Award.

38. Qualified HCBS Expenditures Reporting Requirements. The Recipient must report on qualified HCBS expenditures in the MFP demonstration financial reporting forms A, B, C, and D ("ABCD") as further described in PTC 48. The Recipient must report quarterly on MFP qualified HCBS expenditures for state plan services and HCBS waiver programs for each calendar year.

39. Demonstration Services Reporting Requirements. The Recipient must report on each discrete demonstration service in the MFP demonstration financial reporting forms ABCD and in the Semi-Annual Progress report as specified in PTC 42. The Recipient must report demonstration expenditures on a calendar year quarterly basis in the financial reporting forms ABCD and on a calendar year semi-annual basis in the semi-annual report. Additionally, the Recipient shall participate in discussions with CMS and MFP evaluators on implementation of the demonstration service(s), including progress toward the goals, and key challenges, achievements and lessons learned.

40. Supplemental Services Reporting Requirements. The Recipient must report on each discrete supplemental service in the MFP demonstration financial reporting forms ABCD and in the Semi-Annual Progress report as described in PTC 42. The Recipient must report supplemental expenditures on a calendar year quarterly basis in the financial reporting forms ABCD and on a calendar year semi-annual basis in the Semi-Annual Progress report. CMS reserves the right to require additional reporting on supplemental services as part of a supplemental services housing plan.

41. Administrative Activities Reporting Requirements. The Recipient must report on expenditures for administrative activities in the MFP demonstration financial reporting forms ABCD, in the Semi-Annual Progress report as further described in PTC 42, and in the Work Plan as described in PTC 49. The Recipient must report on expenditures for each discrete administrative activity.

42. Semi-Annual Progress Report. The Semi-Annual Progress report is to present the Recipient's analysis and the status of the various operational areas in reaching the objectives of the demonstration. Through the Semi-Annual Progress reports, the Recipient will further enumerate how it has, or intends to, meet or align with the Recipient's MFP operational procedures and processes; transition benchmarks; program goals for expanding and enhancing HCBS; and sustainability plans. The Recipient must submit the Semi-Annual Progress report in the form and manner specified by CMS, no later than 30 calendar days following the end of each second and fourth calendar year quarter. The Recipient must submit the progress report through the final reporting period of the Recipient's program period of performance, even if the Recipient has not operated for a complete reporting period.

43. HCBS Quality Measures. The Recipient must report on the HCBS Quality Measure Set, as described in State Medicaid Director Letter # 22-003, to provide quality assurance for eligible individuals receiving Medicaid HCBS and to provide for continuous quality improvement in such services, as discussed in PTC 33. The HCBS Quality Measure Set is a set of nationally standardized quality measures for Medicaid-funded HCBS that is intended to promote more common and consistent use within and across states of such nationally standardized quality measures in HCBS programs, create opportunities for CMS and states to have comparative quality data on HCBS programs, and drive improvement in quality of care and outcomes for people receiving HCBS. See https://www.medicaid.gov/federal-policy-guidance/downloads/smd22003.pdf for more information.

The Recipient must also report annually on a minimum of three MFP performance indicators that are connected to the achievement of the objectives identified in section 6071(a) of the DRA and to satisfy the objective in section 6071(d)(4)(A)(i) in a form and manner specified by CMS. These measures will inform progress on MFP demonstration project outcomes and HCBS system reform efforts and must be approved by CMS.

44. Transformed Medicaid Statistical Information System (T-MSIS) Reporting. The Recipient must submit production data monthly to T-MSIS that is specific to MFP enrollees as specified by CMS. The Recipient must coordinate with the state staff responsible for the state's T-MSIS files to remedy issues related to data accuracy and completeness, data submission timeliness, and other issues identified in the state's monthly production data submissions related to MFP enrollees.

45. Critical Incident Reporting. The Recipient must have a system as well as policies and procedures in place through which providers must identify, report, and investigate critical incidents that occur within the delivery of services under this demonstration. The Recipient must ensure that provider contracts reflect these requirements. The Recipient must also have a system as well as policies and procedures in place through which to detect, report, investigate, and remediate abuse, neglect, and exploitation. The Recipient must educate providers and participants about this system. The Recipient must require providers to take specific action steps in the event of known or suspected abuse, neglect, or exploitation. The Recipient is required to report on critical incidents related to MFP participants in each Semi-Annual Progress Report.

46. Maintenance of Effort. In accordance with section 6071(c)(9) of the DRA, the Recipient must provide information and assurances that total expenditures under the state Medicaid program for HCBS will not be less for any fiscal year during the MFP demonstration project period for any succeeding fiscal year before the first year of the MFP demonstration project. Maintenance of effort (MOE) will be monitored by comparing spending in the baseline year (federal fiscal year prior to the Program Implementation Phase and HCBS Transitions Phase) to each subsequent year of MFP demonstration project operation. The spending will be in aggregate and will include spending on all state plan HCBS and HCBS waiver programs (see Attachment A for descriptions of HCBS covered under this demonstration project). During the Program

Implementation and HCBS Transitions Phase, the Recipient will report these expenditures for all populations. In other words, the HCBS expenditures will not be limited to demonstration service areas or to demonstration populations. These expenditures will be reported annually to CMS on a CMS-provided MOE template form.

47. MFP Capacity Building Supplemental Funding Opportunity. Recipients in receipt of an HCBS Capacity Building supplemental funding award must report on the activities and milestones funded through this opportunity in the Semi-Annual Progress report and Work Plan and must report on expenditures on a quarterly basis in the financial reporting forms ABCD. The Recipient must report, as part of the annual supplemental budget process, on the projected and actual expenditures related to the MFP Capacity Building supplemental award.

48. General Financial Reporting Requirements. The Recipient will comply with all general financial reporting requirements as stated in the "FINANCIAL REPORTING" section of the Standard Program Terms and Conditions of Award. In addition to the Federal Financial Report (SF-425) (see a.), the Recipient will be required to submit the following programmatic financial reports:

a. Federal Financial Report (SF-425) – Semi-annual submission. This report describes the extent to which the MFP demonstration project contributes to accomplishing MFP objectives.

b. CMS 64.9i, 9Pi and 64.10i, 10Pi – Quarterly submission. These forms allow the state and CMS to track expenditures associated with the demonstration participants.

c. MFP Financial Reporting Forms (ABCD) – Quarterly submission. The MFP financial reporting forms are modified from the CMS Form-64. The forms provide a mechanism for tracking expenditures under the demonstration.

d. Maintenance of Effort (MOE) Form – Annual submission. This form captures all LTSS expenditures (both HCBS and institutional) annually to ensure that the Recipient has maintained its financial effort, taking into account all service costs, administrative costs, and rebalancing investments.

e. MFP Worksheet for Proposed Budget (WFPB) – Annual submission. This form provides CMS with a standardized report of each Recipient's high-level budget information, as well as projected transition benchmark information. The WFPB is included as a section in the annual budget workbook submission required in the annual supplemental funding request.

49. Work Plan on State Initiatives to Expand and Enhance HCBS. CMS expects the Recipient to use grant funds for the purposes of providing new or expanded HCBS and for initiatives to strengthen HCBS system infrastructure. The Recipient must submit a standardized (CMS-provided template) Work Plan as required by section 6071(c)(7)(B)(iii) of the DRA to document progress on the use of initiatives designed to accomplish the objective in section 6071(a)(1) of the DRA to increase the use of HCBS, rather than institutional LTSS.

If the Recipient fails to make progress under the approved Work Plan as described in section 6071(c)(13)(C), the Recipient shall implement a corrective action plan reviewed and approved by CMS in accordance with CMS Standard Terms and Conditions.

Attachment A: MFP Qualified Home and Community-Based Services

The following are qualified HCBS eligible for the MFP-enhanced FMAP with corresponding descriptions:

State Plan Services

Home Health Services: Home health services are mandatory services authorized at section 1905(a)(7) of the Social Security Act (the Act) and codified in regulations at 42 C.F.R. § 440.70. Home health services include nursing services, home health aide services, medical supplies, equipment, and appliances, and may include therapy services (physical therapy, occupational therapy, speech pathology, and audiology).

Personal Care Services: Personal care services are optional services authorized at section 1905(a)(24) of the Act and codified in regulations at 42 C.F.R. § 440.167. Personal care services can include a range of human assistance provided to persons who need assistance with daily activities.

Self-Directed Personal Care Services: Section 1915(j) of the Act allows self-direction of state plan personal care services. Requirements are set forth in 42 CFR Part 441 Subpart J.

Case Management: Case management services, as defined under sections 1905(a)(19) and 1915(g) of the Act and codified in regulations at 42 C.F.R. § 440.169 and 42 C.F.R. § 441.18, assist Medicaid-eligible individuals in gaining access to needed medical, social, educational, and other services.

Rehabilitative Services: The rehabilitative services benefit is an optional Medicaid state plan benefit authorized at section 1905(a)(13) of the Act and codified in regulation at 42 C.F.R. § 440.130(d) as "medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, for maximum reduction of physical or mental disability and restoration of a beneficiary to his best possible functional level." Many mental health and substance use disorder services are authorized under this benefit. For MFP, rehabilitative services furnished in IMDs are not considered as qualified HCBS.

OBRA '89 Grandfathered Day Habilitation Programs (Adult Day Services) as Covered under Section 1905(a)(13) Rehabilitative and 1905(a)(9) Clinic Services: In states with Omnibus Budget Reconciliation Act of 1989 (OBRA '89) grandfathered status, day habilitation programs are covered under the clinic services (codified in regulation at 42 C.F.R. § 440.90) and/or the rehabilitative services state plan benefit (codified in regulation at 42 C.F.R. § 440.130(d)). OBRA '89 prohibits CMS from withholding FFP for day habilitation and related services offered under the state plan clinic or rehabilitative services benefit on behalf of persons with [intellectual or developmental disabilities] if the day habilitation program was approved in the state plan on or before June 30, 1989. Absent OBRA '89 status, a state may not cover day habilitation services under state plan 1905(a) services. Day habilitation programs (also known as adult day services) can be covered under HCBS state plan and waiver programs, and section 1115 demonstrations.

Private Duty Nursing (in-home only): Private duty nursing is an optional Medicaid state plan benefit authorized at section 1905(a)(8) of the Act and codified in regulation at 42 C.F.R. § 440.80 as "nursing services for recipients who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of the hospital or skilled nursing facility. These services are provided: (a) by a registered nurse or a licensed practical nurse; (b) under the direction of the recipient's physician ; and (c) to a recipient in one or more of the following locations at the option of the State: **(1) his or her own home;** (2) a hospital; or (3) a skilled nursing facility."

The MFP-enhanced FMAP is only applicable when the service is provided in a recipient's **own home.**

Hospice Services: Hospice care is an optional benefit authorized at section 1905(a)(18) of the Act, that provides an array of services to individuals who are determined to be terminally ill due to a medical prognosis that his or her life expectancy is six months or less. Hospice services include, nursing, medical social services, physicians' services and counseling services. A full list of hospice services are defined in section 1861(dd)(1) of the Act. The hospice state plan benefit follows this provision.

Coverage of Services to Children with Autism Spectrum Disorder (ASD): Under the Medicaid state plan, services to address ASD may be covered under several different section 1905(a) benefit categories. Those categories include: section 1905(a)(6) - services of other licensed practitioners; section 1905(a)(13)(c) - preventive services; and section 1905(a)(10) - therapy services.

Other Licensed Practitioner Services: Other Licensed Practitioner services (OLP) services, authorized as an optional state plan benefit at section 1905(a)(6) of the Act and defined at 42 C.F.R. § 440.60(a), are "medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under State law."

Preventive Services: Preventive Services, authorized as an optional state plan benefit at section 1905(a)(13) of the Act and defined at 42 C.F.R. § 440.130(c), are "services recommended by a physician or other licensed practitioner of the healing arts within the scope of his practice under state law to— (1) Prevent disease, disability, and other health conditions or their progression; (2) Prolong life; and (3) Promote physical and mental health and efficiency."

Therapy Services: Physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders, may be covered under the Medicaid therapies benefit at 42 C.F.R. § 440.110. These services are authorized as optional state plan benefits at section 1905(a)(11) of the Act.

<u>HCBS under Sections 1915(c), 1915(i), 1915(j) and 1915(k)</u>

Section 1915(c): Waiver authority found at section 1915(c) of the Act gives states the option to offer LTSS in home and community-based settings to individuals who would otherwise require institutional care. States have broad latitude to determine the services to offer under waiver programs, consistent with the benefit package specified in section 1915(c)(4)(B) of the Act.

Section 1915(i): Section 1915(i) is an optional state plan benefit that allows states to provide HCBS to individuals who meet state-defined needs-based criteria that are less stringent than institutional criteria (and, if chosen by the state, target group criteria) as set forth in 42 CFR Part 441 Subpart M.

Section 1915(j)-Self-directed 1915(c) services: Section 1915(j) of the Act allows self-direction of HCBS otherwise available under a section 1915(c) waiver program that are provided to an individual who has been determined eligible for the self-directed option. Requirements are set forth in 42 CFR Part 441 Subpart J.

Section 1915(k): The section 1915(k) Community First Choice (CFC) state plan benefit provides certain individuals, who meet an institutional level of care, the opportunity to receive necessary personal attendant services and supports in a home and community-based setting. States receive an extra six percentage points of federal match for CFC service expenditures.

Other HCBS Options

Program of All-Inclusive Care for the Elderly (PACE): PACE provides comprehensive medical and social services to certain frail, elderly individuals, most of whom are dually eligible for Medicare and Medicaid. An interdisciplinary team of health professionals provides PACE participants with coordinated care.

Managed Long-Term Services and Supports (MLTSS): Managed LTSS (MLTSS) refers to the delivery of LTSS through capitated Medicaid managed care programs. Recipients can implement MLTSS using an array of managed care authorities, including a section 1915(a) voluntary program, a section 1932(a) state plan amendment, a section 1915(b) waiver, or a section 1115 demonstration. Any of those managed care authorities can be "paired" with state plan HCBS benefits offered under section 1905(a), 1915(i), 1915(j), or 1915(k) or an HCBS waiver program under section 1915(c).

Section 1945 Health Homes: The optional health home state plan benefit authorized under section 1945 of the Act includes various services that help to ensure the coordination of all primary services, acute care services, behavioral health (including mental health and substance use) services, and LTSS for individuals with chronic conditions, and thus help to ensure treatment of the "whole person." Section 1945 defines health home services as comprehensive care management; care coordination and health promotion; comprehensive transitional care, including appropriate follow-up, from inpatient to other settings; individual and family support; referral to community and social support services, if relevant; and use of health information technology to link services, as feasible and appropriate.

Section 1115 Demonstrations: States can utilize section 1115(a) demonstration authority to test new strategies to promote the objectives of the Medicaid program. Section 1115(a)(1) of the Act allows the Secretary to waive compliance with the Medicaid requirements of section 1902 of the Act, including but not limited to statewideness and comparability, to the extent and for the period necessary to carry out the demonstration. In addition, section 1115(a)(2) of the Act allows the Secretary to provide FFP for demonstration costs that would not otherwise be considered as federally matchable expenditures under section 1903 of the Act, to the extent and for the period prescribed by the Secretary. Any of the qualified HCBS described above are eligible for the MFP-enhanced match when authorized under an approved 1115 demonstration.