1. DATE ISSUED MM/DD/YYYY	2. CFDA NO.	3. ASSISTANCE TYPE
09/02/2015	93.332	Cooperative Agreement

1a. SUPERSEDES AWARD NOTICE dated
except that any additions or restrictions previously imposed remain in effect unless specifically rescinded

4. GRANT NO.	5. ACTION TYPE
1 NAVCA150244-01-00 Formerly	New

6. PROJECT PERIOD	MM/DD/YYYY		MM/DD/YYYY
From	09/02/2015	Through	09/01/2018

7. BUDGET PERIOD	MM/DD/YYYY		MM/DD/YYYY
From	09/02/2015	Through	09/01/2016

Department of Health and Human Services
Centers for Medicare & Medicaid Services
Office of Acquisitions and Grants Management
7500 Security Boulevard
Baltimore, MD 21244

NOTICE OF AWARD

AUTHORIZATION (Legislation/Regulations)
Sections 1311(i) and 1321(c)(1) of the Patient Protection and Affordable Care Act (P.L. 111-148)

8. TITLE OF PROJECT (OR PROGRAM)
Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces

9a. GRANTEE NAME AND ADDRESS
Pinellas County Board of County Commissionsers
440 Court St
Clearwater, FL 33756-5139

9b. GRANTEE PROJECT DIRECTOR
Ms. Elisa DeGregorio
440 Court Street, 2nd Floor
Clearwater, FL 33765-3242
Phone: 727-464-8434

10a. GRANTEE AUTHORIZING OFFICIAL
Mr. Mark Woodward
315 Court St Rm 601
Clearwater, FL 33756-5165
Phone: 727-464-3485

10b. FEDERAL PROJECT OFFICER
Ms. Gian Johnson
7500 Security Boulevard
Baltimore, MD 21244
Phone: 301-492-4323

ALL AMOUNTS ARE SHOWN IN USD

11. 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	I	
a. Salaries and Wages	0.00	
b. Fringe Benefits	0.00	
c. Total Personnel Costs		0.00
d. Equipment		8,528.00
e. Supplies		0.00
f. Travel		0.00
g. Construction		505,043.00
h. Other		0.00
i. Contractual		3,215.00
j. TOTAL DIRECT COSTS →		516,786.00
k. INDIRECT COSTS		63,214.00
l. **TOTAL APPROVED BUDGET**		580,000.00
m. Federal Share		580,000.00
n. Non-Federal Share		83,423.00

12. AWARD COMPUTATION

a. Amount of Federal Financial Assistance (from item 11m)	580,000.00
b. Less Unobligated Balance From Prior Budget Periods	0.00
c. Less Cumulative Prior Award(s) This Budget Period	0.00
d. **AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION**	580,000.00
13. Total Federal Funds Awarded to Date for Project Period	580,000.00

14. RECOMMENDED FUTURE SUPPORT
(Subject to the availability of funds and satisfactory progress of the project):

YEAR	TOTAL DIRECT COSTS	YEAR	TOTAL DIRECT COSTS
a. 2		d. 5	
b. 3		e. 6	
c. 4		f. 7	

15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:
a. DEDUCTION
b. ADDITIONAL COSTS
c. MATCHING
d. OTHER RESEARCH (Add / Deduct Option)
e. OTHER *(See REMARKS)*

b

16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARDING AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:
a. The grant program legislation
b. The grant program regulations.
c. This award notice including terms and conditions, if any, noted below under REMARKS.
d. Federal administrative requirements, cost principles and audit requirements applicable to this grant.

In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.

REMARKS (Other Terms and Conditions Attached - [x] Yes [ ] No)
Please refer to the attached Terms and Conditions.

GRANTS MANAGEMENT OFFICER: **Michelle Feagins, Grants Management Officer**

17. OBJ CLASS 41.45	18a. VENDOR CODE 1481110925A1	18b. EIN 596000800	19. DUNS 055200216	20. CONG. DIST. 13
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	AMT ACTION FIN ASST	APPROPRIATION
21. a. 5-5990195	b. NAVCA0244A	c. NAV	d. $580,000.00	e. 75150511
22. a.	b.	c.	d.	e.
23. a.	b.	c.	d.	e.

AWARD ATTACHMENTS

Pinellas County Board of County Commissionsers 1 NAVCA150244-01-00

1. Standard Terms and Conditions
2. Standard Terms and Conditions Appendix H

Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces[1]
Centers for Medicare & Medicaid Services
Standard[2] Grant/Cooperative Agreement[3] Terms and Conditions
Attachment A

1. **Recipient**. The Recipient is the Grantee designated in the Notice of Award (NoA).

2. **Acceptance of Application & Terms of Agreement.** Initial drawdown of funds by the Recipient constitutes acceptance of this award.

3. **Uniform Administrative Requirements, Cost Principles, and Audit Requirements.** This award is subject to 45 CFR Part 75 [available at http://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75&rgn=div5], which implements 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("Uniform Guidance") for the Department of Health and Human Services operating divisions,[4] effective December 26, 2014.

    - Uniform Administrative Requirements. All Recipients must comply with Subparts A-D of 45 CFR Part 75.
    - Principles. CMS grant awards provide for reimbursement of actual, allowable costs incurred and are subject to the Federal cost principles. The cost principles establish

[1] Throughout this document, the term "Marketplace" is used to refer to the American Health Benefit Exchanges that are described at Affordable Care Act section 1311(b) and defined at 45 C.F.R. §155.20.

[2] 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.

[3] 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.

[4] The Department of Health and Human Services (HHS) is adopting OMB's Uniform Guidance with certain amendments, based on existing HHS regulations, to supplement the guidance as needed for the Department. HHS' amendments are described in the joint interim final rule included in the Federal Register [available at http://www.gpo.gov/fdsys/pkg/FR-2014-12-19/pdf/2014-28697.pdf], and incorporated into HHS' implementing regulations at 45 CFR Part 75. As noted in the interim final rule, HHS finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to dispense with the opportunity for advance notice and public comment and good cause to publish this rule with an effective date of December 26, 2014 (simultaneous with 2 CFR Part 200).

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 part 31, subpart 31.2[5].

- Direct and Indirect Costs: There is no universal rule for classifying certain costs as either direct or indirect (also known as Facilities &Administration (F&A) costs) under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or F&A cost in order to avoid double-charging of Federal awards. Guidelines for determining direct and F&A costs charged to Federal awards are provided in §§75.412 to 75.419, well as Appendices III, IV, VII, IX to Part 75.

    - Commercial (For-Profit) Organizations: Indirect Costs are allowable under awards to for-profit organizations. For-profit organizations must still obtain a negotiated indirect cost rate agreement which covers the grant supported activities. Indirect cost rate agreements which exclusively cover contracts will not be acceptable. 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).

- Cost Allocation: In accordance with 45 CFR §75.416 and

[5] There are no cost principles specifically applicable to grants to for-profit organizations. Therefore, the cost principles for commercial organizations set forth (48 CFR part 31, 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.

- Appendix V to Part 75 – *State/Local Governmentwide Central Service Cost Allocation Plans*, each state/local government will submit a plan to the Department of Health and Human Services Cost Allocation Services for each year in which it claims central service costs under Federal awards. Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled "*A Guide for State, Local and Indian Tribal Governments: Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government*." A copy of this brochure may be obtained from the HHS' Cost Allocation Services at *https://rates.psc.gov*. A current, approved cost allocation plan must be provided to CMS if central service costs are claimed.
- Appendix VI to Part 75 – *Public Assistance Cost Allocation Plans*, state public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR part 95. The plan will include all programs administered by the state public assistance agency. Where a letter of approval or disapproval is transmitted to a state public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. This Appendix (except for the requirement for certification) summarizes the provisions of Subpart E of 45 CFR part 95.

- Audit Requirements. 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 the provisions of Subpart F, *Audit Requirements*. The audit requirements in OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, will continue to apply where the current Recipient fiscal year began before December 26, 2014 [available at http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf]. Non-federal entities that expend $500,000 or more in a year in Federal awards shall have a single or program specific audit conducted for that year in accordance with OMB Circular A-133.

  For questions and information concerning the 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 http://harvester.census.gov/sac.

As explained under §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.

Commercial Organizations (including for-profit hospitals) have two options regarding audits, as outlined in 45 CFR §75.501 (see also 45 CFR §75.215).

- Special Provisions for Awards to Commercial (For-Profit) Organizations as Recipients. Commercial (For-Profit) Organizations should refer to 45 CFR §75.215 *Special Provisions for Awards to Commercial Organizations as Recipients*, for limitations on profit and program income and available options regarding audits.

4. **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/asfr/ogapa/aboutog/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. Although the HHS GPS is meant to be consistent with applicable statutory or regulatory requirements, the current 2007 version has not been updated to parallel the new HHS regulations. The new HHS regulation, effective December 26, 2014, therefore supersedes information on administrative requirements, cost principles, and audit requirements for grants and cooperative agreement included in the current HHS Grants Policy Statement where differences are identified.

5. **Prior Approval Requirements.** Recipients must consult and comply with prior approval requirements outlined under 45 CFR §75.407, *Prior written approval (prior approval).*

6. **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 note that CMS is not waiving any prior approval requirements outlined in this section. Additionally, in accordance with §75.308(e), CMS requires prior approval 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 ($150,000) 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.

7. **Rearrangement, Alteration, Reconversion, and Capital Expenditures.** Recipient may not incur direct costs for rearrangement, alteration, reconversion, or capital expenditures without prior written approval by CMS (refer to 45 CFR §§75.439 and 75.462).

    - Capital expenditures means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that **materially increase their value or useful life** (refer to 45 CFR §75.2, *Definitions*).
    - Capital assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with Generally Accepted Accounting Principles (GAAP). Capital assets include:
        (1) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and
        (2) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance). (refer to 45 CFR §75.2, *Definitions*)
    - Maintenance and Repair Costs: Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures. These costs are only allowable to the extent not paid through rental or other agreements (refer to 45 CFR §75.452).

8. **Conference and Travel Costs.** For attendance at any conference[6], including those sponsored by CMS, recipients must submit a detailed breakdown of costs associated with attending the

[6] 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

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. As noted in 45 CFR §75.432, *Conferences*, allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments[7], local transportation, and other items incidental to such conferences. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award.. Recipients must also consult and comply with requirements outlined under 45 CFR §75.474, *Travel Costs*.

9. **Technology Costs.** As defined in 45 CFR §75.2, *Definitions*, equipment means tangible personal property (including information technology systems), having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000. Supplies means all tangible personal property other than those described in *Equipment*. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000, regardless of the length of its useful life. See also the definitions in 45 CFR §75.2 of *Capital assets, Computing devices, General purpose equipment, Information technology systems,* and *Special purpose equipment*. All technology items, regardless of classification as equipment or supply must still be individually tagged and recorded in an equipment/technology database. This database should include any information necessary to properly identify and locate the item. For example: serial # and physical location of equipment (e.g. laptops, tablets, etc.). **In addition, purchase of Technology items (both those classified as equipment and those classified as supplies), over and above that which is already approved in the budget must be approved by the Grants Management Specialist (regardless of acquisition cost).**

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that involves attendee travel. The term 'conference' also applies to training activities that are considered to be conferences under 5 CFR 410.404."

[7] Meals are generally unallowable except for the following:

- Subjects and patients under study;
- Where specifically approved as part of the project or program activity (not grantee specific), e.g., in programs providing children's services; and
- As part of a per diem or subsistence allowance provided in conjunction with allowable travel.

Guest meals are not allowable.

10. **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 §75.215(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.

11. **Reporting Requirements.** Recipients must comply with the frequency and content requirements outlined in the Program Terms and Conditions of award. Failure to submit programmatic and financial 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 Department of Health and Human Services. The general information and guidance for financial and programmatic reporting provided below supplements the specifics included in the Program Terms and Conditions.

Prior to closeout of the grant, Recipients must submit a tangible personal property report. Specific information is provided below and will be reiterated in the pre-closeout letter sent to all Recipients.

FINANCIAL REPORTING

Quarterly Financial Reporting

Recipient must report, on a quarterly basis, cash transaction data via the Payment Management System (PMS) and GrantSolutions using the Federal Financial Report (SF-425 or FFR) form. The FFR combines the information that grant recipients previously provided using two forms: the Federal Cash Transactions Report (PSC-272) and the Financial Status Report (SF-269). Cash transactions data is reflected through completion of lines 10a-10c on the FFR. Recipient must include information on indirect costs if approved as part of grant award. The quarterly FFR is due within (30) days after the end of each quarter. Reporting deadlines are outlined below.

For disbursement activity during the months of:	The FFR is due on:
October 1 through December 31 (1st Quarter)	January 30
January 1 through March 31 (2nd Quarter)	April 30
April 1 through June 30 (3rd Quarter)	July 30
July 1 through September 30 (4th Quarter)	October 30

Instructions on how to complete the FFR in PMS can be found at:
http://www.dpm.psc.gov/grant_recipient/guides_forms/ffr_instructions_manual.aspx

Instructions on how to complete the FFR in GrantSolutions (https://www.grantsolutions.gov) will be disseminated subsequent to award.

Semi-Annual, Annual, and Final Expenditure Reporting

Recipient must also report on Federal expenditures, Recipient Share (if applicable), and Program Income (if applicable and/or allowable) at least annually. Frequency of expenditure reporting, whether semi-annually or annually, is stipulated in the Program Terms and Conditions of award. This information is reflected through completion of lines 10d through 10o of the FFR. Recipient must complete an online FFR form via the GrantSolutions.gov FFR module to comply with expenditure reporting requirements. Lines 10a-10h must be completed (and lines 10i through 10o as applicable and/or allowable). Recipient must include information on indirect costs if approved as part of grant award. GrantSolutions can be accessed via the following link https://www.grantsolutions.gov.

Semi-annual expenditure reports are due no later than 30 days following the applicable six-month period. Annual FFRs are due no later than 90 days following the applicable budget period end date and final FFRs are due no later than 90 days following the project period end date.

Per 45 CFR §75.309(b), a non-Federal entity must liquidate all obligations incurred under the award not later than 90 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 HHS awarding agency.

PROGRAMMATIC REPORTING

In accordance with §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.

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 (equipment and supplies) when required by a Federal financial assistance award. 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-428S, may be used to provide detailed individual item information.

Recipients are required to complete the SF-428-B and SF-428S 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.

PATENTS AND INVENTIONS

accordance with §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 application or otherwise as directed. For further guidance, please see the HHS Grants Policy Statement, Patents and Inventions, and Inventions Reporting sections.

12. **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). Grantees may then access their funds by using the PMS funds request process.

    The PMS funds request process enables grantees 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 PMS Access Procedures 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.

13. **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 funding opportunity announcement and delineated in the Recipient's approved proposal. This includes any approved revisions, as applicable, made subsequent to the Recipient's approved proposal. 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 §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. 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 http://www.dpm.psc.gov.

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

15. **System of Award Management and Universal Identifier 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 B**. To satisfy

these requirements, Recipient must maintain an active registration in the System for Award Management (SAM) database. Please consult the SAM website (https://www.sam.gov/portal/public/SAM/) for more information.

16. **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). The full text may be found at http://www.cms.gov/CCIIO/Resources/Funding-Opportunities/trafficking-term.html, and which is incorporated herein by reference.

17. **Subaward Reporting and Executive Compensation.** 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 $25,000 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. The full text of the award term may be found at http://www.cms.gov/CCIIO/Resources/Funding-Opportunities/ffata.html, and which is incorporated herein by reference. For further assistance, please contact Iris Grady, the Grants Management Specialist assigned to monitor the subaward reports and executive compensation at divisionofgrantsmanagement@cms.hhs.gov.

18. **Employee Whistleblower Protections.** All Recipients must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. 4712 in the predominant native language of the workforce. For the full text of the award term, re *Pilot Program for Enhancement of Contractor Employee Whistleblower Protections*, refer to **Attachment C**.

19. **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 funding from CMS. Recipient must comply with the conflict of interest policy requirements outlined in **Attachment D**.

20. **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. Information also may be submitted by email to hhstips@oig.hhs.gov or by mail to Office of the Inspector General, Department of Health and 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.

21. **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.

22. **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.

23. **Use of Data and Work Products.** 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.

All publications, press announcements, posters, oral presentations at meetings, seminars, and any other information-dissemination format, including but not limited to electronic/digital media that is related to this project must include a formal acknowledgement of support from the Department of Health and Human Services, citing the Funding Opportunity Number as identified on the Funding Opportunity Announcement (FOA) as follows: "The project described was supported by Funding Opportunity Number CA-NAV-15-001 from the Centers for Medicare & Medicaid Services." Recipient also must include a disclaimer stating that "The contents provided are solely the responsibility of the authors and do not necessarily represent the official views of HHS or any of its agencies." All printed material that is paid for with Federal funds received through this grant award must include these statements as well. 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.

During the project period and for six (6) months after completion of the project, the Recipient shall provide sixty (60) days prior notice to the CMS Project Officer of any 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/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.

24. Public Policy Requirements. By signing the application, the authorized organizational official certifies that the organization will comply with applicable public policies. Once a grant is awarded, the recipient is responsible for establishing and maintaining the necessary

processes to monitor its compliance and that of its employees and, as appropriate, subrecipients and contractors under the grant with these requirements. 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 potentially applicable public policy requirements. Additional potentially applicable public policy requirements not included within these sources include:

- Military Recruiting and Reserve Officer Training Corps Access 10 U.S.C. §983 [all types of applications and awards to Institutions of Higher Education]
- Text Messaging While Driving (EO 13513) [all awards]
- Ban on Cloning of Human Beings (Presidential memorandum of March 4, 1997 [all awards]

25. **Implementation of United States v. Windsor and Interpretation of Familial Relationship Terminology.** In any grant-related activity in which family, marital, or household considerations are, by statute or regulation, relevant for purposes of determining beneficiary eligibility or participation, grantees must treat same-sex spouses, marriages, and households on the same terms as opposite-sex spouses, marriages, and households, respectively. By "same-sex spouses," HHS means individuals of the same sex who have entered into marriages that are valid in the jurisdiction where performed, including any of the 50 states, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. By "same-sex marriages," HHS means marriages between two individuals validly entered into in the jurisdiction where performed, including any of the 50 states, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. By "marriage," HHS does not mean registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage.

26. **Green Procurement.** To mitigate the environmental impacts of acquisition of IT and other products/equipment, Recipients are encouraged to: (1) participate in "Green procurement" based on the HHS Affirmative Procurement Plan (www.hhs.gov/asfr/ogapa/acquisition/10-2010_hhs_affirmative_procurement_plan.doc) and similar guidance from the Environmental Protection Agency (EPA) and the President's Council on Environmental Quality (CEQ); (2) use electronic products that are Energy Star® compliant and Electronic Product Environmental Assessment Tool (EPEAT) Silver registered or higher when available; (3) activate Energy Star® features on all equipment when available; (4) use environmentally sound end-of-life management practices, including reuse, donation, sale and recycling of all electronic products.

27. **Funding Opportunity Announcement (FOA).** All relevant project requirements outlined in the FOA apply to this award and are incorporated into these terms and conditions by reference.

28. **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.

29. **Mandatory Disclosures.** As is stated under 45 CFR §75.113, Recipient must disclose, in a timely manner, in writing to CMS or the pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in §75.371, including suspension or debarment. (See also 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

30. **Remedies for noncompliance.** If a non-Federal entity 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 §75.207, *Specific award conditions*. If the HHS awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more actions as set forth in 45 CFR §75.371, *Remedies for Noncompliance*.

31. **Suspension and Debarment Regulations.** Recipient must comply with 45 CFR §75.212, which states that non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 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.

32. **Termination.** CMS may terminate this grant agreement, or any part hereof, if the Recipient materially fails to comply with the terms and conditions of this award, or provisions of law pertaining to agreement performance. Materially fails includes, but is not limited to, violation of the terms and conditions of the award; failure to perform award activities in a satisfactory manner; improper management or use of award funds; or fraud, waste, abuse, mismanagement, or criminal activity. In addition, CMS may terminate this award if the Recipient fails to provide the Government, upon request, with adequate written and signed

assurances of future performance. CMS will promptly notify the Recipient in writing of such termination and the reasons for it, together with the effective date. Recipient may terminate this award as set forth in 45 CFR §75.372, *Termination*.

33. Bankruptcy. In the event the Recipient or one of its sub-Recipients 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.

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. First, Recipient must complete and submit the SF-428-B Tangible Personal Property (Award Closeout) Report (see Standard Term and Condition #11, Reporting Requirements). Second, 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.

When original or replacement equipment or residual unused supplies (which in the aggregate exceed $5,000 in market value) acquired under a Federal award are no longer needed for 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, Recipient shall use the equipment in connection with programs, projects, or activities sponsored by other Federal agencies. If Recipient no longer has a use for the equipment or residual unused supplies, the instructions below should be followed

- 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 the HHS awarding agency.
- 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. The HHS awarding agency 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.

- Supplies which in the aggregate exceed $5,000 in market value which cannot be used by the original project or program, or for other activities currently or previously supported by CMS, other HHS awarding agencies, or another Federal agency, may be retained or sold by the non-Federal entity. The HHS awarding agency 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.
- 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. 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 Sub-Recipients. This list shall be provided to CMS within thirty (30) days from the start of the award and must be maintained up-to-date in real time throughout the award.

36. 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 (§75.2, *Definitions*). As described in §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 §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 §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.

37. **Sub-Recipient 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.

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

39. **Nondiscrimination.** The Recipient and Sub-Recipients 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 disability; (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.

40. 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. 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.

41. FY 2015 Appropriations Provision. Department of Health and 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 and Further Continuing Appropriations Act, 2015," Public Law 113-235, signed on December 16, 2014. As is noted under Division G, Title II, General Provisions, Section 203, 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[8]. The current Executive Level II salary rate is $183,300.

[8] 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.

Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces
Centers for Medicare & Medicaid Services
Standard Grant/Cooperative Agreement Terms and Conditions
Attachment B

APPENDIX A TO PART 25—AWARD TERM

I. SYSTEM OF AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

A. Requirement for System of 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 of 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.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces
Centers for Medicare & Medicaid Services
Standard Grant/Cooperative Agreement Terms and Conditions
Attachment C

Pilot Program for Enhancement of Contractor Whistleblower Protections

Grantees are hereby given notice that 48 CFR section 3.908, implementing section 828, entitled "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections," of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, enacted January 2, 2013), applies to this award.

Federal Acquisition Regulations

As promulgated in the Federal Register, the relevant portions of 48 CFR section 3.908 read as follows (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"):

3.908 Pilot program for enhancement of contractor employee whistleblower protections

3.908-1 Scope of section.
(a) This section implements 41 U.S.C. 4712.
(b) This section does not apply to—
(1) DOD, NASA, and the Coast Guard; or
(2) Any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)). This section does not apply to any disclosure made by an employee of a contractor or subcontractor of an element of the intelligence community if such disclosure-
(i) Relates to an activity of an element of the intelligence community; or
(ii) Was discovered during contract or subcontract services provided to an element of the intelligence community.

3.908-2 Definitions
As used in this section –
Abuse of authority means an arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency concerned or the successful performance of a contract of such agency. Inspector General means an Inspector General appointed under the Inspector General Act of 1978 and any Inspector General that receives funding from, or has oversight over contracts awarded for, or on behalf of, the executive agency concerned.

3.908-3 Policy

1. Contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing, to any of the entities listed at paragraph (b) of this subsection, information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract, a gross waste of Federal funds, an abuse of authority relating to a Federal contract, a substantial and specific danger to public health or safety, or a violation of a law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract). A reprisal is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

2. Entities to whom disclosure may be made.

(a) A Member of Congress or a representative of a committee of Congress.
(b) An Inspector General.
(c) The Government Accountability Office.
(d) A Federal employee responsible for contract oversight or management at the relevant agency.
(e) An authorized official of the Department of Justice or other law enforcement agency.
(f) A court or grand jury.
(g) A management official or other employee of the contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

3. An employee who initiates or provides evidence of a contractor or subcontractor misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Federal contract shall be deemed to have made a disclosure.

3.908-9 Contract clause.

The contracting officer shall insert the clause at 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights, in all solicitations and contracts that exceed the simplified acquisition threshold.

Contract clause:

Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights
(2013)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L.112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

EFFECTIVE DATE: all grants and contracts issued on or after July 1, 2013 through January 1, 2017

Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces
Centers for Medicare & Medicaid Services
Standard Grant/Cooperative Agreement Terms and Conditions
Attachment D

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).

The 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 50, Subpart F, "Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought." 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 Principal Investigators/Project Directors (PI/PD) 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 **§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.

Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces
Centers for Medicare & Medicaid Services
Program Terms & Conditions
Attachment E

1. **The HHS/CMS Center for Consumer Information and Insurance Oversight (CCIIO) Program Official.** The Program Official assigned with responsibility for technical and programmatic questions from the Recipient is Julia Dreier (email is Julia.Dreier@cms.hhs.gov and telephone is 301-492-4123).

2. **The CMS Grants Management Specialist.** The Grants Management Specialist assigned with responsibility for the financial and administrative aspects (non-programmatic areas) of cooperative agreement administration questions from the Recipient is Christopher Clark in the Division of Grants Management (email is Christopher.Clark@cms.hhs.gov and telephone is 301-492-4319).

3. **Statutory Authority.** This award is issued under the authority of Section 1311(i) (42 USC 18031(i)) of the Affordable Care Act. By receiving funds under this award, the Recipient assures CMS that it will carry out the program as authorized in accordance with all applicable statutory and regulatory requirements and CMS's guidance interpreting those statutory and regulatory requirements, and will comply with the terms and conditions and other requirements of this award.

4. **Project and Budget Period.** The project period for the Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces is September 2, 2015 through September 1, 2018.

   This Notice of Award includes funding for the initial 12-month budget period, September 2, 2015 through September 1, 2016. Future funding for years two and three under this program will be issued through annual non-competing continuation awards conditional upon timely submission of the non-competing continuation application, strong performance during the previous budget period(s), funding availability, and the grantee's ability to continue meeting all eligibility requirements laid out in the FOA, including continuing to serve in a state(s) with a FFM, including a State Partnership Marketplace.

   Strong performance during the previous budget period(s) will be measured by looking at a) the grantee's ability to meet the performance metrics laid out in their original application, b) the quality and timeliness of weekly, monthly, and quarterly report submission, c) the grantee's compliance with the terms and conditions outlined in this document, including compliance with all applicable statutory and regulatory requirements, and d) the grantee's

ability to communicate with and respond in a timely manner to requests from their project officer throughout the project period.

To receive funding for the second budget period, Recipient must request a non-competing continuation award in accordance with Program Term & Condition #5 below. If approved, Recipient will receive funding via a second budget period of 12 months. Recipient must also request a non-competing continuation award for the final budget period of 12 months. Information on the process for doing so will be included in the Terms & Conditions for the second 12-month budget period.

Award of these initial first year funds offers no guarantee, explicit or implied, that in a subsequent year Federal funds will be made available for the program. Even if funds are made available, CMS reserves the right to reduce those funds or terminate the grant based on Recipient's performance.

5. **Non-Competing Continuation Application**. A non-competing continuation application is a financial assistance request (in the form of an application or performance/progress report) for a subsequent budget period within a previously approved project period for which a recipient does not have to compete with other applicants. Approval of this application will allow the grantee to continue implementing their project plan and to receive their next 12-month increment of funding. Non-competing continuation applications should be submitted no later than 90 days before the end of the current budget period.

   For this grant award see below dates:

First Budget Period	***First Non-Competing Continuation Application Due Date***
September 2, 2015 – September 1, 2016	Due no later than 90 days before September 1, 2016 ***Due by:*** June 3, 2016

6. **Restriction of Funds.** This restriction language will be reiterated in the remarks section of the Notice of Award (page 1 or 2) if this term and condition applies to Recipient. Within 15 days of the Project Period start date, Recipient must provide a request letter (asking to lift the restriction on funds), a revised budget (SF-424A), a revised budget narrative, and a revised SF424 and Project Narrative as applicable. A revised SF424 must be submitted if the funding amount has been reduced. A revised Project Narrative must be submitted if the award amount is less than the amount originally requested and the expected activities to be completed will change. For example, if the reduction in funding results in hiring less Navigator positions and targeting a smaller area (e.g. less counties in state), then a revised

Project Narrative should be submitted which reflects the change in overall expected activities to be performed.

All documents must be uploaded to GrantSolutions as a budget revision amendment (www.grantsolutions.gov). GrantSolutions is the grants system used to manage awards and correspondence between CMS and grantees. Recipients can access a copy of the Notice of Award and terms and conditions via this system. The new budget should account for any reductions in the amount requested as well as address any concerns with the budget communicated by CMS. This communication from CMS will be in the form of a Grant Note sent from GrantSolutions and and/or email from a CMS Grants Management Specialist and will occur within 2-4 business days from the time these awards are issued.

Recipient should follow the directions outlined below as well as any additional communication sent by CMS.

- If the overall award amount is less than the requested amount, a new SF424, SF424A, budget narrative, and Project Narrative (as applicable) must be submitted. A revised Project Narrative must be submitted if the award amount is less than the amount originally requested and the expected activities to be performed will change (and an updated Project Narrative was not submitted during budget negotiations).
- If all funds are placed in "other" budget category, then Recipient should submit a revised budget narrative and SF424A which reallocates the funding amongst the various budget categories (towards allowable activities/costs). A revised SF424 must be submitted if the amount of overall funding has been reduced from the original requested amount (and an updated SF424 reflecting this amount was not submitted during budget negotiations). A revised Project Narrative must be submitted if the award amount is less than the amount originally requested and the expected activities to be performed will change (and an updated Project Narrative was not submitted during budget negotiations).
- If unallowable costs are identified, then Recipient should reallocate these funds to other allowable activities/costs. A revised budget narrative and SF424A must be submitted.
- Each activity/cost must be described and fully itemized. Lump sum totals will not be accepted. The necessity for a particular cost or how a particular cost/activity links to the project should not be assumed. Please see the sample budget narrative included in the 2015 Navigator FOA for more information.
- The restriction of funds will only be lifted where all costs are deemed allowable and justified.

- The page limit on the budget narrative is no longer applicable (for purposes of submitting a revised document).

Recipients must have an account with GrantSolutions in order to receive communications from CMS via GrantSolutions. If the designated Authorized Organizational Representative (AOR) and Project Director (PD) do not already have accounts in GS, they should contact GrantSolutions immediately upon receipt of award to complete a user account form.

7. **Project Narrative**. If the amount awarded to the Recipient is less than the amount requested in the application submitted, then Recipient must ensure a revised Project Narrative is on file with CMS if the expected activities to be performed will change. This Project Narrative must be submitted within 15 days of the Project Period start date. See prior term and condition for a sample explanation of a change in expected activities to be performed. Recipient will be evaluated based upon its progress with regards to the final, approved Project Narrative on file.

8. **Management Review/Audit.** The funding authorized by this award is paid subject to any periodic future financial management review or audit.

9. **Personnel Changes.** Recipient is required to notify the Project Officer and the CMS Grants Management Specialist at least thirty (30) days before any personnel changes affecting the award's Authorized Organizational Representative, Project Director, Assistant Project Director, as well as any named Key Contractor staff.

10. **Cooperative Agreement Roles and Responsibilities.** Under each Cooperative Agreement, HHS' purpose is to support and stimulate the recipient's activities by involvement in, and otherwise working jointly with, the award recipient in a partnership role. To facilitate appropriate involvement during the period of this Cooperative Agreement, HHS and the Recipient will be in contact at least once a month, and more frequently when appropriate.

    Cooperative Agreement Roles and Responsibilities are as follows:

    Department of Health and Human Services
    HHS will have substantial involvement in program awards, as outlined below:
    - Technical Assistance – HHS will host opportunities for training and/or networking, including conference calls and other vehicles.
    - Collaboration – To facilitate compliance with the terms of the Cooperative Agreement and to support Recipient more effectively, HHS will actively coordinate with other relevant Federal Agencies including but not limited to the Indian Health Service, the Internal Revenue Service, the Department of Homeland Security, the Administration for Children and Families, and the Social Security Administration.

- Program Evaluation – HHS will work with Recipient to implement lessons learned to continuously improve this program and the nation-wide implementation of Marketplace Navigator Programs.
- Project Officers and Monitoring – HHS will assign specific Project Officers to each Cooperative Agreement award to support and monitor Recipient throughout the period of performance. HHS Grants Management Officers, Grants Management Specialists, and Project Officers will monitor, on a regular basis, progress of each recipient. This monitoring may be by phone, document review, on-site visit, other meeting and by other appropriate means, such as reviewing program progress reports and Federal Financial Reports (FFR or SF-425). This monitoring will be to determine compliance with programmatic and financial requirements.

Recipient

Recipient and assigned points of contact retain the primary responsibility and dominant role for planning, directing and executing the proposed project as outlined in the terms and conditions of the Cooperative Agreement and with substantial HHS involvement. Recipient shall engage in the following activities:

- State and Marketplace Requirements – comply with applicable state law and all applicable current and future requirements of the Marketplace, including all applicable statutory provisions, and all applicable requirements issued through rulemaking and guidance specified and approved by the Secretary of HHS.
- Collaboration and Sharing – collaborate with the critical stakeholders listed in the Funding Opportunity Announcement and the HHS team, including the assigned Project Officer. A Recipient serving Consumers in a State that is engaging actively with the federal government in the operation of certain aspects of the FFM in a State Partnership Marketplace may also be required to collaborate with any State agency helping to oversee the day-to-day management of the Navigator program. Notice will be provided to Navigators serving Consumers in these States by their CMS project officer. In addition, recipients should ensure that their information is accurate and up to date on Find Local Help on healthcare.gov.
- Reporting – comply with all reporting requirements outlined in this document and the Funding Opportunity Announcement to ensure the timely release of funds.
- Program Evaluation – cooperate with HHS-directed national program evaluations.
- Participate in technical assistance venues as appropriate.
- Program Standards – comply with all applicable current and future Marketplace and Marketplace Navigator standards, as detailed in statute, regulations, guidance, and this document.

11. Navigator Oversight and Monitoring.

a. Recipient shall establish processes to monitor program activities for compliance with statutory, regulatory and grant requirements, including but not limited to compliance with the privacy and security requirements set forth in Attachments E, F, G, and H.

b. Recipient is required to report to CMS any instance of suspected fraud, misconduct or non-compliance with statutory, regulatory or grant requirements on the part of staff or the organization as a whole.

c. Recipient should make contact information for the HHS OIG available to Consumers and to Recipient staff. For example, this could be done by posting this information in a public space or by including in educational materials distributed by Recipient.

12. Navigator Training Requirements.

As discussed in the *CMS Enrollment Assister Bulletin: 2015-01* published August 24, 2015, CMS regulations require all Navigators in Federally-facilitated Marketplaces (including State Partnership Marketplaces) to complete HHS-approved training and complete and achieve a passing score on all approved certification examinations before being certified and carrying out any Navigator duties, and to obtain continuing education and be certified and/or recertified on at least an annual basis. Navigators must also meet any licensing, certification, or other standards prescribed by the State, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act.

Individuals may not hold themselves out as Navigators or perform Navigator duties under this cooperative agreement unless they are affiliated with a current CMS Navigator grantee and have a current certification that accurately reflects that affiliation, or they are themselves certified as a current CMS Navigator grantee.

CMS will release the 2016 Navigator training curriculum on September 9, 2015 and all Navigators performing Navigator duties for an organization under this cooperative agreement award should comply with the policies set forth in Bulletin 2015-01.

Recipients should take particular note of the following policies in Bulletin 2015-01.

- Staff and volunteers of CMS's 2014 Navigator grantee organizations in the Federally-facilitated Marketplaces (including State Partnership Marketplaces) who completed Navigator training during the 2014-2015 grant period received certificates from CMS with an expiration date of September 15, 2015, corresponding to the end-date for the 2014-2015 grant project period. In order to perform any Navigator duties under this cooperative agreement after September 15, 2015, these Navigators will need to successfully complete either the entire 2016 Navigator training or the 2016 Navigator recertification training, depending on specific factors, as explained below, and then be certified or recertified by CMS.

- If a Navigator who was certified during the 2014-2015 grant period was not decertified prior to the expiration of their 2014-2015 certification on September 15, 2015, and is working for the same CMS Navigator grantee organization with which they were affiliated when they were certified in 2014-2015, they can take just the 2016 Navigator recertification training prior to becoming recertified.

- If a Navigator who was certified during the 2014-2015 grant period was decertified prior to the expiration date of their 2014-2015 certification on September 15, 2015, or will be working for a CMS Navigator grantee organization different from the one with which they were affiliated when they were certified in 2014-2015, then, as they should take the entire 2016 Navigator training in order to be recertified.

- We remind all CMS Navigator grantees that new staff must not carry out any Navigator duties until they have been trained and are certified.

Consistent with CMS regulations and the policies expressed in Bulletin 2015-01, any individual Navigator working for Recipient who was certified for 2014-2015, but cannot complete 2015-2016 training and certification requirements by the expiration of that certification on September 15, 2015, must stop carrying out Navigator duties on and after September 15, 2015, until such time as all applicable 2015-2016 training and certification requirements have been met.

13. Required Cooperative Agreement Programmatic Reporting.

a. Weekly and Monthly Progress Reports

All Navigator grantees must provide required weekly and monthly reports. The reports will be submitted electronically in a form prescribed by CMS. These reports will outline how cooperative agreement funds were used, describe program progress, describe any barriers encountered including how any potential conflicts of interest were mitigated and process for handling non-compliant staff or volunteers, describe how the program ensured access to culturally and linguistically appropriate services, and detail measurable outcomes to include how many staff and volunteers completed required training and became certified as Navigators and how many Consumers were served. CMS will provide the format for program reporting and the technical assistance necessary to complete program reporting requirements. At each stage, CCIIO staff will evaluate reports and provide feedback to recipients. CMS reserves the right to require the Recipient to provide additional details and clarification on the content of these reports, however, under no

circumstances should the Personally Identifiable Information (PII) (as defined in Attachment G) of Consumers (as defined in Attachment G) be included in such reports.

b. Quarterly Progress Reports

Recipient is required to submit quarterly Progress Reports to the HHS Grants Management Specialist and to the Recipient's CMS Project Officer based upon the timeline outlined below. CMS reserves the right to require the Recipient to provide additional details and clarification on the content of these reports, however, under no circumstances should the Personally Identifiable Information (PII)(as defined in Attachment G) of Consumers (as defined in Attachment G) be included in such reports. Reports are due as follows:

Period of Performance: September 2, 2015 through December 31, 2015
Due: January 30, 2016

Period of Performance: January 1, 2016 through March 31, 2016
Due: April 30, 2016

Period of Performance: April 1, 2016 through June 30, 2016
Due: July 30, 2016

Period of Performance: July 1, 2016 through September 1, 2016
Due: October 3, 2016

c. Annual Report—Year 1 Project Period

Period of Performance: September 2, 2015- September 1, 2016. The Annual Report should be cumulative and report on work performed throughout the first 12 months of the project period. This report is due no later than 30 days after the end of first 12 month project period. Under no circumstances should PII (as defined in Attachment G) of Consumers (as defined in Attachment G) be included in this report.

Due: Monday, October 3, 2016

d. Final Report

Period of Performance: September 2, 2015- September 1, 2018. The Final Report should be cumulative and report on work performed throughout the entire 36 month project period. This report is due no later than 90 days after the end of the 36 month project

period (or 90 days after the official termination or withdrawal date of the award if applicable). The final report will contain a disclaimer that the opinions expressed are those of the Recipient and do not necessarily reflect the official views of HHS or any of its agencies. The final progress report may not be released or published without permission from the CMS Project Officer within the first four (4) months following the receipt of the report by the CMS Project Officer.

Due: Friday, November 30, 2018

14. **Required Financial Reports.** The Federal Financial Report (FFR or Standard Form 425) has replaced the SF-269, SF-269A, SF-272, and SF-272A financial reporting forms. Recipient must utilize the FFR to report cash transaction data, expenditures, and any program income generated (if applicable for the program).

Quarterly Federal Financial Reports (FFRs)
Recipient must report on a quarterly basis cash transaction data via two separate systems: the Payment Management System (PMS) and GrantSolutions. Please see below for more information.

Payment Management System (PMS): The FFR, containing quarterly cash transaction data, is due within 30 days after the end of each quarter. The quarterly reporting due dates are as follows: 10/30, 1/30, 4/30, 7/30. A Quick Reference Guide for completing the FFR in PMS is at: www.dpm.psc.gov/grant_recipient/guides_forms/ffr_quick_reference.aspx. Recipient will not be able to drawdown funds without submission of timely FFRs to PMS. Please note that the first report to PMS will reflect activity from September 2, 2015 to September 30, 2015 (with a due date to submit of October 30th). If no activity occurs, a quarterly FFR for this time period must still be submitted (reflecting no drawdown activity).

GrantSolutions: Recipient must also submit a quarterly FFR to GrantSolutions (https://www.grantsolutions.gov). This report must mirror the FFR completed in PMS. FFRs submitted to GrantSolutions become part of the official grant file and will be accessible to CMS staff, auditors, and other officials to ensure compliance with grant requirements. Please note that the first quarterly report to GrantSolutions will reflect activity from September 2, 2015 to December 31, 2015 (with a due date to submit of January 30th).

Annual and Final Federal Financial Reports (FFRs) – GrantSolutions
In addition to submitting quarterly FFRs to PMS and GrantSolutions, Recipients must also provide two annual FFRs and one final FFR. The annual and final FFRs must include annual and final expenditures information (through completion of lines 10d through 10h of the FFR).

Each year, Recipient will submit three quarterly FFRs and one annual FFR to GrantSolutions (until the final year when three quarterly FFRs and a final FFR are submitted). These forms must be completed online via the GrantSolutions.gov FFR module. Recipient must include information on indirect costs if approved as part of grant award. The annual FFR is due 90 days after the budget period ending date. The final FFR is due 90 days after the project period end date (or 90 days after the official termination or withdrawal date of the award if applicable).

Following award, additional guidance on submitting the quarterly, annual, and final FFRs to GrantSolutions will be distributed to each Recipient via Grant Notes in GrantSolutions.

Recipient shall liquidate all obligations incurred under the award not later than 90 days after the end of the 36 month project period (or 90 days after the official termination or withdrawal date of the award if applicable) and before the final FFR submission. It is Recipient's responsibility to reconcile reports submitted to PMS and to CMS. Failure to reconcile final reports in a timely manner may result in canceled funds.

For additional guidance, please contact your Grants Management Specialist, Christopher Clark at Chris.Clark@cms.hhs.gov.

Payment under this award will be made by the Department of Health and Human Services, Payment Management System administered by the Division of Payment Management (DPM), Program Support Center. Draw these funds against the Recipient account that has been established for this purpose. Inquiries regarding payment should be directed to:

Director, Division of Payment Management
Telephone Number 1-877-614-5533
P. O. Box 6021
Rockville, Maryland 20852

15. **Prohibited Uses of Funds.** No cooperative agreement funds awarded under this grant award may be used for any item listed under the Prohibited Uses of Grant Funds as detailed below:

    - To cover the costs to provide direct health care services to individuals.
    - To match any other Federal funds.
    - 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.

- To supplant existing State, local, or private funding of infrastructure or services such as staff salaries, etc.
- To supplant funds provided under Funding Opportunity Announcement number CA-NAV13-001, entitled "PPHF — 2013 — Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Exchanges" or under Funding Opportunity Announcement number CA-NAV- 14-002, entitled "Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces."
- To cover any pre-award costs.
- To carry out any functions already funded by HHS, including through federal Marketplace Establishment grants under section 1311(a) of the Affordable Care Act or through federal Consumer Assistance Program grants under section 2793 of the Public Health Service Act, including to make payments to recipients of funds provided to states under those authorities for activities that are funded under those authorities.
- To assist persons residing in a State with a State-based Marketplace (See Section VIII. 2, *State Reference List* of the Funding Opportunity Announcement) or in a State the Navigator does not serve. Federally-Facilitated Marketplace/State Partnership Marketplace Navigators may provide these persons with basic information about Marketplaces, but should refer them to Navigators, the Marketplace Call Center, and other resources within the State where the consumer resides for more in-depth assistance.
- 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. Recipient may lobby at its own expense if it can segregate federal funds from other financial resources used for that purpose.
- To fund staff retreats or promotional giveaways.
- 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 potential enrollee.

16. Promotional Items and Advertising. Costs of promotional items and memorabilia, including models, gifts, souvenirs, buttons, imprinted clothing, and other mementos are unallowable. Moreover, organizations may not use cooperative agreement funds to cover the costs of promotional material, motion pictures, videotapes, handouts, magazines, and other media that are designed to call favorable attention or designed solely to promote the institution and its activities.

In accordance with 45 CFR 155.210(d)(7), Navigators are prohibited from using cooperative agreement funds 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 potential enrollee. Recipients must also comply with the requirements and limitations at 45 CFR 155.210(d)(6) that apply to gifts or promotional items provided to applicants or potential enrollees that are not acquired using cooperative agreement funds.

17. **Conflicts of Interest.** Recipient should comply with the CMS Conflict of Interest Policy included in Attachment D.

    In addition, in accordance with 45 C.F.R. § 155.215(a)(1)(ii), all recipients must provide a written plan to remain free of disqualifying conflicts of interest and to disclose to CMS, as operator of the FFM or State Partnership Marketplace, certain non-disqualifying conflicts of interest as specified in 45 C.F.R. § 155.215(a)(1)(iv). **Recipients must provide this information within 30 days of the project start date.**

18. **Scope of Navigator Services.** Recipient should not provide services beyond the scope of its approved project work plan during Navigator work hours or while using Navigator funds. This includes, but is not limited to, selling other insurance products or recruiting volunteers for non-Navigator related activities.

19. **Privacy and Security Compliance.**

    Definitions. Capitalized terms not otherwise specifically defined in this specific term and condition shall have the meaning set forth in Attachment G.

    Recipient hereby acknowledges and agrees to accept and abide by the standards and implementation specifications set forth in this Attachment and in Attachments F ("Privacy and Security Standards for Navigator Grant Recipients") when engaging in any Navigator Authorized Functions as defined below. Recipient is thereby bound to strictly adhere to the privacy and security standards, and to ensure that its Workforce that creates, collects, accesses, stores, maintains, discloses, or uses PII, is contractually bound to strictly adhere to those standards and implementation specifications.

    Navigator Authorized Functions. Recipient may create, collect, handle, disclose, access, maintain, store, and/or use PII of Consumers, only to perform:

    a. the required duties described in section 1311(i)(3) of the Affordable Care Act, 45 CFR 155.210 and 155.215, and the Cooperative Agreement to Support Navigators in

Federally-Facilitated and State Partnership Marketplaces Funding Opportunity Announcement ("Navigator FOA"), as well as in Recipient's approved work and project plans;

b. functions related to carrying out additional obligations as may be required under applicable state law or regulation, provided that (1) such a state requirement does not prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act, and (2) Recipient notifies Consumers, in advance, in writing, that creation, collection, handling, disclosure, access maintenance, storage, and/or use of their PII might be required under applicable state law or regulations. Recipient should provide the required notification through the authorization obtained in accordance with 45 CFR 155.210(e)(6); and
c. other functions authorized under 45 CFR 155.210 and 155.215, and such other functions that may be approved by CMS in writing from time to time.

The required duties that are most likely to involve the creation, collection, handling, disclosure, access, maintenance, storage and/or use of PII of Consumers include the following:

- 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;
- Facilitate selection of a QHP;
- 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;
- 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;
- Comply with the authorization requirements set forth in 45 CFR 155.210(e)(6) and summarized below; and

- Provide information to Consumers about the full range of QHP options and insurance affordability programs for which they are eligible, in accordance with 155.215(a)(1)(iii).

Other Required Duties: Recipient must also maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Marketplace; however, it is not expected or required that Recipient create, collect, handle, disclose, access, maintain, store and/or use PII of Consumers for this function. To the extent that Recipient does so, it must comply with all of the provisions of this specific term and condition, as well as Attachments E and F that apply to Recipient's activities.

PII Received. Subject to these terms and conditions of this Notice of Award and applicable laws, in performing the tasks contemplated under this award, Recipient may create, collect, disclose, access, maintain, store, and/or use the following data and PII from Consumers:

Access to or enrollment in employer or other health coverage
American Indian/Alaska Native status
APTC percentage and amount applied
Auto disenrollment information
Applicant Name
Applicant Address
Applicant Birthdate
Applicant Telephone number
Applicant Email
Applicant spoken and written language preference
Applicant Medicaid Eligibility indicator, start and end dates
Applicant Children's Health Insurance Program eligibility indicator, start and end dates
Applicant QHP eligibility indicator, start and end dates
Applicant APTC percentage and amount applied eligibility indicator, start and end dates
Applicant household income
Applicant Maximum APTC amount
Applicant Cost-sharing Reduction (CSR) eligibility indicator, start and end dates
Applicant CSR level
Applicant QHP eligibility status change
Applicant APTC eligibility status change
Applicant CSR eligibility status change
Applicant Initial or Annual Open Enrollment Indicator, start and end dates
Applicant Special Enrollment Period eligibility indicator and reason code
Citizenship status
Contact Name
Contact Address

Contact Birthdate
Contact Telephone number
Contact Email
Contact spoken and written language preference
Enrollment group history (past six months)
Enrollment type period
FFE Applicant ID
FFE Member ID
Gender
Immigration document type and document numbers
Issuer Member ID
Membership in a Federally recognized tribe
Net premium amount
Premium Amount, start and end dates
Pregnancy indicator
Race/ethnicity
Sex
Special enrollment period reason
Subscriber Indicator and relationship to subscriber
Social Security Number
Tax filing status (tax filer, tax dependent, non-filer)
Tobacco use indicator and last date of tobacco

Storing PII. To the extent that Recipient maintains or stores PII, it must agree to comply with all provisions of these terms and conditions that apply to the maintenance or storage of PII.

Privacy and Security Obligations of Recipient. As a condition of this grant, Recipient will implement and comply with all Marketplace privacy and security standards set forth in these terms and conditions.

Authorization Requirement. Prior to creating, collecting, handling, disclosing, accessing, maintaining, storing, and/or using any PII from Consumers, Recipient must obtain the authorization required under 45 CFR 155.210(e)(6), to ensure that Consumers:

- are informed of the functions and responsibilities of Navigators;
- provide authorization in a form and manner as determined by CMS prior to a Navigator's obtaining access to their PII, and that the Navigator maintains a record of the authorization provided in a form and manner as determined by CMS, for no less than six years, unless a different and longer retention period has already been provided under other applicable Federal law; and
- may revoke this authorization at any time .

A model template authorization form developed by CMS will be provided separately to all Recipients for their optional use.

This authorization is separate and distinct from any informed consent obtained pursuant to section 2(b) of Attachment F of this Agreement. Recipient should ensure that a record of the authorization provided is maintained in a manner consistent with the privacy and security standards set forth in Attachment E and F.

Collection of PII. Except for collections, uses or disclosures that are specifically authorized by Consumers in accordance with Section 2(b) of Attachment F, PII collected from Consumers may be used only for the Navigator Authorized Functions specified in this term and condition.

Ability of Consumer to Limit Collection and Use. Recipient agrees to allow the Consumer to limit the Recipient's creation, collection, use, maintenance, storage, and disclosure of their PII to the sole purpose of obtaining Recipient's assistance for Federally-facilitated Marketplace purposes, and for performing Navigator Authorized Functions specified in this term and condition.

Applicability to Workforce. Recipient must impose the same standards described in this specific term and condition and in Attachments E and F on all Workforce members working with the Recipient on this grant program.

Survival. Recipient covenants and agrees to destroy all PII of Consumers in its possession at the end of the record retention period required under this specific term and condition and Attachments E and F. Recipient's duty to protect and maintain the privacy and security of PII, as provided for in accordance with this specific term and condition, and Attachments E and F, shall continue in full force and effect until such PII is destroyed and shall survive the termination or withdrawal of the Navigator Recipient and/or expiration of this award.

20. **Sub-Recipients' Compliance with Privacy and Security Requirements**. Any and all Sub-Recipients are also required to adhere to all privacy and security requirements under Attachment E and F.

21. **State Exchange Model.** If the State in which Recipient is serving transitions from a Federally-facilitated or State Partnership Marketplace to a State-Based Marketplace prior to the end of the grant period, the cooperative agreement will end and any unused funds will revert to the federal government. The transition planning process provided for by 45 CFR §155.106 will include a process for ending this cooperative agreement.

22. **Data.** Any data provided to CMS will be used only to assess Recipient's performance of its obligations and rights under this cooperative agreement program. Recipient has an obligation

to collect and secure aggregate data for the submission of quarterly and annual progress reports to CMS. PII, as defined in Attachment G, of Consumers is not expected or required to be maintained or stored by Navigators in order to complete these reports. In addition, in no circumstance should PII, as defined in Attachment G, of Consumers be reported to CMS in these reports. All proprietary information and technology of Recipient are and shall remain the sole property of the Recipient.

23. PII Authorization. Recipient may not create, collect, handle, disclose, access, maintain, store, and/or use the PII (as defined in Attachment G) of any Consumers until it has drawn down funds and accepted the terms and conditions of this award.

Cooperative Agreement to Support Navigators in Federally-facilitated and State Partnership Marketplaces
Centers for Medicare & Medicaid Services
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Attachment F

PRIVACY AND SECURITY STANDARDS FOR NAVIGATOR GRANT RECIPIENTS

These standards and implementation specifications are established in accordance with Section 1411(g) of the Affordable Care Act (42 U.S.C. § 18081(g)) and 45 CFR 155.260. As used in this Attachment, all terms used herein carry the meanings assigned in Attachment G of the Notice of Award.

Navigator Grant Recipient ("Recipient"), and any members of Recipient's Workforce who are certified by CMS to carry out Navigator duties, or who otherwise have access to the PII of consumers who seek the Recipient's assistance, must adhere to the following privacy and security standards and implementation specifications in performing the Navigator Authorized Functions defined in Attachment E of the Notice of Award.

(1) Privacy Notice Statement. Prior to collecting PII or other information from Consumers for the purpose of fulfilling a Navigator Authorized Function, Recipient must provide Consumers with a privacy notice statement. The privacy notice statement must be in writing and must be provided on, or simultaneously with, any electronic and/or paper form the Recipient will use to gather and/or request PII or other information from Consumers. The privacy notice statement must also be prominently and conspicuously displayed on the Recipient's public facing Web site, if applicable, if the Recipient will gather or request PII or other Consumer information through that Web site.

a. Privacy Notice Statement Requirements.

i. The privacy notice statement must be written in plain language and, to the extent possible, provided in a manner that is accessible and timely to people living with disabilities and with limited English proficiency.

ii. The statement must contain at a minimum the following information:

1. A description of the information to be collected;
2. The purpose for which the information is being collected;
3. The intended use(s) of the information;
4. To whom the information may be disclosed, for what purposes, and how a record of any disclosures may be requested from the Recipient;

5. What, if any, notice or opportunities for consent will be provided regarding the collection, use or disclosure of the information;
6. How the information will be secured;
7. Whether the request to collect information is voluntary or mandatory under the applicable law;
8. Effects of non-disclosure if a Consumer chooses not to provide the requested information;
9. Any rights the person may have under state or federal laws relevant to the protection of the privacy of an individual; and
10. Information on how to file complaints with CMS and the Recipient related to the Recipient's activities in relation to the information.

iii. The Recipient shall maintain its privacy notice statement content by reviewing and revising it as necessary on an annual basis, at a minimum, and before or as soon as possible after any change to its privacy policies and procedures.

b. Notwithstanding the general requirement above to provide a written privacy notice statement prior to collecting PII or other information from Consumers, this provision does not require Recipients to provide a written privacy notice statement to Consumers prior to collecting a Consumer's name, physical address, e-mail address, or telephone number, so long as such information will be used solely for the purpose of making subsequent contact with the Consumer to conduct a Navigator Authorized Function or sending to the consumer educational information that is directly relevant to Navigator Authorized Functions. Nonetheless, with regard to such names, physical addresses, e-mail addresses, or telephone numbers, Recipients still must comply with all privacy and security standards and requirements outlined in the CMS Navigator Grant Terms and Conditions.

(2) Permissible Uses and Disclosures of PII. The Recipient and members of Recipient's Workforce who are certified by CMS to carry out Navigator duties may create, collect, disclose, access, maintain, store, and use PII from Consumers only for Navigator Authorized Functions identified in Attachment E, unless the Recipient obtains informed consent as described in Section 2(b) of this Attachment F.

a. Authorization:

i. Prior to creating, collecting, disclosing, accessing, maintaining, storing, or using any Consumer PII to perform a Navigator Authorized Function, the Recipient must obtain the authorization required by 45 CFR 155.210(e)(6),

This authorization is separate and distinct from the informed consent referenced in Section 2(b) below;

ii. Recipients must maintain a record of the authorization provided for a period of no less than six (6) years, unless a different and longer retention period has already been provided under other applicable Federal law; and

iii. Recipients must permit the Consumer to revoke the authorization at any time.

b. Informed Consent:

i. Recipients must obtain informed consent from Consumers for any creation, collection, use or disclosure of information that is not authorized under these Terms and Conditions. Such informed consent must be in writing, signed by the consenting party, and subject to a right of revocation.

ii. Recipients are prohibited from denying information or assistance to persons or entities that do not wish to grant consent for any creation, collection, use or disclosure of Consumer information that is not authorized under these Terms and Conditions.

iii. Informed consent must:

1. Be provided in specific terms and in plain language;
2. Identify who will obtain access to the Consumer's information under the terms of the informed consent;
3. Describe the purpose for which the informed consent is being obtained;
4. Explain what information the Recipient will use or disclose to a specific recipient(s);
5. Provide notice of a Consumer's ability to revoke the consent at any time; and
6. Include an expiration date or event, unless effectively revoked in writing by the Consumer before that date or event.

iv. Informed consent documents must be appropriately secured and retained for no less than six (6) years, unless a different and longer retention period has already been provided under other applicable Federal law.

(3) Limitations on creation, collection, disclosure, access, maintenance, storage, and use.

a. Permissible creation and use of PII.

Other than in accordance with the informed consent procedures outlined above, the Recipient shall only create, collect, disclose, access, maintain, store, or use PII it receives in its capacity as a Navigator Grant Recipient:

i. In accordance with the privacy notice statement referenced in Section (1) above; and/or
ii. In accordance with the Navigator Authorized Functions.

b. Prohibited requests for, collections, or uses of PII.

The Recipient shall not:

i. request or require a social security number, information regarding citizenship, status as a national, or immigration status for any individual who is not seeking coverage for himself or herself on an application;
ii. request information from or concerning any individual who is not seeking coverage for himself or herself, unless the information is necessary for the eligibility determination for enrollment in a Qualified Health Plan or Insurance Affordability Programs for those seeking coverage, or is required as part of a SHOP employer application under 45 C.F.R. §155.730. Such necessary information may include information on individuals who are in an individual's tax household or who live with an individual applying for coverage, including contact information, addresses, tax filing status, income and deductions, access to employer-sponsored coverage, familial or legal relationships, American Indian or Alaska Native status, or pregnancy status; or
iii. use a Consumer's or any other individual's PII to discriminate against them, such as by refusing to assist individuals who have significant or complex health care needs.

c. Accounting for Disclosures. Except for those disclosures that are necessary to carry out Navigator Authorized Functions, Recipients that maintain and/or store PII shall maintain an accounting of any and all disclosures of PII. The accounting shall:

i. Contain the date, nature, and purpose of such disclosures, and the name and address of the person or agency to whom the disclosure is made;

ii. Be retained for at least six (6) years after the disclosure, or the life of the record, whichever is longer; and

iii. Be available to CMS, or the Consumer who is the subject of the record, upon request.

(4) Safeguarding PII.

a. Recipients must ensure that PII is protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure. Specifically, Recipient is required to establish and implement operational, technical, administrative and physical safeguards that are consistent with any applicable laws and ensure that:

i. PII is only used by or disclosed to those authorized to receive or view it;

ii. PII is protected against any reasonably anticipated threats or hazards to the confidentiality, integrity, and availability of such information;

iii. PII is protected against any reasonably anticipated uses or disclosures of such information that are not permitted or required by law; and

iv. PII is securely destroyed or disposed of in an appropriate and reasonable manner and in accordance with record retention requirements under the Terms and Conditions.

b. Recipients must monitor, periodically assess, and update the security controls and related system risks to ensure the continued effectiveness of those controls.

c. Recipients must develop and utilize secure electronic interfaces when transmitting PII electronically.

(5) Incident and Breach Reporting Requirements.

a. Reporting. Recipients must implement and comply with Breach and Incident handling procedures that are consistent with CMS' Risk Management Handbook Standard 7.1 Incident Handling and Breach Notification[9] and memorialized in the

[9] Available at http://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/InformationSecurity/Downloads/RMH_VIII_7-1_Incident_Handling_Standard.pdf

Recipient's own policies and procedures. Such policies and procedures must be in writing and:

i. Identify the Recipient's Designated Privacy Official, if applicable, and/or identify other personnel authorized and responsible for reporting and managing Incidents or Breaches to CMS;

ii. Address how to identify Incidents;

iii. Determine if personally identifiable information (PII) is involved in the Incidents;

iv. Require all members of Recipient's Workforce to report all potential Incidents or Breaches to Recipient;

v. Require reporting any Incident or Breach of PII to the CMS IT Service Desk by telephone at (410) 786-2580 or 1-800-562-1963 or via email notification at cms_it_service_desk@cms.hhs.gov within **one hour** of discovery of the Incident or Breach;

vi. Require the completion of the CMS Security Incident Report, a copy of which is attached hereto as Attachment H or a copy of which may be found at http://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/InformationSecurity/Info-Security-Library-Items/CMS1253654.html?DLPage=2&DLSort=0&DLSortDir=ascending;

vii. Provide details regarding the identification, response, recovery, and follow-up of Incidents and Breaches; and

viii. Require the Recipient's Designated Privacy Official and/or other authorized personnel to be available to CMS upon request.

b. Members of Recipient's Workforce must comply with Navigator Grantee Organization's Breach and Incident handling procedures.

c. Cooperation. Recipients must cooperate with CMS in resolving any Incident or Breach, including (if requested by CMS) the return or destruction of any PII; the provision of a formal response to an allegation of unauthorized PII use, reuse or disclosure; and/or the submission of a corrective action plan with steps designed to prevent any future unauthorized uses, reuses or disclosures.

(6) Training and Awareness Requirements. The Recipient shall develop role-based training and awareness programs for members of its Workforce who are certified by CMS to carry out Navigator duties or who otherwise have access to the PII of consumers who seek the Recipient's assistance. Recipient shall require such members of its Workforce to participate in such training and awareness programs. Specifically, the Recipient must require such members of its Workforce to successfully complete privacy and security training that is specifically tailored and relevant to their work duties and level of exposure to PII, and prior to when they assume responsibility for/have access to PII, and members of Recipient's Workforce must successfully complete such training prior to assuming responsibility for/having access to PII.

(7) Standard Operating Procedures Requirements. The Recipient shall incorporate the privacy and security standards and implementation specifications required under this Attachment F, where appropriate, in its standard operating procedures that are associated with the functions authorized under Navigator Terms and Conditions involving the creation, collection, disclosure, access, maintenance, storage, or use of PII. Members of Recipient's Workforce who are certified by CMS to carry out Navigator duties, or who otherwise have access to the PII of consumers who seek the Recipient's assistance, must comply with these standard operating procedures. The Recipient's standard operating procedures:

a. Must be written in plain language and be available to all of the Recipient's Workforce;

b. Must ensure the Recipient's cooperation with CMS in resolving any Incident or Breach, including (if requested by CMS) the return or destruction of any PII files it received under the Navigator Terms and Conditions; the provision of a formal response to an allegation of unauthorized PII use, reuse or disclosure; and/or the submission of a corrective action plan with steps designed to prevent any future unauthorized uses, reuses or disclosures; and

c. Must be designed and implemented to ensure the Recipient and its Workforce comply with the standards and implementation specifications contained herein, and must be reasonably designed, taking into account the size and the type of activities that relate to PII undertaken by the Recipient, to ensure such compliance.

(8) Required Monitoring of Security Controls. Recipient must monitor, periodically assess, and update its security controls and related system risks to ensure the continued

effectiveness of those controls.

(9) Required Flow-Down of Privacy and Security Agreements. Recipient must bind, in a signed writing, any members of Recipient's Workforce who are certified by CMS to carry out Navigator duties, and any Downstream Entities to the same privacy and security standards and obligations contained in this Attachment F.

(10) Compliance with the Internal Revenue Code. If any "return information," as defined in section 6103(b)(2) of the Internal Revenue Code (the Code), is accessed or used by Recipient, it must be kept confidential and disclosed, used, and maintained only in accordance with section 6103 of the Code.

(11) Penalties for improper use and disclosure of information. Recipient acknowledges that any person who knowingly and willfully uses or discloses information in violation of section 1411(g) or 1411(h) of the Affordable Care Act will be subject to a civil money penalty, consistent with the bases and process for imposing civil penalties specified at 45 C.F.R. 155.206 and/or 155.285, in addition to other penalties that may be prescribed by law.

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Attachment G

This Attachment defines terms that are used in Attachments E, F, and G

DEFINITIONS

(1) **Affordable Care Act (ACA)** means the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), which are referred to collectively as the Affordable Care Act.

(2) **Advance Payments of the Premium Tax Credit (APTC)** has the meaning set forth in 45 CFR 155.20.

(3) **Applicant** has the meaning set forth in 45 CFR 155.20.

(4) **Authorized Function** means a task performed by a Non-Exchange Entity that the Non-Exchange Entity is explicitly authorized or required to perform based on applicable law or regulation, and as enumerated in these Terms and Conditions.

(5) **Authorized Representative** means a person or organization meeting the requirements set forth in 45 CFR 155.227.

(6) **Breach** is defined by OMB Memorandum M-07-16, Safeguarding and Responding to the Breach of Personally Identifiable Information (May 22, 2007), as the compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, loss of control or any similar term or phrase that refers to situations where persons other than authorized users or for other than an authorized purpose have access or potential access to Personally Identifiable Information (PII), whether physical or electronic.

(7) **CCIIO** means the Center for Consumer Information and Insurance Oversight within the Centers for Medicare & Medicaid Services (CMS).

(8) **CMS** means the Centers for Medicare & Medicaid Services.

(9) **Consumer** means an Applicant, Enrollee, Qualified Individual, Qualified Employer, or Qualified Employee, and (if applicable) their legal or Authorized Representatives, or any individual who presents himself or herself for assistance related to an Authorized Function from a Non-Exchange Entity, or who is offered assistance related to an Authorized Function by a Non-Exchange Entity, as applicable.

(10) **Cost-sharing Reduction (CSR)** has the meaning set forth in 45 CFR 155.20.

(11) **Designated Privacy Official** means a contact person or office responsible for receiving complaints related to Breaches or Incidents, able to provide further information about matters covered by the Non-Exchange Entity privacy notice statement required by Section (1) of Attachment F, responsible for the development and implementation of the privacy and security policies and procedures of the Non-Exchange Entity, and responsible for ensuring the Non-Exchange Entity has in place appropriate safeguards to protect the privacy and security of PII.

(12) **Downstream Entity** means any party that enters into an agreement with Recipient or with another Downstream Entity for purposes of providing services related to the Navigator grant. The term "downstream entity" is intended to reach the entity that directly provides services to Consumers.

(13) **Enrollee** has the meaning set forth in 45 CFR 155.20.

(14) **Exchange has the meaning set forth in 45 CFR 155.20.** The term "Marketplace" is commonly used to refer to the American Health Benefit Exchanges that are described at Affordable Care Act section 1311(b) and defined at 45 C.F.R. §155.20.

(15) **Federally-facilitated Exchange (FFE)** means an **Exchange** (or **Marketplace**) established by HHS and operated by CMS under Section 1321(c)(1) of the ACA for individual or small group market coverage, including the Federally-facilitated Small Business Health Options Program (**FF-SHOP**). **Federally-facilitated Marketplace (FFM)** has the same meaning as FFE.

(16) **HHS** means the U.S. Department of Health & Human Services.

(17) **Incident**, or **Security Incident**, means the act of violating an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent.

(18) **Information** means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

(19) **Insurance Affordability Program** means a program that is one of the following:

(1) A State Medicaid program under title XIX of the Social Security Act.

(2) A State children's health insurance program (CHIP) under title XXI of the Social Security Act.

(3) A State basic health program established under section 1331 of the Affordable Care Act.

(4) A program that makes coverage in a Qualified Health Plan through the Exchange with Advance Payments of the Premium Tax Credit established under section 36B of the Internal Revenue Code available to Qualified Individuals.

(5) A program that makes available coverage in a Qualified Health Plan through the Exchange with Cost-sharing Reductions established under section 1402 of the Affordable Care Act.

(20) **Navigator** has the meaning set forth in 45 CFR 155.20.

(21) **Non-Exchange Entity** has the meaning at 45 CFR 155.260(b), and includes but is not limited to Navigator grant recipients, and their staff and volunteers who are certified by CMS to carry out Navigator duties.

(22) **OMB** means the federal government's Office of Management and Budget.

(23) **Personally Identifiable Information (PII)** has the meaning contained in OMB Memoranda M-07-16 (May 22, 2007) and means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, *etc.*, alone, or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

(24) **Qualified Employee** has the meaning set forth in 45 CFR 155.20.

(25) **Qualified Employer** has the meaning set forth in 45 CFR 155.20.

(26) **Qualified Health Plan (QHP)** has the meaning set forth in 45 CFR 155.20.

(27) **Qualified Individual** has the meaning set forth in 45 CFR 155.20.

(28) **Security Control** means a safeguard or countermeasure prescribed for an information system or an organization designed to protect the confidentiality, integrity, and availability of its information and to meet a set of defined security requirements.

(29) **State Partnership Exchange (SPE)** means a type of FFE in which a State engages actively with the federal government in the operation of certain aspects of the FFE.

(30) **Web** means the World Wide Web.

(31) **Workforce** means a Non-Exchange Entity's or sub-recipients' employees, agents, contractors, subcontractors, officers, directors, agents, representatives, and any other individual who may create, collect, disclose, access, maintain, store, or use PII in the performance of his or her duties.

Appendix H: Computer Security Incident Report

Date/Time:

Incident Tracking Number		
CMS	**HHS**	**US CERT**

**** = Required information***

Reporting Individual Contact Information			
Name*		**Email***	
Office Number*	**Cell Number**	**Dept/OPDIV***	**UserID**
Name(s) of Dept/OPDIV or individual notified of security incident:			
Dept/OPDIV	**Name/Title**		**Date/Time Notified**

Impacted User Contact Information			
Name*		**Email***	
Office Number*	**Cell Number**	**Dept/OPDIV***	**UserID**

Incident Category			
	PII | PHI | FTI Incident (Section A)		CAT 5 Scans/Probes (*Section H*)
	CAT 0 Exercise/Network Defense Testing (*Section B*)		CAT 6 Investigations (*Section I*)
	CAT 1 Unauthorized Access (*Section C*)		CAT 7 Other (*Section J*)
	CAT 2 Denial of Service (*Section D*)		CAT 8 Lost/Stolen Asset (*Section K*)
	CAT 3 Malicious Code (*Section E*)		CAT 99 Non-Incident (*Section L*)
	CAT 4 Improper Usage (*Section F*)		

Appendix H: Computer Security Incident Report

Impact Classification*		
Functional Impact		**HIGH** - Organization has lost the ability to provide all citical services to all system users
		MEDIUM - Organization has lost the ability to provide a critical service to a subset of system users.
		LOW - Organization has experienced a loss of efficiency, but can still provide all critical services to all users with minimal effect on performance.
		NONE - Organization has experienced no loss in ability to provide all services to all users.
Information Impact		**CLASSIFIED** - The confidentiality of classified information was compromised.
		PROPRIETARY - The confidentiality of unclassified proprietary information, such as protected critical infrastructure (PCCII), intellectual property, or trade secrets was compromised.
		PRIVACY - The confidentiality of personally identifiable information (PII) or personal health information (PHI) was compromised.
		INTEGRITY - The necessary integrity of information was modified without authorization.
		NONE - No information was exfiltrated, modified, deleted, or otherwise compromised.
Recoverabilty		**REGULAR** - Tiem to recovery is predictable with existing resources.
		SUPPLEMENT - Time to recovery is predictable with additional resources.
		EXTENDED - Time to recovery is unpredictable; additional resources and outside help are needed.
		NOT RECOVERABLE - Recovery from the incident is not possible (e.g., sensitive data exfiltrated and posted publicly).
		NOT APPLICABLE - Incident does not require recovery.

Threat Vector Identification*		
Threat Vector		**Description**
	UNKNOWN	Cause of atack is unidentified
	ATTRITION	An attack that employs brute force methods to compromise, degrade, or destroy systems, networks or services
	WEB	An Attack executed from a website or web-based application.
	E-MAIL	An attack executed via e-mail message or attachment.
	EXTERNAL/REMOVABLE MEDIA	An attack executed from removable media or a perifpheral device.
	IMPERSONATION / SPOOFING	An attack involving replacement of legitimate content/services with a malicious substitute.
	IMPROPER USAGE	Any incident resulting from violation of an organization's acceptable usage policies by an authorized user, excluding the above catagories.
	LOSS OR THEFT OF EQUIPMENT	The loss or theft of a computing device or media used by the organization.
	OTHER	An attack does not fit into any other vector.

Appendix H: Computer Security Incident Report

Section A: PII / PHI / FTI Breach			
Breach Category - Check Below			
	Document Theft		Improper Usage
	Hardware / Media Theft		Unintended manual Disclosure
	Document Loss		Unintended Electronic Disclosure
	Hardware / Media Loss		Hacking or IT Incident
	Document Lost in Transit		Document sent to Wrong Address
	Hardware / Media Lost in Transit		

Number and Description of PII / PHI / FTI Lost or Compromised			
List Number Below			
	Exact Number of PII:		Check Here if Number is Unknown:
Brief Description			
Include PII / PHI / FTI format (email, web, database, etc), population effected, lost/stolen, summary time stamp and actions taken.			

Section B: Exercise / Testing (CAT 0)		
Testing Point of Contact		Testing Time Period
Name:		
Phone:		
Brief Description of Test: Including reason for test and networks / systems involved		

Section C: Unauthorized Access (CAT 1)
Describe Violation
Actions Taken (If Any)

Section D: Denial of Service (CAT 2)
Describe Violation
Actions Taken (If Any)

Section E: Malicious Code (CAT 3)				
Malware Type		Malware Name (if Known)		
	Worm			
	Virus	Action Taken		
	Trojan		Quarantined	
	Buffer Overflow		Cleaned	
	Denial of Service		No Action	
	Other	Forensic Image Taken		
		Yes		No
Describe Violation				
Actions Taken (If Any)				

Section F: Improper Usage (CAT 4)	
Type of Violation	
	(P2P) File Sharing
	Instant Messenger
	Inappropriate Web Site
	Remote Access
	Unapproved Software
	Other
Describe Violation	

Section H: Scans / Probes / Attempted Access (CAT 5)		
Timeframe of Activity	Date:	Time:
Source IP / Subnet	Source Port(s)	
Destination IP / Subnet	Destination Port(s)	
Description of Activity		
Actions Taken		

Appendix H: Computer Security Incident Report

Section I: Investigation (CAT 6)		
Timeframe of Activity	Date:	Time:
Detailed Description of Activity		
Actions Taken		

Section I: Other (CAT 7)		
Timeframe of Activity	Date:	Time:
Description		

Section H: Lost / Stolen Asset (CAT 8)			
Device / Media / Object Type			
	Cell Phone		PDA
	Computer (Non-Specific)		Server
	Computer Files		Tape / DLT / DASD
	Desktop Computer		USB Thumb Drive
	E-mail		Other
	Hard Drive (External)		Laptop
	hard Drive (Internal)		Paper Documents
Description			
Actions Taken			

Section I: Non-Incident (CAT 99)
Detailed Description of Activity
Actions Taken