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7
 8 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
 9 **AT YAKIMA**

10 STATE OF WASHINGTON,

NO. 2:19-cv-00183-SAB

11 Plaintiff,

DECLARATION OF CYNTHIA
 HARRIS IN SUPPORT OF STATE
 OF WASHINGTON’S MOTION
 FOR PRELIMINARY
 INJUNCTION

12 v.

NOTED FOR: July 17, 2019
 With Oral Argument at 1:30 p.m.

13 ALEX M. AZAR II, in his official
 capacity as Secretary of the United
 States Department of Health and
 14 Human Services; and UNITED
 STATES DEPARTMENT OF
 15 HEALTH AND HUMAN
 SERVICES,

16 Defendants.
 17

18 I, Cynthia Harris, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

19 1. I am over the age of eighteen, competent to testify as to the matters
 20 herein, and make this declaration based on my personal knowledge.
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 22

1 **A. Introduction**

2 2. I am the program manager for the Family Planning Program at the
3 Washington State Department of Health (DOH or Department). DOH is
4 Washington’s statewide public health agency. It is located in the Executive
5 Branch of state government, with the Secretary of Health reporting directly to the
6 Governor. The Family Planning Program is a statewide family planning services
7 program jointly funded through federal grants under Title X of the Public Health
8 Services Act, 42 U.S.C. § 300(a), and state funds.

9 3. Family planning services are a critical part of basic healthcare that
10 allow men and women to plan the number and spacing of their children, prepare
11 for the birth of healthy children, prevent unintended pregnancies, and increase
12 the economic well-being of their family. DOH is committed to ensuring
13 Washington State residents have access to family planning services. We also
14 work to integrate family planning services with primary care and link with other
15 health care and social services, whenever possible. We prioritize services for
16 people with low incomes, teens, hard to reach populations, people in need of
17 confidential billing, and people who are uninsured or underinsured.

18 4. DOH’s Family Planning Program provides leadership and oversight
19 to our Family Planning Network of sixteen subrecipients offering Title X services
20 at eighty-five service sites. We collaborate with other programs in the
21 department; other state agencies; our subrecipient network organizations; and

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1 other family planning, primary health care, and social service organizations to
2 ensure that Title X services are available statewide. We ensure that all federal
3 and state requirements are met. Our Title X project adheres to quality financial,
4 operational, and clinical standards. The Family Planning Program's collaboration
5 with other programs throughout the Department ensures coordination on issues
6 related to women's health, adolescent health, family planning, sexually
7 transmitted infection (STI) and Human Immunodeficiency Virus (HIV)
8 prevention and treatment, intimate partner violence, and unintended pregnancy.

9 5. Family Planning Program staff work with operational staff at all
10 levels of the department to ensure our Title X project is managed to meet all state
11 and federal requirements, including all requirements of the Title X statute and all
12 applicable regulations and legislative mandates. The Department uses multiple
13 levels of review and technical assistance to ensure program integrity.
14 Department-wide offices support communications, technology, contracting,
15 grant management, and accounting, all of which help ensure that our Title X
16 project meets state and federal requirements, and delivers a broad range of family
17 planning services effectively and efficiently.

18 6. Given my leadership role, I have personal knowledge of the Family
19 Planning Program's funding structure, all aspects of the application for and
20 receipt of Title X funds, the Program's disbursement of grant funds to
21 subrecipients through contract, the eligibility criteria for and identity of
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1 subrecipients, and the eligibility criteria for patients to receive subsidized
2 services. I also have expertise through my experience, training, education, and
3 knowledge in the fields of family planning, health care delivery, Title X
4 compliance, and other family planning regulatory requirements. I base this
5 declaration on my personal knowledge, expertise, and review of program
6 materials and data obtained through my position as head of Washington's Title X
7 Family Planning Program, as well as available national data from peer-reviewed
8 literature on programmatic family planning in the United States.

9 **B. My Qualifications**

10 7. The Family Planning Program is housed in the Office of Family and
11 Community Health Improvement, one of four offices in DOH's Division for
12 Prevention and Community Health. I have been the program manager for the
13 Family Planning Program since 2013. I supervise a staff of five employees.
14 My primary duties include overseeing the Family Planning Program, directing
15 the Title X Project, assuring the program serves as many people in need of family
16 planning services as possible within funding constraints, assuring the quality of
17 services provided, overseeing the application process for Title X funding,
18 overseeing the contracting process for the Family Planning Program, including
19 Title X and state funds, managing program staff, and overseeing the monitoring
20 of our subrecipients for compliance with state and federal (Title X) laws and
21 regulations.

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1 8. Before becoming the program manager, from 2000 to 2013, I was a
2 Health Services Consultant at the Family Planning Program. In that role, my
3 responsibilities included thirteen years of monitoring Washington's subrecipients
4 for Title X compliance. As a special assignment during twelve of those thirteen
5 years (from 2001 to 2013), I served as the point person in our program for
6 reviewing bills proposed by the State Legislature to analyze their possible impact
7 on the program. From 2015 to 2017, I served as chair of the State Family Planning
8 Association, which is the national association of state health department Title X
9 grantees. The DOH Family Planning Program is a member of the National Family
10 Planning and Reproductive Health Association, and my staff and I currently serve
11 as representatives of DOH in this organization. I serve on the Upstream
12 Washington Advisory Committee, which oversees the work of a non-profit
13 company, Upstream USA, offering contraceptive training to a variety of
14 providers across the state in a five-year project to reduce barriers to
15 contraception.

16 9. Before working for the Family Planning Program, I worked for the
17 Hanford Health Information Network as a Health Program Specialist and Office
18 Manager from 1993 to 2000. Before that, I worked for the Feminist Women's
19 Health Center between 1985 and 1993, ultimately becoming its Director of
20 Counseling and Training. I earned a Graduate Certificate in Public Health,
21 Epidemiology Track from the University of Washington in 2000. I also have a
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1 Bachelor of Science degree in Social Work from Heritage College and an
2 Associate Degree in Psychology from Yakima Valley Community College.

3 10. I co-authored a paper on “Expanding Access to Emergency
4 Contraception Through State Systems: The Washington State Experience,”
5 which was published in the journal *Perspectives on Sexual and Reproductive*
6 *Health*, Volume 38, Number 4, December 2006.

7 **C. Background on Washington’s Title X Program**

8 **1. Washington is the sole grantee of Title X funds statewide**

9 11. Washington State has received and administered Title X family
10 planning funds continuously since 1971. They have been administered within
11 DOH, through the Family Planning Program, since its formation in 1989. In
12 addition to federal Title X funding, the Family Planning Program is funded by
13 approximately \$8.9 million in state funds each year.

14 12. Washington’s Title X Project is a part of the Family Planning
15 Program. The Family Planning Program pools federal and state funds and uses
16 them collectively to achieve its mission. To qualify for federal Title X funding,
17 including sliding scale discounts, clients must have an income of 250% of the
18 Federal Poverty Level or lower. All current subrecipients receive a combination
19 of federal and state family planning funds, which they use to serve their clients.
20 It is not possible for us to track whether patients receive services with federal or
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1 state family planning dollars. Further, subrecipients also may be paid for family
2 planning services through private insurance, Medicaid, or client fees.

3 13. Nevertheless, the U.S. Department of Health and Human Services
4 (HHS) requires that all services it deems “Title X core services” be provided in
5 compliance with Title X regulations regardless of payor source, and we strictly
6 enforce this requirement. All clients that receive services according to Title X
7 regulations are counted as Title X clients in DOH’s data system, regardless of the
8 precise funding source for the services provided to that client. (These services are
9 referred to in this declaration as “Title X services.”) DOH has integrated its
10 Title X funds with other funding sources and programs, including state funding
11 and funding from third-party payors, to maximize efficiency and enhance its
12 ability to provide comprehensive family planning services to those most in need
13 of them.

14 14. DOH is the sole grantee of Title X funds in Washington State and
15 runs the only Title X Project here. The Family Planning Program within DOH
16 serves as an umbrella agency for sixteen current subrecipients operating
17 eighty-five clinics throughout the state, which we call the Family Planning
18 Network. The Family Planning Program expects to serve approximately 98,000
19 individual clients from April 1, 2019 through March 31, 2020.

20 15. My Family Planning Program staff work together on every aspect of
21 our Title X-related activities. They are responsible for planning and evaluation;
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1 the application process; contract administration; monitoring subrecipient
2 compliance with state and federal guidelines and regulations; promoting
3 collaboration among stakeholder groups; serving as a clearinghouse for family
4 planning information and training opportunities; and providing consultation and
5 technical assistance to subrecipient organizations and stakeholders.

6 **2. Washington’s demographic characteristics related to**
7 **reproductive health care**

8 16. Washington is divided into thirty-nine counties encompassing
9 71,298 square miles. Three-quarters (29/39) of these counties have a population
10 density of less than 100 people per square mile, and one county is smaller than
11 250 square miles. These twenty-nine counties are considered “rural” under
12 Washington State law.

13 17. The Cascade Mountains, running from north to south, form a
14 geographic barrier between western and eastern Washington. While the east side
15 of the state is geographically larger, it has a markedly lower population density.
16 Eastern Washington’s size and low population density present significant barriers
17 to healthcare access. In general, people must travel farther to access services in
18 the eastern part of the state. It is also more difficult to recruit and retain health
19 care providers in rural areas.

20 18. Nearly half of Washington’s counties are designated as Primary
21 Care Health Professional Shortage Areas—having a population to provider ratio
22 greater than 3,500 people per primary care provider. Rural areas of the state tend

1 to have lower percentages of people with health insurance and higher percentages
2 who tend to postpone doctor visits due to cost. Rural area residents also tend to
3 get fewer preventive screening services. In general, the farther away people live
4 from an urban core area, the greater the magnitude of health disparities.

5 19. Of Washington State’s estimated 7.4 million residents in 2017, 20%
6 (1.46 million) were women of childbearing age (15–44 years). In 2014, the
7 Guttmacher Institute reported 884,410 women in need of family planning
8 services and supplies in Washington State. Of these, 429,300 (48.5%) were in
9 need of publicly supported services—this figure includes all women between the
10 ages thirteen and forty-four who are: sexually active, not sterile, and are either
11 teens or have incomes at or below 250% of the federal poverty level. In that same
12 year, the Washington Title X Project provided services to 74,842 women—fewer
13 than one in five compared to the number of women in need.

14 20. The number of Washington State women in need of publicly funded
15 family planning services grew by 35% from 2000–2014, the last year for which
16 we have data. The number of Title X clients served was relatively stable from
17 2012–2015 but increased to 90,168 clients in 2016 and 91,329 in 2017, 14.9%
18 more than the 2012–2015 average.

19 21. While the priority of the Title X program is reaching low-income
20 populations, adolescents face major barriers to contraceptive and reproductive
21 health services and often do not access needed services, either due to barriers or
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1 lack of knowledge about where such services are available. Barriers for this
2 population include cost, lack of transportation, and confidentiality concerns, and
3 the real or perceived inability to use insurance while maintaining confidentiality
4 of services. In addition, sex education is not mandated in Washington's public
5 schools (though it must be comprehensive and medically accurate, if provided).
6 This leaves some adolescents with little knowledge of sexual health and safe sex
7 practices. Adolescents face higher risks of unintended pregnancy and sexually
8 transmitted infections (STIs), with some of the highest rates of STIs in women
9 between the ages of fifteen to twenty-four. While the age distributions of Title X
10 clients are shifting, most clients are under the age of twenty-five, which
11 highlights the importance of these clinics for young adults and adolescents.
12 Adolescents experience a disproportionate rate of unintended pregnancies and
13 face significant barriers to affordable and confidential family planning and
14 reproductive health services. Disparities exist in teen pregnancy rates across
15 Washington counties and are especially high in rural counties and those with
16 higher poverty rates.

17 **3. Amount of funding and services provided**

18 22. Washington's Family Planning Program delivers family planning
19 services to low-income individuals in Washington, including a broad range of
20 contraceptives, counseling on reproductive health and other medical issues,
21 testing for STIs and HIV, and screening for human papillomavirus (HPV) and
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1 cancer. DOH distributes Washington's Title X funds via an allocation process,
2 approved by DOH and the Office of Population Affairs (OPA) within HHS, to
3 subrecipients that provide these services.

4 23. For the current Title X funding period, DOH initially received a
5 grant for a three-year period, which began on April 1, 2017. Partway through that
6 period, DOH received a letter from HHS shortening the project period to one
7 year, ending March 31, 2018. HHS did not announce a new funding opportunity
8 in time to make awards for the next project period before March 31, 2018, so
9 DOH was granted an extension of the grant period to August 31, 2018. DOH
10 applied for and received a grant in the amount of \$2,783,000 for the period of
11 September 1, 2018 to March 31, 2019. Attached hereto as Exhibit 1 is a true and
12 correct copy of the notice of award for that grant.

13 24. For 2017, Washington's Family Planning Program expenditure
14 (using both state and federal funds) was approximately \$13 million. The
15 state-funded amount was approximately \$9 million, and the federally funded
16 amount was approximately \$4 million.

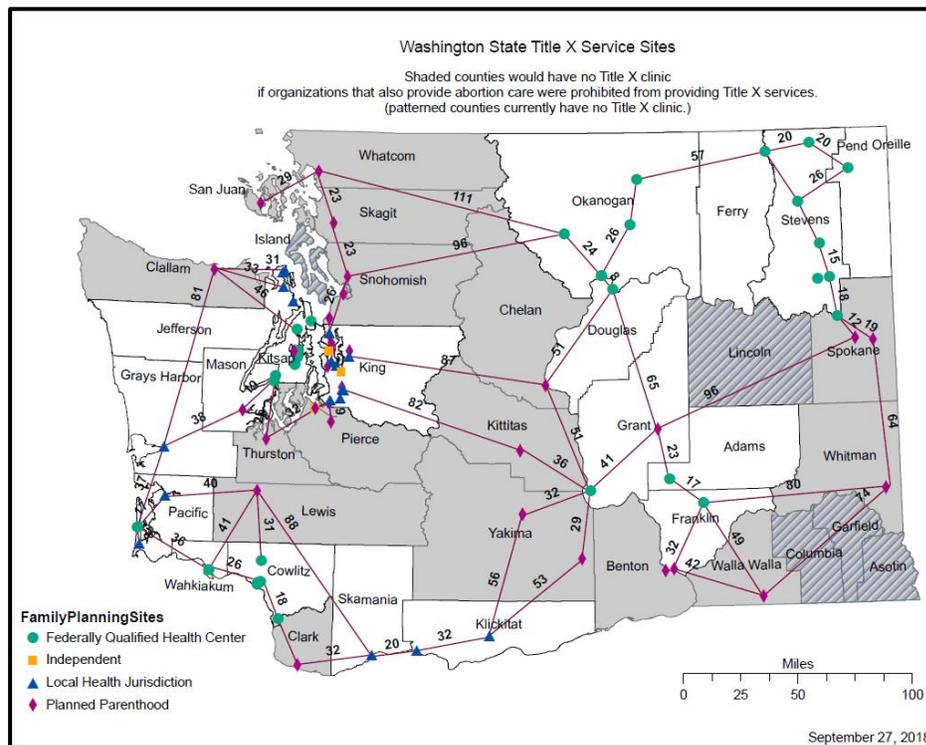
17 25. On January 14, 2019, DOH submitted an application for a new
18 three-year Title X grant, to begin on April 1, 2019. My staff prepared this
19 application, and before submission it is subject to three levels of review within
20 DOH. Preparing this application, gathering the required materials, and ensuring
21 its accuracy in every respect required over 300 hours of staff time.
22

4. Benefits to Washington from the Title X Program

26. DOH estimates that Washington’s Family Planning Program services prevented 18,150 unintended pregnancies in 2017, 8,550 unplanned births, 6,140 abortions, and 1,090 unplanned preterm/low birth weight births. In addition, these services prevented 1,030 chlamydia infections, 60 gonorrhea infections, and 10 HIV infections. All Family Planning Program preventative services resulted in net cost savings to the state health care system of \$113,267,480.

5. DOH’s Title X grant subrecipients

27. As of September 1, 2018, there were sixteen Title X subrecipient organizations with a total of 85 clinic sites across Washington. The following map prepared by DOH shows all Title X service sites within the state:



1 Attached hereto as Exhibit 2 is a true and correct copy of an enlarged copy of the
2 map above.

3 28. A number of Washington counties only have one Title X provider,
4 including Adams, Benton, Clallam, Grays Harbor, San Juan, Wahkiakum, Lewis,
5 Thurston, Jefferson, Whatcom, Skagit, Clark, Skamania, Kittitas, Chelan, Ferry,
6 Pend Orielle, Whitman, and Walla Walla. The following five counties
7 (of thirty-nine Washington counties) currently have no Title X provider: Island,
8 Lincoln, Columbia, Garfield, and Asotin. Clients living in these counties have to
9 travel to the nearest county that has a Title X provider to obtain Title X-funded
10 services.

11 29. All but five of our subrecipients have more than thirty years'
12 experience providing family planning services to their communities—four have
13 provided these services for more than fifty years. All have experience providing
14 high quality, confidential family planning services consistent with current,
15 evidence-based national standards of care and current legal requirements. These
16 services include comprehensive reproductive health exams—including questions
17 about pregnancy intention or discussion of reproductive life plans; fertility
18 counseling; contraceptive care, including a wide array of birth control
19 methods—including long-acting reversible contraception such as intrauterine
20 devices and implants, birth control pills, barrier methods like condoms, and
21 natural family planning methods; preventative screenings for STIs and cancer;

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1 reproductive health information, education and counseling; and community
2 education and outreach.

3 30. All subrecipients also provide pregnancy testing and options
4 counseling; level one infertility services; sexually transmitted disease testing,
5 counseling, and treatment; and HIV testing and treatment referral. All
6 subrecipients provide referrals for any type of medical care not provided through
7 Title X that clients may need. All have demonstrated familiarity with, and ability
8 to provide, family planning services and related preventive health care consistent
9 with current recognized national standards of care and in compliance with
10 applicable state and federal laws.

11 31. All of our subrecipients use certified Electronic Health Record
12 systems that are interoperable. This is one of the requirements for joining our
13 network.

14 **6. Washington's Title X patients**

15 32. Washington served 91,329 individual patients through Title X in
16 2017, with 128,409 patient visits. These numbers include patients who had other
17 sources of payment such as insurance or Medicaid, but who received services in
18 clinics within Washington's Family Planning Network according to HHS's
19 Title X regulations. In 2017, 56% of Washington's Family Planning Program
20 patients were at or below the federal poverty level, and 81% had incomes below
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1 200% of the federal poverty level. Seventeen percent of clients were women of
2 color. Nine percent of patients were under the age of eighteen.

3 33. Of those below 100% of the federal poverty level in Washington in
4 2012–2013, 34% were uninsured and 29% were underinsured. This population
5 has the greatest need for publicly funded family planning services and associated
6 preventative health services. Currently, 19.6% of Title X clients are uninsured, a
7 much higher proportion than the state population as a whole. All Washington
8 counties with the highest poverty and uninsured rates are rural. They have
9 significantly smaller and less dense populations and fewer available health
10 services.

11 **7. Selection of Subrecipients**

12 34. DOH selects subrecipients using robust criteria to ensure their
13 capacity to provide large numbers of patients with a broad range of high-quality
14 family planning services in a noncoercive, client-directed manner that respects
15 and is appropriate to the populations in their communities.

16 35. Abortion care and sterilization services are not provided as part of
17 Washington State’s Title X Project.¹ Subrecipients’ written policies must state
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19 _____
20 ¹ DOH maintains some state funds in an account separate from Title X
21 funds that it allocates for abortion services and sterilizations. Providers bill DOH
22 and are reimbursed for these services separately from any Title X services.

1 clearly and unequivocally that no Title X funds will be used for abortion services.
2 This is a core element of our competitive selection process.

3 36. DOH initiates the selection process by widely distributing
4 information about an upcoming competition for Family Planning Program funds
5 toward the end of the preceding project period in geographic areas that, based on
6 the Guttmacher Institute's identified areas of need and DOH data, are the most in
7 need of subsidized family planning services. DOH uses objective reviewers to
8 evaluate the applicants, based on objective criteria assessing their capability to
9 best utilize the available funding to carry out Title X requirements. DOH also
10 evaluates the applicant's qualifications (including its program structure,
11 patient-service capacity, history of receiving and utilizing funds, and other
12 factors); assesses the particular needs in the geographic area the applicant will
13 serve; learns how the applicant will provide services and the types of services it
14 will provide; reviews the applicant's policies, procedures, and protocols
15 (including those on reporting suspected abuse, maintaining medical records, and
16 providing nondirective care); receives contractual assurances indicating that
17 federal funding will not be used for abortion as a method of family planning;
18 reviews the applicant's training and orientation practices; evaluates the
19 applicant's ability to educate the community and provide outreach; and
20 investigates the clarity, detail, and reliability of the applicant's financial
21 management systems.
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1 37. We periodically invite interested organizations to apply to join our
2 Family Planning Network (local public health organizations, federally qualified
3 health centers and look-alikes, rural health centers, hospitals, and any other
4 organization that requests notification). We typically time this opportunity to
5 coincide with the project period of our federal Title X grant. In addition, we
6 include further opportunities to apply as needed to maintain a comprehensive,
7 sustainable Family Planning Network. This combination of sustaining existing
8 subrecipients and recruiting new subrecipients supports a robust, sustainable
9 statewide network of organizations providing Title X family planning services.

10 38. During our last recruitment period, summer 2018, we welcomed
11 four new subrecipients into our network—two federally qualified health centers
12 and two local public health organizations. These four new subrecipients, along
13 with the two we added in 2016, brought our total number of subrecipients to 16.
14 In all 15 new clinic sites began offering Title X services in September 2018. Our
15 network has a vibrant mix of organizations providing Title X services—local
16 public health organizations, federally qualified health centers, Planned
17 Parenthood affiliates, and an independent non-profit women’s health
18 organization.

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1 **8. Staffing of Washington’s Title X clinics**

2 39. All Title X clinics in Washington have physicians on staff as
3 medical directors, but nurse practitioners are the primary patient-care providers.
4 All sites have nurse practitioners accessible during all business hours.

5 **9. Contractual requirements and intensive monitoring of**
6 **subrecipients**

7 40. The Family Planning Program has ongoing responsibility for
8 ensuring Title X services are provided in compliance with the Title X authorizing
9 statute, regulations and guidance. As stated above, this starts with, and is a
10 prominent aspect of, the subrecipient selection process. To fulfill our
11 responsibility for ensuring the legal compliance, services, quality, cost,
12 accessibility, reporting, and performance of our Network, we actively monitor
13 and provide technical assistance to our subrecipients.

14 41. Washington subjects Title X providers to numerous contractual
15 requirements, including: (1) they must be non-profit or public agencies; (2) they
16 must meet reporting requirements (including the ability to extract data from their
17 electronic medical records systems to report to the contracted data vendor);
18 (3) they must follow all applicable laws and regulations; (4) they must ensure that
19 abortion services are separate from Title X funding; and (5) they must have
20 qualified personnel and licensed providers.

21 42. By signing the Family Planning Program contract with DOH, all
22 subrecipients agree to enforce the same certifications, assurances, cost principles,

1 and administrative rules. That contract provides that the subrecipient does “not
2 provide abortion as a method of family planning within the Title X Project
3 (42 CFR 59.5(5)).” All subrecipients signed assurances that their Title X funds
4 are completely segregated from any abortion services and that they are in
5 compliance with Section 1008. As explained more fully below, we ensure
6 compliance through several levels of review, including: (a) review of
7 documentation of expenses submitted with each invoice; (b) desk reviews of
8 costs analyses, fee schedules, and contract deliverables; and (c) on-site reviews
9 of policies and procedures and of subrecipient financial and management records.

10 43. To ensure compliance with federal regulations, DOH maintains and
11 periodically updates the Washington Family Planning Manual. The Family
12 Planning Manual is a compilation of guidelines applicable to all subrecipients
13 made applicable to them in their contract with DOH. The Manual provides
14 directions to clinics for ensuring Title X and state compliance, including
15 guidelines for ensuring contractors’ compliance with section 1008 prohibiting the
16 use of Title X funds for abortion as a method of family planning.

17 44. In addition, DOH does three types of monitoring: administrative,
18 clinical, and fiscal. As grant funds flow through the Family Planning Program to
19 a subrecipient, the Family Planning Program maintains primary responsibility for
20 ensuring compliance with federal and state requirements—both of which pertain
21 to all subrecipients, as they receive both federal and state funds.

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1 45. DOH monitors subrecipients every three years for administrative,
2 clinical, and fiscal compliance with Title X regulations. The fiscal review looks
3 at all of the subrecipient's expenses to determine that no Title X funds were used
4 for abortion as a method of family planning.

5 46. DOH's On-Site Monitoring Tool, a checklist created by DOH based
6 on the tool that the federal OPA uses to monitor us as the grantee, is used by
7 DOH site consultants, the nursing consultant, and agency fiscal experts to
8 perform on-site reviews at least every three years at each clinic. They conduct
9 monitoring that includes ensuring that: (1) the clinic is in compliance with Title
10 X regulations and quality standards, including section 1008; (2) the clinic's
11 financial system maintains financial separation of Title X dollars and abortion
12 services; (3) clinic personnel are informed that they could be prosecuted under
13 federal law if they coerce, or try to coerce, anyone to undergo an abortion or a
14 sterilization procedure, and the clinic has a policy in place to this end; (4) the
15 clinic has written policies clearly stating that no Title X funds (or state funds
16 associated with the Title X program) will be used to fund abortions; and (5) clinic
17 staff members have been trained on practices to ensure that Title X funding is
18 kept strictly separate from abortion services.

19 47. The site consultant verifies during an onsite visit that each of these
20 requirements is met by reviewing the subrecipients' policies and procedures,
21 personnel records, and accounting system. The consultant also interviews many
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1 staff members, including CEOs, CFOs, human resources personnel, medical
2 directors, clinicians, and front desk staff. DOH undertakes these extensive
3 monitoring obligations because any failure to comply could jeopardize the federal
4 funding the program relies on.

5 48. Currently, five subrecipients provide abortion services. Those
6 subrecipients have extensive timesheet and cost allocation procedures to ensure
7 that no Title X funds are used in programs providing abortion. Family Planning
8 Program staff provide technical assistance on this issue and our site consultants
9 coordinate with department fiscal experts and our nurse consultant during desk
10 and site reviews to ensure compliance.

11 49. I am familiar with the rule, Protecting Statutory Conscience Rights
12 in Health Care Delegations of Authority, published in the Federal Register on
13 May 21, 2019 (Final Rule).

14 50. I anticipate the Final Rule will increase costs for the Department of
15 Health as a whole. I am only referring to the DOH Family Planning Program in
16 this declaration. DOH, the Family Planning Program and all related
17 sub-recipients and will likely have negative impacts to the mission of agency and
18 health care access in the State of Washington.

19 51. If this rule is implemented, it is unlikely that DOH would be able to
20 apply for the Title X funding. It would be nearly impossible for subrecipients if
21 they have to hire new staff. Abortion and sterilization are not paid for with the
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1 federal Title X funds. However, subrecipient staff give information about those
2 procedures and refer out for those services.

3 52. If subrecipient staff refuse to provide those services, they are
4 withholding medical information that may be detrimental to the client.
5 Withholding medically accurate information from patients is unethical and may
6 be a breach of fiduciary duty. It limits patients' ability to evaluate and choose the
7 health care that best benefits their own lives. And withholding information erodes
8 trust and candor within the provider-patient relationship. Withholding referral to
9 legal, safe, quality medical care will also increase negative health outcomes—
10 particularly since the Final Rule's referral ban contains no exception for
11 medically indicated abortion except in an "emergency."

12 53. I understand that the rule could be interpreted beyond abortion and
13 sterilization. Hormonal (birth control pills, patches, and rings) and Long Acting
14 Reversible Contraception (IUDs and Implants) are controversial to some people.
15 If the subrecipient cannot ask upon hire whether a nurse practitioner, for example,
16 would be able to provide those services to clients who want them, they would
17 have to hire another person who would be able to provide them. Because they
18 cannot ask upon hire, they may end up with two nurse practitioners who would
19 not provide the services. This could go on and on with the result being that the
20 subrecipient could not provide the services that it is their mission to provide.

21 54. Studies show that there are negative health consequences of
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1 | unwanted childbearing. Parents of unwanted childbearing have higher incidents
2 | of depression and are more likely to engage in neglect. Studies show that
3 | increased incidents of unwanted childbearing happens to those below the poverty
4 | line, even though the parents want the same number of children as those in higher
5 | economic demographics.

6 | 55. In the unlikely event that the State could keep HHS Title X funding
7 | under this rule, there would be a loss of program integrity to the point that many
8 | existing subrecipients would drop out of the program. In addition, it would simply
9 | be too costly to operate the program with the threat of employee lawsuits because
10 | they cite moral objection to providing the service. Theoretically, the rule would
11 | create the opening for organizations that provide coercive reproductive health
12 | services (i.e., only natural family planning and no abortion or sterilization
13 | referrals) to apply for subrecipient funding.

14 | 56. If the State opted out of the Title X program, the loss of \$4 million
15 | in funding would result in fewer clients served. The increased pressure on the
16 | State side of the program would result in a lesser amount of funding provided to
17 | these agencies. Subsequently, fewer clients served will result in an increase of
18 | unintended pregnancies.

19 | 57. In either scenario, the costs to the State of Washington as a result of
20 | this will be well over \$100 million. Analyses show that significant cost savings
21 | are achieved by funding family planning services. Nationally, an estimated \$7.09
22 |

1 is saved for every dollar spent.² Based on that metric, in just the first year after
2 the Final Rule goes into effect, Washington stands to lose more than \$28 million
3 in savings from the loss of federal dollars (\$4 million in annual federal funds x
4 \$7.09). This figure does not even account for the additional costs associated with
5 changing the State's administrative system for the provision of family planning
6 services (of which would also be multiplied by \$7.09 per dollar).

7 58. In addition, cervical cancers will not be diagnosed in early stages,
8 and complications will occur due to untreated STIs. Unintended pregnancies not
9 only lead to more abortions, but further health issues. Parents of children resulting
10 from unintended pregnancies are more likely to suffer depression, anxiety, and
11 feelings of unhappiness. The failure to diagnose cancers and STIs early can lead
12 to further complications, and even death.

13 59. In sum, the Final Rule will have a devastating impact on
14 Washington's Family Planning Program and wreak havoc on the provider
15 network it has overseen and administered for over thirty-five years, massively
16 disrupting the provision of family planning services to patients in need.

17
18
19 ²Jennifer J. Frost, *Return on Investment: A fuller Assessment of a Benefits*
20 *and Cost Savings of the US Publicly Funded Family Planning Program*, Milbank
21 Quarterly, Vol. 92, No. 4, p. 668 (2014) (available at [https://www.gutmacher](https://www.gutmacher.org/sites/default/files/pdfs/pubs/journals/MQ-Frost_1468-0009.12080.pdf)
22 [.org/sites/default/files/pdfs/pubs/journals/MQ-Frost_1468-0009.12080.pdf](https://www.gutmacher.org/sites/default/files/pdfs/pubs/journals/MQ-Frost_1468-0009.12080.pdf)).

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 24th day of June, 2019, at Seattle, Washington.

s/ Paul Crisalli

PAUL CRISALLI, WSBA #40681
Assistant Attorney General

Exhibit 1

1. DATE ISSUED MM/DD/YYYY 08/27/2018
 2. CFDA NO. 93.217
 3. ASSISTANCE TYPE Project Grant

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH SERVICE
 OASH Office of Grants Management

1101 Wootton Parkway
 Suite 550
 Rockville, MD 20852

NOTICE OF AWARD

AUTHORIZATION (Legislation/Regulations)
 P.L. 91-572 PHS Act Sec. 1001 as Amended, 42 CFR 59

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

4. GRANT NO. 1 FPHPA006359-01-00 Formerly
 5. ACTION TYPE New

6. PROJECT PERIOD MM/DD/YYYY
 From 09/01/2018 Through 03/31/2019

7. BUDGET PERIOD MM/DD/YYYY
 From 09/01/2018 Through 03/31/2019

8. TITLE OF PROJECT (OR PROGRAM)
 Washington State Department of Health application for Title X family planning services grant as umbrella agency for 12 subrecipient organizations (The Washington State Title X Network)

9a. GRANTEE NAME AND ADDRESS
 HEALTH, WASHINGTON STATE DEPARTMENT OF
 PO BOX 47855
 Washington State Department of Health
 Olympia, WA 98504-7855

9b. GRANTEE PROJECT DIRECTOR
 Ms. Cynthia Nettie Harris
 310 ISRAEL RD SE
 MS 47880
 PCH/Family Planning Program
 OLYMPIA, WA 98501-7880
 Phone: 360-236-3401

10a. GRANTEE AUTHORIZING OFFICIAL
 Ms. Janna Bardi
 101 Israel Rd SE
 Tumwater, WA 98501-5570
 Phone: 360-236-3723

10b. FEDERAL PROJECT OFFICER
 Reyna Jesus
 Room 716G
 200 Independence Avenue, SW
 Washington, DC 20201
 Phone: 206-615-3678

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 <input checked="" type="checkbox"/>	
a. Salaries and Wages	278,885.00
b. Fringe Benefits	97,609.00
c. Total Personnel Costs	376,494.00
d. Equipment	0.00
e. Supplies	1,611.00
f. Travel	55,975.00
g. Construction	0.00
h. Other	35,667.00
i. Contractual	7,298,627.00
j. TOTAL DIRECT COSTS →	7,768,374.00
k. INDIRECT COSTS	123,209.00
l. TOTAL APPROVED BUDGET	7,891,583.00
m. Federal Share	2,783,000.00
n. Non-Federal Share	5,108,583.00

12. AWARD COMPUTATION	
a. Amount of Federal Financial Assistance (from item 11m)	2,783,000.00
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	2,783,000.00
13. Total Federal Funds Awarded to Date for Project Period	2,783,000.00

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
b. ADDITIONAL COSTS	
c. MATCHING	
d. OTHER RESEARCH (Add / Deduct Option)	
e. OTHER (See REMARKS)	

16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARING 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 - Yes No)

GRANTS MANAGEMENT OFFICIAL: Alice M Bettencourt, Grants Management Officer

17. OBJ CLASS 41.45	18a. VENDOR CODE 1916001067A1	18b. EIN 911444603	19. DUNS 808883128	20. CONG. DIST. 10
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	AMT ACTION FIN ASST	APPROPRIATION
21. a. 8-3984521	b. FPHPA6359A	c. FPH70	d. \$2,783,000.00	e. 75-18-0359
22. a.	b.	c.	d.	e.
23. a.	b.	c.	d.	e.

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Federal Financial Report Cycle			
Reporting Period Start Date	Reporting Period End Date	Reporting Type	Reporting Period Due Date
09/01/2018	09/30/2018	Quarterly	10/30/2018
10/01/2018	12/31/2018	Quarterly	01/30/2019
01/01/2019	03/31/2019	Final	06/29/2019

SPECIAL TERMS AND REQUIREMENTS

1. This award consists of:

Program income (fees, premiums, third-party reimbursements which the project may reasonably expect to receive), as well as State, local and other operational funding, will be used to finance the non-federal share of the scope of project as defined in the approved grant application and reflected in the approved budget. Program income and the level projected in the approved budget will be used to further program objectives. Box 15 on this Notice of Award (NoA) indicates **E – Other**: Program Income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award stays the same. Program Income in excess of any amounts specified must be added to the Federal funds awarded. They must be used for the purposes and conditions of this award for the duration of the Project period. 45 CFR 75.307 (e).

Title X Funds	\$2,783,000
Cost Sharing Funds (10%)	\$278,300
Program Income	\$4,830,283
Other Funds	\$0
Total Project Budget	\$7,891,583

- In accepting this award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 42 CFR part 59 subpart A currently in effect or implemented during the period of the grant.
- Notwithstanding any other provision of law, no provider under Title X of the Public Health Service Act shall be exempt from any State law requiring notification for the reporting of child abuse, child molestation, sexual abuse, rape, or incest.
- In accepting this award, the grantee certifies that it will encourage family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.
- In order to maintain an accurate record of current Title X service sites, grantees are expected to provide timely notice to the Office of Population Affairs (OPA), as well as to the appropriate HHS regional office, of any deletions, additions, or changes to the name, location, street address and email, and contact information for Title X grantees and service sites. This database will also be used to verify eligibility for 340b program registration and recertification. You must enter your changes to the Title X database within 30 days of the change at <https://www.opa-fpclinicdb.com/>. All changes will be reviewed and approved by the relevant HHS regional office prior to being posted on the OPA

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website. This does not replace the prior approval requirement under HHS grants policy for changes in project scope, including clinic closures.

6. In accepting this award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 42 CFR part 59 subpart A currently in effect or implemented during the period of the grant.

Notwithstanding any other provision of law, no provider under Title X of the Public Health Service Act shall be exempt from any State law requiring notification for the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

In accepting this award, the grantee certifies that it will encourage family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

In order to maintain an accurate record of current Title X service sites, grantees are expected to provide timely notice to the Office of Population Affairs (OPA), as well as to the appropriate HHS regional office, of any deletions, additions, or changes to the name, location, street address and email, and contact information for Title X grantees and service sites. This database will also be used to verify eligibility for 340b program registration and recertification. You must enter your changes to the Title X database within 30 days of the change at <https://www.opa-fpclinicdb.com/>. All changes will be reviewed and approved by the relevant HHS regional office prior to being posted on the OPA website. This does not replace the prior approval requirement under HHS grants policy for changes in project scope, including clinic closures.

If you or your sub-recipient(s) enrolls in the 340B Program, you must comply with all 340B Program requirements. You may be subject to audit at any time regarding 340B Program compliance. 340B Program requirements are available at <http://www.hrsa.gov/opa/programrequirements/>

7. **Program Priorities:** Each year the OPA establishes program priorities that represent overarching goals for the Title X program. Program priorities derive from the Department of Health and Human Services (HHS) priorities. Applicants should provide evidence of their capacity to address program priorities. The FY 2018 program priorities are as follows:
1. Assuring innovative high quality family planning and related health services that will improve the overall health of individuals, couples and families, with priority for services to those of low-income families, offering, at a minimum, core family planning services enumerated earlier in this Funding Announcement. Assuring that projects offer a broad range of family planning and related health services that are tailored to the unique needs of the individual, that include natural family planning methods (also known as fertility awareness based methods) which ensure breadth and variety among family planning methods offered, infertility services, and services for adolescents; breast and cervical cancer screening and prevention of STDs as well as HIV prevention education, counseling, testing, and referrals.
 2. Assuring activities that promote positive family relationships for the purpose of increasing family participation in family planning and healthy decision-making; education and counseling that prioritize optimal health and life outcomes for every individual and couple; and other related health services, contextualizing Title X services within a model that promotes optimal health outcomes for the client.
 3. Ensuring that all clients are provided services in a voluntary, client-centered and non-coercive manner in accordance with Title X regulations.
 4. Promoting provision of comprehensive primary health care services to make it easier for individuals to receive both primary health care and family planning services preferably in the same location, or through nearby referral providers, and increase incentive for those

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individuals in need of care choosing a Title X provider.

5. Assuring compliance with State laws requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, incest, intimate partner violence, and human trafficking.
6. Encouraging participation of families, parents, and/or legal guardians in the decision of minors to seek family planning services; and providing counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities; and
7. Demonstrating that Title X activities are separate and clearly distinct from non-Title X activities, ensuring that abortion is not a method of family planning for this grant.
8. Use of OPA performance metrics to regularly perform quality assurance and quality improvement activities.

8. **Key Issues:** In addition to program priorities, the following key issues should be considered in developing the project plan:

1. Efficiency and effectiveness in program management and operations;
2. Management and decision-making and accountability for outcomes;
3. Cooperation with community-based and faith-based organizations;
4. Meaningful collaboration with subrecipients and documented partners in order to demonstrate a seamless continuum of care for clients;
5. A meaningful emphasis on education and counseling that communicates the social science research and practical application of topics related to healthy relationships, to committed, safe, stable, healthy marriages, and the benefits of avoiding sexual risk or returning to a sexually risk-free status, especially (but not only) when communicating with adolescents;
6. Activities for adolescents that do not normalize sexual risk behaviors, but instead clearly communicate the research informed benefits of delaying sex or returning to a sexually risk-free status.
7. Emphasis on the voluntary nature of family planning services;
8. Data collection (such as the Family Planning Annual Report (FPAR) for use in monitoring performance and improving family planning services.

STANDARD TERMS

1. You must comply with all terms and conditions outlined in the grant award, including grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements (GPS), (note any references in the GPS to 45 CFR Part 74 or 92 are now replaced by 45 CFR Part 75, and the SF-269 is now the SF-425), 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. By drawing or otherwise obtaining funds for the award from the grant payment system or office, you accept the terms and conditions of the award and agree to perform in accordance with the requirements of the award.

The HHS Grants Policy Statement is available at:

<http://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS awards are

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at 45 CFR Part 75 effective December 26, 2014.

2. Certain changes to your project or personnel require prior approval from the Grants Management Officer (GMO). (See Part II, HHS Grants Policy Statement (GPS), any references in the GPS to 45 CFR Part 74 or 92 are now replaced by 45 CFR Part 75). All amendment requests requiring prior approval must be signed by the grantee authorizing official and or PI/PD and submitted through the GrantSolutions Amendment Module. Only responses signed by the GMO are considered valid. If you take action on the basis of responses from other officials or individuals, you do so at your own risk. Such responses will not be considered binding by or upon any OASH Office.

Any other correspondence not relating to a prior approval item should be uploaded to Grant Notes within the GrantSolutions system. Include the Federal grant number and signature of the authorized business official and the project director on all such correspondence.

3. The *Consolidated Appropriations Act, 2018*, limits the use of federal funds from the HHS Office of the Assistant Secretary for Health (OASH) on all grant or cooperative agreements henceforth including the current budget period.

(1) Salary Limitation

"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."

Effective January 7, 2018, the Salary Limitation is based upon the Executive Level II of the Federal Executive Pay Scale. That amount is **\$189,600**. For the purposes of the salary limitation, the direct salary is exclusive of fringe benefits and indirect costs. An individual's direct salary is not constrained by the legislative provision for a limitation of salary. The rate limitation simply limits the amount that may be awarded and charged to the grant. A recipient may pay an individual's salary amount in excess of the salary cap with non-federal funds.

(2) Acknowledge of Federal Grant Support (Section 505)

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local 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) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

4. Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery Act funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009,

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Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. You must report each obligating action described in paragraph a.1. of this award term to the [Federal Funding Accountability and Transparency Act Subaward Reporting System](#) (FFRS).

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

3. What to report. You must report the information about each obligating action as specified in the submission instructions posted at <http://www.fsrs.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

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

i. the total Federal funding authorized to date under this award is \$25,000 or more;

ii. in the preceding fiscal year, you received—

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

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

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at the [Executive Compensation](#) page of the SEC website.)

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

i. As part of your registration profile in the [System for Award Management \(SAM\)](#).

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

c. Reporting of Total Compensation of Subrecipient Executives.

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

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

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

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

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at the [Executive Compensation](#) page of the SEC website.)

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

i. To the recipient.

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

d. Exemptions

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

i. Subawards, and

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

e. Definitions.

For purposes of this award term:

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

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

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

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

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

3. "Subaward":

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

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

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

4. “Subrecipient” means an entity that:

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

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

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

i. Salary and bonus.

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

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

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

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

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

5. 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)

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

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

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

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

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

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

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

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

A. Associated with performance under this award; or

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

b. Provision applicable to a recipient other than a private entity.

We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity-

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

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

i. Associated with performance under this award; or

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

c. Provisions applicable to any recipient.

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

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

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

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

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

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d. Definitions. For purposes of this award term:

1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - ii. Includes:
 - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - B. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102)
6. You are hereby given notice that the 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.
7. 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.
8. Reporting of Matters Related to Recipient Integrity and Performance

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GRANT NO. 1 FPHPA006359-01-00	

1. General Reporting Requirement

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

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five year period; and
- c. If one of the following:
 - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - (4) Any other criminal, civil, or administrative proceeding if:
 - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgement of fault on your part; and
 - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

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

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awarded.

4. Reporting Frequency

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

5. Definitions

For purposes of this award term and condition:

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

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

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

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

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

9. Consistent with 45 CFR § 75.113, applicants and recipients must disclose, in a timely manner, in writing to the HHS Awarding Agency, with a copy to the HHS Office of the Inspector General, all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS Office of the Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:

*HHS OASH Office of Grants Management
1101 Wootton Parkway, Suite 550
Rockville, MD 20852*

AND

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US Department of Health and Human Services
Office of Inspector General
ATTN: OIG HOTLINE OPERATIONS—MANDATORY GRANT DISCLOSURES
PO Box 23489
Washington, DC 20026

URL: <http://oig.hhs.gov/fraud/report-fraud/index.asp> (Include “Mandatory Grant Disclosures” in subject line)

Fax: 1-800-223-8164 (Include “Mandatory Grant Disclosures” in subject line)

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

The recipient must include this mandatory disclosure requirement in all subawards and contracts under this award.

REPORTING REQUIREMENTS

1. The Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) combined the audit requirements for all entities under one Act. An audit is required for all entities as stipulated in 45 CFR Part 75.500. The audits are due within 30 days of receipt from the auditor or within 9 months of the end of the fiscal year, whichever occurs first. The audit report when completed should be submitted online to the Federal Audit Clearinghouse at <http://harvester.census.gov/fac/collect/ddeindex.html>.

2. FINANCIAL REPORTING REQUIREMENT Federal Financial Reporting (FFR) SF 425:

You must use the SF-425 Federal Financial Report (FFR) for expenditure reporting. You may find the SF-425 and instructions for completing the form on the Web at: <http://apply07.grants.gov/apply/forms/sample/SF425-V1.0.pdf>. You must complete **all** sections of the FFR.

- a. Your FFR reporting schedule has been issued as a condition of this grant award, including a Final FFR covering the entire project period due 90 days after the project period end date. You may also view the complete table of the reporting schedule after logging into GrantSolutions from the My Grants List screen, select the **Reports** menu dropdown and then select the **Federal Financial Report** submenu.
- b. GrantSolutions will automatically issue you a reminder seven (7) days prior to each report due date. If you have not submitted by the due date, you will receive a message indicating the report is **Past Due**. Please ensure your GrantSolutions account and contact information are up to date so you receive notifications.
- c. **Electronic Submissions accepted only via GrantSolutions** – Your FFR must only be submitted for review via the GrantSolutions FFR reporting module. No other submission methods will be accepted without prior written approval from the GMO. You must be assigned to the grant with authorized access to the FFR reporting Module as FINANCIAL OFFICER when submitting. If you encounter any difficulties, contact the Grant Solutions Help Desk or your assigned Grants Management Specialist. Please reference the CONTACTS section of NoA Terms and Conditions to locate the name of this individual.

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The Quarterly cash reporting to the HHS Payment Management System on the FFR is also required. Please note at this time, these FFR reports are separate submissions via the Payment Management System; data is not transferable between the two systems and you will report twice on certain data elements.

3. **Closeout Requirements:** This project is in its final budget period. Once the project period has ended you are required to submit a Final Program Progress report, the SF-425 Final Federal Financial report, the Payment Management System FFR – Cash Transaction Report, and the SF-428 Tangible Personal Property report and/or Disposition report within 90 calendar days after the expiration of the project and budget period end date. Failure to submit these required reports when due may result in the imposition of a special award condition or the withholding of support for other active or future projects or activities involving your organization.

a. The Final Program Progress Report: Your reports must address content required by 45 CFR § 75.342(b)(2). Additional guidance on content of the progress report may be provided by the Program Office. Submit your report via attachment to the Grant Notes section within GrantSolutions.

b. SF-425 Final Federal Financial Report: Submit your Final FFR via the FFR Reporting Module in Grant Solutions. You may find the instructions for completing the FFR form on the Web at: <http://apply07.grants.gov/apply/forms/sample/SF425-V1.0.pdf>

c. Federal Financial Report (FFR) (SF-425) Cash Transactions: Submit your report via the HHS Payment Management System. The instructions for submitting this report are available at <https://pms.psc.gov/>.

d. SF-428 and SF-428-B Tangible Personal Property report and/or Disposition reports: Submit reports via attachment to the Grant Notes section within GrantSolutions. You may find the forms SF 428 on the Web at: <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html#sortBy=1>

Additional instructions for completing all reports will be provided in the Pre-closeout letter from the Office of Grants Management.

CONTACTS

1. Fraud, Abuse and Waste:

The HHS Inspector General accepts tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement in Department of Health and Human Services' programs. Your information will be reviewed promptly by a professional staff member. Due to the high volume of information that they receive, they are unable to reply to submissions. You may reach the OIG through various channels.

Internet: <https://forms.oig.hhs.gov/hotlineoperations/index.aspx>

Phone: 1-800-HHS-TIPS (1-800-447-8477)

Mail: US Department of Health and Human Services
Office of Inspector General
ATTN: OIG HOTLINE OPERATIONS
PO Box 23489
Washington, DC 20026

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For additional information visit <https://oig.hhs.gov/fraud/report-fraud/index.asp>

2. PAYMENT PROCEDURES:

Payments for grants awarded by OASH Program Offices are made through Payment Management Services (previously known as the Division of Payment Management) (<https://pms.psc.gov/home.html>). PMS is administered by the Program Support Center (PSC), HHS. NOTE: Please contact the Payment Management Services to establish an account if you do not have one.

Inquiries regarding payments should be directed to <https://pms.psc.gov/home.html>; Payment Management Services, P.O. Box 6021, Rockville, MD 20852; or 1-877-614-5533.

3. GrantSolutions is our web-based system that will be used to manage your grant throughout its life cycle. Please contact GrantSolutions User Support to establish an account if you do not have one. Your Grants Management Specialist has the ability to create a GrantSolutions account for the Grantee Authorized Official and Principle Investigator/Program Director roles. Financial Officer accounts may only be established by GrantSolutions staff. All account requests must be signed by the prospective user and their supervisor or other authorized organization official. For assistance on **GrantSolutions** issues please contact: **GrantSolutions User Support at 202-401-5282 or 866-577-0771**, email help@grantsolutions.gov, Monday – Friday, 8 a.m. – 6 p.m. ET. Frequently Asked Questions and answers are available at <https://grantsolutions.secure.force.com/>.
4. For assistance on **grants administration** issues please contact: Mr. DeWayne Wynn, Grants Management Specialist, at (240) 453-8822, FAX (240) 453-8823, e-mail Dewayne.Wynn@hhs.gov or OPHS Grants Management Office, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852.

1. DATE ISSUED MM/DD/YYYY 09/12/2018
 2. CFDA NO. 93.217
 3. ASSISTANCE TYPE Project Grant

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH SERVICE

OASH Office of Grants Management

1101 Wootton Parkway
 Suite 550
 Rockville, MD 20852

NOTICE OF AWARD

AUTHORIZATION (Legislation/Regulations)
 P.L. 91-572 PHS Act Sec. 1001 as Amended, 42 CFR 59

1a. SUPERSEDES AWARD NOTICE dated 08/27/2018
 except that any additions or restrictions previously imposed remain in effect unless specifically rescinded

4. GRANT NO. 6 FPHPA006359-01-01 Formerly
 5. ACTION TYPE Post Award Amendment

6. PROJECT PERIOD MM/DD/YYYY
 From 09/01/2018 Through 03/31/2019

7. BUDGET PERIOD MM/DD/YYYY
 From 09/01/2018 Through 03/31/2019

8. TITLE OF PROJECT (OR PROGRAM)
 Washington State Department of Health application for Title X family planning services grant as umbrella agency for 12 subrecipient organizations (The Washington State Title X Network)

9a. GRANTEE NAME AND ADDRESS
 HEALTH, WASHINGTON STATE DEPARTMENT OF
 PO BOX 47855
 Washington State Department of Health
 Olympia, WA 98504-7855

9b. GRANTEE PROJECT DIRECTOR
 Ms. Cynthia Nettie Harris
 310 ISRAEL RD SE
 MS 47880
 PCH/Family Planning Program
 OLYMPIA, WA 98501-7880
 Phone: 360-236-3401

10a. GRANTEE AUTHORIZING OFFICIAL
 Ms. Janna Bardi
 101 Israel Rd SE
 Tumwater, WA 98501-5570
 Phone: 360-236-3723

10b. FEDERAL PROJECT OFFICER
 Reyna Jesus
 Room 716G
 200 Independence Avenue, SW
 Washington, DC 20201
 Phone: 206-615-3678

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 <input checked="" type="checkbox"/>	
a. Salaries and Wages	278,885.00
b. Fringe Benefits	97,609.00
c. Total Personnel Costs	376,494.00
d. Equipment	0.00
e. Supplies	1,611.00
f. Travel	55,975.00
g. Construction	0.00
h. Other	35,667.00
i. Contractual	7,298,627.00
j. TOTAL DIRECT COSTS →	7,768,374.00
k. INDIRECT COSTS	123,209.00
l. TOTAL APPROVED BUDGET	7,891,583.00
m. Federal Share	2,783,000.00
n. Non-Federal Share	5,108,583.00

12. AWARD COMPUTATION	
a. Amount of Federal Financial Assistance (from item 11m)	2,783,000.00
b. Less Unobligated Balance From Prior Budget Periods	0.00
c. Less Cumulative Prior Award(s) This Budget Period	2,783,000.00
d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION	0.00
13. Total Federal Funds Awarded to Date for Project Period	2,783,000.00

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)	<input checked="" type="checkbox"/>

16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARING 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 - Yes No)

This Notice of Award (NOA) updates Box 15 on the New NOA issued 08/27/2018 to reflect the correct treatment of Program Income to "e" Other per the Special Terms and Requirements number 1 on the New award. All previous Terms and Conditions remain in effect, unless specifically removed.

GRANTS MANAGEMENT OFFICIAL: Alice M Bettencourt, Grants Management Officer

17. OBJ CLASS 41.45	18a. VENDOR CODE 1916001067A1	18b. EIN 911444603	19. DUNS 808883128	20. CONG. DIST. 10
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	AMT ACTION FIN ASST	APPROPRIATION
21. a. 8-3984521	b. FPHPA6359A	c. FPH70	d. \$0.00	e. 75-18-0359
22. a.	b.	c.	d.	e.
23. a.	b.	c.	d.	e.

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Federal Financial Report Cycle			
Reporting Period Start Date	Reporting Period End Date	Reporting Type	Reporting Period Due Date
09/01/2018	09/30/2018	Quarterly	10/30/2018
10/01/2018	12/31/2018	Quarterly	01/30/2019
01/01/2019	03/31/2019	Final	06/29/2019

CONTACTS

1. For assistance on **grants administration** issues please contact: Mr. DeWayne Wynn, Grants Management Specialist, at (240) 453-8822, FAX (240) 453-8823, e-mail Dewayne.Wynn@hhs.gov or OPHS Grants Management Office, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852.

Exhibit 2

Washington State Title X Service Sites

Shaded counties would have no Title X clinic if organizations that also provide abortion care were prohibited from providing Title X services. (patterned counties currently have no Title X clinic.)

