

## SUB-AWARDEE MEMORANDUM OF UNDERSTANDING

This document, when signed by both parties, shall constitute a Memorandum of Understanding of the services to be provided by each partner for the thirty six month period beginning upon Notice of Award by the U.S. Department of Health and Human Services (HHS) – Centers for Medicare and Medicaid Services (CMS) (beginning approximately September 2, 2015 and ending September 1, 2018) with the understanding that renewal after each 12 month period is dependent on HHS/CMS funding and sub-awardee performance.

The Arizona Association of Community Health Centers, dba Arizona Alliance for Community Health Centers and hereinafter referred to as AACHC, will submit a proposal to CMS in response to the Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces Funding Opportunity (CA-NAV-15-001, CFDA 93.332) hereinafter referred to as the Navigator Cooperative Agreement.

It is hereby agreed by and between AACHC and sub-awardee as follows:

- All partners have been involved in the design of the Navigator Cooperative Agreement and the development of the application for funding.
- All partners will carry out the roles and responsibilities as detailed below, in the proposal narrative, and in the Funding Opportunity Announcement for the term of the Award.
- All partners will comply with program policies and procedures created by AACHC to ensure compliance with Cooperative Agreement requirements.
- All partners are committed to work together to inform consumers and stakeholders and to facilitate enrollment of consumers in Qualified Health Plans (QHP), Medicaid, and CHIP.
- All partners will offer services for a full 12 months during the year and comply with Cooperative Agreement requirements and Navigator Standards.
- All partners will submit invoices and progress reports in a timely fashion and in a manner to meet CMS and AACHC requirements.
- All partners will participate in program evaluation activities as outlined in the Cooperative Agreement application.
- Sub-awardees will be required to name a “Training Officer” who will assure that specified AACHC training will be appropriately disseminated to sub-awardee staff (employed, volunteer, and contractual).
- Sub-awardees will comply in full with Arizona’s Navigator law.
- Sub-awardees will support the work of Cover Arizona and participate in special enrollment events that are sponsored by Cover Arizona.
- Sub-awardees will participate in and use an AACHC database and reporting system, if AACHC develops a uniform database for consumers and Navigator reporting, or will use the Arizona Connector to offer appointments to consumers and report CMS required activities, unless AACHC provides a written approval of an alternative method for consumer appointments and data reporting. CMS and Enroll America are collaborating to upgrade the Connector to meet new CMS Navigator reporting requirements.
- Sub-awardees will be required to train and license a minimum of two Navigators within 30 days of notice of award, regardless of the amount of funding offered by AACHC, to maintain Navigator services in the event that one Navigator is unable to continue to perform the required tasks.

### 1. Program Requirements

The primary goal of the Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces is to provide funding to eligible entities or individuals to operate as Navigators as described in Section 1311(i) of the Affordable Care Act. Sub-awardees are required to demonstrate that they will use cooperative agreement funds to perform all required Navigator duties as described in 45 C.F.R. §§ 155.210(e) and 155.215, including:

- a) Maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Marketplace;
- b) Provide information and services in a fair, accurate, and impartial manner, which includes providing information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during

the health coverage selection process. Such information must acknowledge other health programs such as Medicaid and CHIP;

- c) Facilitate selection of a QHP;
- d) Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under Section 2793 of the PHS Act, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage;
- e) Consistent with the requirements set forth in 45 C.F.R. § 155.215, provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Marketplace, including individuals with limited English proficiency, and ensure accessibility and usability of Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act; and
- f) Complying fully with the conflict-of-interest and training standards set forth in 45 C.F.R. § 155.215.
- g) As part of the required duty to conduct public education activities, Navigators are expected to create opportunities for individuals to enroll, and to sponsor and participate in outreach activities within the service areas identified in the application and award documents.
- h) Navigators will be required to assist any consumer seeking assistance, even if that consumer is not a member of the community(ies) or group(s) the applicant expects to target, as outlined in their funding proposal.
- i) There may be some instances where a Navigator does not have the immediate capacity to help an individual. In such cases, the Navigator should make every effort to provide assistance in a timely manner, but could also refer consumers seeking assistance to other Marketplace resources, such as the toll-free Marketplace call center, certified application counselors, or to another Navigator in the same Marketplace who might have better capacity to serve that individual more effectively.
- j) Although Navigators may not refer consumers to specific agents and brokers, they may provide a comprehensive list of available agents and brokers in the state for consumers to reach out to if desired.
- k) Additionally, if a Navigator in an FFM or State Partnership Marketplace is approached by a consumer who lives in a State with a State-based Marketplace, or in a State in which the Navigator does not serve, the Navigator must refer the consumer to a Navigator in the consumer's State.
- l) Personnel who plan to serve as Navigators **must complete at least 20 hours of an HHS-developed training program and pass an online exam to ensure appropriate understanding of relevant Marketplace-related information and become federally certified.**
- m) Navigator entities must also comply with any state-specific requirements, so long as these state-specific requirements do not prevent the application of the provisions of title I of the Affordable Care Act.
- n) On May 27, 2014, CMS finalized regulations that update the requirements applicable to Navigators. The final rule, *Exchange and Insurance Market Standards for 2015 and Beyond*, outlines Cash Money Penalties that may apply to Navigator entities that fail to follow these final rules. For more detail see: <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/508-CMS-9949-F-OFR-Version-5-16-14.pdf>

## 2. Type of Award

These awards will be structured as Cooperative Agreements. The Federal Grant and Cooperative Agreement Act of 1977, 31 U.S.C. 6301, defines the cooperative agreement as 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 the HHS Grants Policy Statement that are applicable to grants also apply to cooperative agreements, unless the award itself provides otherwise.

HHS will work with each Navigator award recipient to evaluate its progress relative to its Navigator Work Plan and may condition funding based on progress and adherence to Federal guidance and Marketplace requirements, including training and conflict of interest requirements, and adherence to the Culturally and Linguistically Appropriate Services (CLAS) and disability access standards as set forth in 45 C.F.R. § 155.215. HHS will track grantee progress and provide technical assistance when needed. As such, HHS may require individual awarded entities to submit additional reports and

information based on performance. Accordingly, AACHC may require sub-awardees to submit additional reports or documentation at any given time.

- a) Sub-awardee will provide statements regarding relationships of staff that could be viewed as a conflict.
- b) AACHC will draw funds from CMS monthly to reimburse sub-awardee. Sub-awardee will provide invoices and supporting documentation to AACHC in a timely manner as specified in program policies and procedures and in sub-recipient agreement to be issued if funds are awarded. Invoices must conform to the style and detail required by AACHC.

### **3. Ineligible entities**

- Health insurance issuers;
- Subsidiaries of health insurance issuers;
- Issuers of stop loss insurance and their subsidiaries;
- Associations that include members of, or lobby on behalf of, the insurance industry; or Recipients of any direct or indirect consideration from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or non-QHP.
- CMS clarified in a final regulation that no health care provider shall be ineligible to operate as a Navigator in an FFM or State Partnership Marketplace solely because it receives consideration from a health insurance issuer for health care services provided.

### **4. Employer Identification Number**

Sub-awardee agrees to provide a valid Employer Identification Number (EIN), otherwise known as a Taxpayer Identification Number (TIN) assigned by the Internal Revenue Service.

### **5. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS number)**

Sub-awardee agrees to provide a valid Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number.

### **6. Continued Eligibility**

Sub-awardee must meet reporting and certification deadlines to be eligible throughout the project period. Sub-awardee agrees to:

- a) Remain free of conflicts of interest during the term of a Navigator;
- b) Ensure staff and volunteers complete all required training, before initiating Navigator activities;
- c) Comply with data privacy and security standards and use computers, including laptops or tablets, in accordance with 45 C.F.R. § 155.260.
- d) Comply with AACHC practice requirements, if uniform practice requirements are published.

### **7. Funding Restrictions**

The Department of Health and Human Services Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces awards may not be used for any of the following:

- a) To cover the costs to provide direct health care services to individuals.
- b) To match any other Federal funds.
- c) To provide services, equipment, or support that are the legal responsibility of another party under Federal or State law (such as 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.
- d) To supplant existing state, local or private funding of infrastructure or services such as staff salaries, etc.
- e) To cover any pre-award costs.
- f) To carry out services that are the responsibility of the Exchange, such as eligibility determinations and transferring enrollment information for consumers to a QHP, or to carry out any functions already funded through federal Exchange Establishment grants under section 1311(a) of the Affordable Care Act.
- g) To assist consumers residing in a State with a State-based Exchange (See Section VIII. 2, *State Reference List*) or in a State the Navigator does not serve. FFE/State Partnership Exchange Navigators may provide these consumers with basic information about Exchanges, but should refer them to Navigators, the Exchange Call

Center, and other resources within the State where the consumer resides for more in-depth assistance.

- h) 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. Recipients may lobby at their own expense if they can segregate federal funds from other financial resources used for that purpose.
- i) To fund staff retreats or promotional giveaways.
- j) To purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party, that would be provided to any applicant or enrollee.

## **9. Administrative and National Policy Requirements**

The following standard requirements apply to sub-awards under this MOU:

- a) Specific administrative requirements, as outlined in 45 CFR Part 74 and 45 CFR Part 92, apply to this cooperative agreement opportunity.
  - a. All awardees receiving awards under this cooperative agreement project must comply with all applicable Federal statutes relating to nondiscrimination, including, but not limited to:
  - b. Title VI of the Civil Rights Act of 1964,
  - c. Section 504 of the Rehabilitation Act of 1973
  - d. The Age Discrimination Act of 1975, and
  - e. Title II, Subtitle A of the Americans with Disabilities Act of 1990.
- b) All equipment, staff, and other budgeted resources and expenses must be used exclusively for the projects identified in the applicant's original grant application or agreed upon subsequently with HHS, and may not be used for any prohibited uses.
- c) Consumers and other stakeholders must have meaningful input into the planning, implementation, and evaluation of the project. All cooperative agreement budgets must include some funding to facilitate participation on the part of individuals who have a disability or long-term illness and their families.
- d) Sub-award Reporting and Executive Compensation: Awards issued under this funding opportunity announcement are subject to the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by Section 6202 of Public Law 110–252 and implemented by 2 CFR Part 170. Grant and cooperative agreement recipients must report information for each first-tier sub-award of \$25,000 or more in Federal funds and executive total compensation for the recipient's and sub-recipient's five most highly compensated executives as outlined in Appendix A to 2 CFR Part 170 (available online at [www.ftrs.gov](http://www.ftrs.gov)).
- e) All recipients must ensure that they avoid conflicts of interest in the award and administration of sub-award contracts. As a result of award, recipients must adhere to the requirements outlined in the uniform administrative requirements. Applicants subject to 45 CFR Part 74 must comply with sections 74.42, Codes of conduct, and 74.43, Competition. Applicants subject to 45 CFR Part 92 must comply with section 92.36, Procurement standards.

## **10. Intellectual Property**

As a term and condition of a grant award, under 45 CFR Part 74.36 and 45 CFR Part 92.34, the Federal awarding agency will retain a royalty-free, nonexclusive, irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) the copyright in any work developed under a grant, sub-grant or contract under a grant or sub-grant, and (b) any rights of copyright to which grantee, sub-grantee, or a contractor purchases ownership with grant support.

## **11. Reporting**

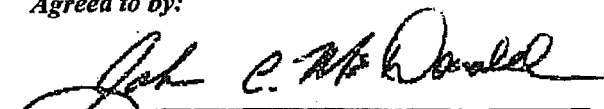
Sub-awardees must agree to cooperate with any Federal evaluation of the program and must provide required weekly, monthly, quarterly, and final (at the end of the Cooperative Agreement period) reports in a form prescribed by AACHC. Weekly reports will be required. AACHC will not publish reporting templates until CMS finalizes the Navigator reporting rules and templates. AACHC will withhold sub-awardee payments until required reports are received.

## **12. Non-Compliance**

Sub-awardee is responsible for taking steps to ensure compliance, including alerting AACHC to any non-compliance and developing plans to correct the identified issue(s).

Sub-awardee acknowledges that non-compliance with programmatic and administrative requirements may result in corrective action, which may include increased monitoring, delay in reimbursement, reduction in available funds, or any additional measures up to cancellation of sub-recipient agreement and removal from participation in the program.

Agreed to by:

  
John C. McDonald, Chief Executive Officer  
Arizona Association of Community Health Centers

Date 05/27/15

And:

Pima County Health Department  
Organization Name

  
Signature

5-22-15  
Date

Dr. Francisco Garcia  
Name

Director  
Title

*Please check as applicable:*

☒ Sub-awardee **does not** have any staff relationships that might be viewed as a conflict.

☐ Sub-awardee **does** have staff relationships that might be viewed as a conflict. **If checked, please provide details here:**