

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

**ACTION REFERRAL**

TO <i>Dupre</i>	DATE <i>2-27-12</i>
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<b>DIRECTOR'S USE ONLY</b>		<b>ACTION REQUESTED</b>	
1. LOG NUMBER <i>101334</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____	<input type="checkbox"/> FOIA DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Heck, Deps, CUS file</i>	<input checked="" type="checkbox"/> Necessary Action		

<b>APPROVALS</b> (Only when prepared for director's signature)	<b>APPROVE</b>	<b>* DISAPPROVE</b> (Note reason for disapproval and return to preparer.)	<b>COMMENT</b>
1.			
2.			
3.			
4.			

Page 2 - Mr. Anthony Keck

Enclosures

cc: Karen Llanos, Project Officer  
Paul Schimmel, Grant Officer

NOTICE OF AWARD (Continuation Sheet)

PAGE 2 of 2	DATE ISSUED 02/21/2012
GRANT NO. 120CMS030540-01-03	

REMARKS:

The budget as submitted in the amount of \$1,687,021 is approved supplemental funding.

Also, carryover in the amount of \$226,986 has been approved.

For administrative questions, please contact your Grants Management Specialist: Paul Schimmel at 410-786-2988 or email at paul.schimmel@cms.hhs.gov.

For programmatic questions, please contact your Project Officer: Karen Llanos at 410-786-9071 or via email at karen.llanos@cms.hhs.gov.

Please remember to include your grant number on all correspondence to CMS (award number is located in Block 3 of the Notice of Award).

For CMS Purposes: Transmittal No. 2022339201/BOAX No. 233921

- **Institutions of Higher Education:** OMB Circular A-21 ("Cost Principles for Educational Institutions")
- **State and Local Governments:** OMB Circular A-87 ("Cost Principles for State, Local, and Indian Tribal Governments")
- **Nonprofit Organizations:** OMB Circular A-122 ("Cost Principles for Non-Profit Organizations")
- **Appendix E Hospitals:** 45 CFR Part 74
- **For-profit Organizations:** 48 CFR (Federal Acquisition Regulations System), Subpart 31.2 (Contract Cost Principles and Procedures)

#### **Administrative Standards**

In addition to the cost principles, OMB has established administrative standards and audit requirements for organizations receiving Federal assistance. These administrative standards are contained in the following documents:

- **State and Local Governments:** OMB Circular A-102 ("Grants and Cooperative Agreements with State and Local Governments")
- **Higher Education, Hospitals, and Other Nonprofit Organizations:** OMB Circular A-110 ("Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations")
- **Audits of States, Local Governments, and Nonprofit Organizations:** OMB Circular A-133
- **Copies of the Office of Management and Budget (OMB) Circulars are available on the Internet at:** <http://www.whitehouse.gov/OMB/circulars/>
- **Federal Acquisition Regulations (FAR) (48 CFR Part 31) are also available from the Internet at:** <http://www.arnet.gov/far/>

#### **Grant Payment**

Payments under these awards are made available through the Payment Management System (PMS). PMS is administered by the Division of Payment Management <http://www.dpm.psc.gov>. Grantees should contact PMS directly for instructions on how to obtain payments. Inquiries should be directed to:

Director, Division of Payment Management, OS/ASAM/PSC/FMS/DPM  
P.O. Box 6021  
Rockville, MD 20852  
Telephone: 1-877-614-5533

### **Use of Federal Funding**

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants shall clearly state (1) the percentage of total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the program or project, and (3) the percentage and dollar amount of the total costs or the program or project that will be financed by nongovernment sources.

### **Project and Data Integrity**

The grantee shall protect the confidentiality of all project-related information that identifies individuals.

The grantee 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 grantee, if so requested by the 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 grantee agrees that CMS shall have royalty-free, nonexclusive and irrevocable rights to reproduce, publish, or otherwise use and authorize others to use the items for Federal government purposes.

### **Use of Data and Work Products**

At any phase of the project, including the project's conclusion, the grantee, 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 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 only. The grantee will return any data provided by CMS or copies of data at the conclusion of the project.

For six (6) months after completion of the project, the grantee shall notify the CMS Project Officer prior to 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. In the course of this research, whenever the Principal Investigator 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.

### **Certification of Filing and Payment of Federal Taxes**

As required by the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 2008 (Public Law 110-161, Division G, Title V, section 523), as a financial assistance recipient entering into a grant or cooperative agreement, the grantee certifies that:

- (1) All Federal tax returns have been filed during the three years preceding this certification;  
**AND**
- (2) There has been no conviction of a criminal offense pursuant to the Internal Revenue Code of 1986 (U.S. Code – Title 26, Internal Revenue Code);

**AND**

- (3) Not more than 90 days prior to this certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

### **Trafficking In Persons**

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

1. You as the recipient, your employees, sub-recipients under this award, and sub-recipients' 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 sub-awards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a sub-recipient 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—

1. "Employee" means either:
  - i. An individual employed by you or a sub-recipient 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)

All subsequent revisions to the State's Final Operational Protocol must be submitted for review and approval by CMS. The State must submit a request to CMS for these changes no later than 30 days prior to the date of implementation of the change(s). Revisions must include an implementation date for the proposed changes and a revised budget as appropriate.

2. **Implementation Phase:** Once the planning phase exit conference has been successfully concluded and the Final Operational Plan approved by CMS, the grantee may begin the implementation phase of the grant program. The implementation phase will continue for the remainder of the grant period of performance.

3. **Financial and Programmatic Reporting:** The grantee agrees to the following reporting requirements:

Financial Status Report Form (SF-269 or SF-269A): The general terms and conditions refer to submittal of a SF-269. This mandated financial status report will account for all uses of grant monies during each reporting period. For purposes of this demonstration, the SF-269 must be submitted semi-annually (a mid-year and end-of-year report). These reports will continue to be submitted until all grant funds have been spent. See 45 CFR Part 92.

Web-based Progress Reports: Web-based progress reports are required to be submitted semi-annually. The submission and approval of the grantees' Final Operational Protocol is considered the grantees' first progress report. Once the Operational Protocol is approved, the grantee must follow the standard reporting schedule for the semi-annual web-based reports. Reports are due August 1 for the period of operation occurring between January 1 and June 30, and February 1 for the period of operation occurring July1 through December 31. Grantees must report even if they have not operated for a complete reporting period.

Content of the semi-annual progress reports will be decided upon during the planning phase with input from the Grantees and the National Evaluator. Examples of the type of information that will be captured in the semi-annual reports include: the specific use(s) of grant funds, barriers to the implementation of the grant program, and best practices/lessons learned from grant program implementation. Additionally, the semi-annual report will capture grant category-specific information requested by the National Evaluator.

4. **Supplemental Award Process:** CMS will award supplemental funding after the first year of the demonstration for all subsequent years of the grant program. CMS will issue guidance on the process, timing and content of award requests. Supplemental grant funding will be provided for each year of the grant period subsequent to CMS approval of the Final Operational Plan will be contingent on a State's performance in meeting the goals and annual benchmarks approved in the Final Operational Plan and agreed upon by the Grantee and CMS. CMS may rescind the grant award including all un-obligated balances, and issue the unspent grant funds to other projects if the grantee fails to implement key elements of the approved Final Operational Plan and meet prescribed grant program goals.

its contractor(s) to identify and describe best practices that can serve as models for CMS and other States.

➤ Any targeted TA that grantees purchase using their grant funding must be limited to activities that directly aid in the implementation of the grant program (i.e., contracts for technical planning, development, and implementation) and must not be duplicative of the National TA effort. If TA is to be purchased for help in carrying out the grant activities then the applicant must provide a TA plan and budget as part of the Final Operational Plan.

➤ Grantees receiving funds under Categories B and D should not duplicate technical assistance and outreach efforts to pediatric providers with similar activities supported by the Regional Extension Centers funded under ARRA HITTECH the authority of the Health Information Technology for Economic and Clinical Health provisions of the American Recovery and Reinvestment Act (ARRA) of 2009.

8. **Bi-Annual Conferences:** All grantees will be required to attend two conferences (Spring 2011 and Spring 2013) in the Washington, DC or Baltimore, MD area sponsored by CMS. Therefore, the applicants' budgets must include funds for at least one person to attend the CMS-sponsored conferences in the Washington, DC or Baltimore, MD area. The grantee is expected to have, at a minimum, the Demonstration Grant Project Director in attendance at this annual meeting.

9. **Product Development:** Any public use products/materials developed using grant funds have to identify within the written product that it was developed with use of federal funds. Approval by CMS PO prior to release of any outreach/marketing materials is required. The grantee agrees that CMS shall have royalty-free, nonexclusive or irrevocable rights to reproduce, publish, or otherwise use and authorize others to use the items for Federal government purposes.

10. **Work Products and Use of Data Resulting from Grant Funds:** Any report regarding grant outcomes or findings may not be released or published by the grantee, partnering State(s) and organizations, and contractors without permission from the CMS Project Officer within the first four (4) months following the receipt of the report by the CMS Project Officer.

The grantee agrees to include the following attribution and disclaimer on all materials developed for public distribution, which are funded under the grant:

“This document was developed under grant CFDA 93.767 from the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services. However, these contents do not necessarily represent the policy of the U.S. Department of Health and Human Services, and you should not assume endorsement by the Federal Government.”

In addition, the grantee agrees that all materials developed through Federal grant funding

regulations, including the provision of services under the Early and Periodic, Screening, Diagnostic and Treatment (EPSDT) benefit. Failure of the grantee or partner State(s) to comply with these requirements may cause CMS to exclude the non-complying State from participation in the demonstration or re-evaluate the appropriateness of continuing the grant award.

**14. Prohibited Uses of Grant Funds:**

- To match any other Federal funds.
- To provide services, equipment, or supports that are the legal responsibility of another party under Federal or State 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 infrastructure for which Federal Medicaid matching funds are available at the 90/10 matching rate, such as certain information systems projects.
- To supplant existing State, local, or private funding of infrastructure or services, such as staff salaries, etc.

**15. Duplication of Federal Funding -**

Grantees are not permitted to use the CHIPRA grant funding for purposes that would otherwise be fundable through other Medicaid or Federal grants, Medicaid Management Information System or HITTECH administrative matching funds. Please also refer to item # 20 on Category-specific requirements. Questions related to this term and condition should be addressed to both the CHIPRA Grant Project Officer and the Regional Office HITTECH/Systems Point of Contact.

**16. Other Funding Restrictions:**

**Indirect Costs -** If requesting indirect costs, an Indirect Cost Rate Agreement will be required. Applicants are required to use the rate agreed on in the state's Indirect Cost Rate Agreement. However, if there is not an agreed upon rate, the applicant is allowed indirect costs of 10 percent. The provisions of the OMB Circular A-87 govern reimbursement of indirect costs under this solicitation. A copy of OMB Circular A-87 is available online at: <http://www.whitehouse.gov/omb/rewrite/circulars/a087/a087-all.html>.

**Direct Services -** Grant funds may not be used to furnish direct services to Medicaid service recipients. Direct services do not include expenses budgeted for provider and/or consumer task force member participation in conferences, provision of technical assistance, or attendance at technical assistance conferences sponsored by CMS or its National Technical Assistance providers for the benefit of CHIPRA Quality Grant grantees.

**Reimbursement of Pre-Award Costs -** No grant funds awarded under this solicitation may be used to reimburse pre-award costs.

- Grantees for Category B must utilize HHS recognized health information technology (HIT)/health information exchange (HIE) standards per the certification criteria specified in final regulation and subsequent updated regulations developed by the HHS Office of the National Coordinator.
- Grantees for Category B must reflect their CHIPRA Category B grant activities in the State Medicaid HIT Plans that they will submit to CMS in order to receive 90 percent Federal financial participation for the Medicaid EHR Incentive Program under ARRA legislation. The programmatic, resource, and fiscal linkages between the CHIPRA Category B grant activities and the State's HITTECH activities to promote adoption and meaningful use of certified EHRs must be clearly delineated in the State Medicaid HIT Plan.

Categories B and D (pediatric electronic health records):

- Grantees for Categories B and D who are utilizing electronic health records, must utilize *certified* electronic health records (EHR), per the certification criteria specified in final regulation and subsequent updated regulations developed by the HHS Office of the National Coordinator. Grantees using existing EHRs must upgrade to a certified EHR by December 31, 2010 (i.e., the date by which the new certification criteria are expected to be finalized and upgrades to existing EHRs are available).
- Any grant funding used to modify proprietary EHR/HIT/HIE software must result in that modified product being available to the public on a non-proprietary basis. CMS funding cannot be used to make enhancements to proprietary software unless that software is then made available on a non-proprietary basis in the public domain.
- Plans to develop or construct data repositories or data warehouses for the collection of CHIPRA quality measures should be considered along with States' needs for similar data repositories for HITTECH meaningful use data. Information technology systems modification and development that can potentially serve both CHIPRA and HITTECH interests should be coordinated at the State-level. Prior approval must be received from both the CMS CHIPRA Grant Project Officer and the Regional Office HIT/Systems Points of Contact prior to proceeding with such initiatives.