

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

	)	
	)	
PLANNED PARENTHOOD OF	)	
GREATER NEW YORK <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
v.	)	Civil Action No. 25-cv-2453
	)	
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT

Plaintiffs Planned Parenthood of Greater New York (PPGNY), Planned Parenthood of California Central Coast (PPCCC), and Planned Parenthood of the Heartland (PPH) respectfully move this Court for summary judgment on Counts I, III, IV, and V in the above-captioned litigation in accordance with Federal Rule of Civil Procedure 56 and Civil Local Rule 56-1.¹

On July 1, 2025, the U.S. Department of Health and Human Services’ (HHS) issued its *OASH Teen Pregnancy Prevention Program Policy Notice* (Policy Notice), which unlawfully imposes substantial requirements on the Teen Pregnancy Prevention (TPP) Program. For over fifteen years, the TPP Program has successfully reduced unintended teen pregnancy and related health disparities through an evidence-based, congressionally mandated public health initiative. The Policy Notice unlawfully conditions continued TPP Program funding on grant recipients’ compliance with amorphous requirements that are contrary to law, unsupported by evidence, and

¹ Plaintiffs are no longer pursuing Count II of the Complaint raising a First Amendment claim under the Administrative Procedure Act.

directly contravene the very purpose of the TPP program. The Policy Notice should, therefore, be vacated.

In support of their motion, Plaintiffs rely on the accompanying brief and statement of material facts submitted concurrently, as well as the accompanying declarations and exhibits.

Dated: August 25, 2025

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Civil Action No. 25-cv-2453

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT

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INTRODUCTION

This case challenges the U.S. Department of Health and Human Services' (HHS) unlawful imposition of sweeping new requirements on the Teen Pregnancy Prevention (TPP) Program, an evidence-based, congressionally mandated public health initiative that has successfully reduced unintended teen pregnancy and related health problems for over fifteen years. HHS's July 1, 2025, *OASH Teen Pregnancy Prevention Program Policy Notice* (Policy Notice), unlawfully conditions access to continued TPP Program funding on grant recipients' compliance with amorphous requirements that are contrary to law, unsupported by evidence, and directly contravene the very purpose of the TPP program—to provide effective, medically accurate programming to reduce teen pregnancy and associated health risks.

Plaintiffs Planned Parenthood of Greater New York (PPGNY), Planned Parenthood of California Central Coast (PPCCC), and Planned Parenthood of the Heartland (PPH) are nonprofit organizations whose TPP projects have been upended by HHS's unlawful actions despite having successfully operated for years and having already been approved by HHS through the agency's rigorous evidence review process. Three years into their five-year grants, the Policy Notice has forced Plaintiffs into a Hobson's choice: alter their programs to conform to the Policy Notice's unlawful requirements, risk enforcement action by continuing their approved programming, or shut down their projects entirely. The Policy Notice's mandates violate the Administrative Procedure Act (APA), infringe Plaintiffs' constitutional rights, and exceed HHS's statutory authority.

The Policy Notice is final agency action with immediate legal consequences. It compels Plaintiffs to revise their programming, threatens suspension and termination of funding, and imposes content restrictions that defy congressional directives. Because the Policy Notice is contrary to law, arbitrary and capricious, unconstitutionally vague, and *ultra vires*, it must be set

aside.¹ Plaintiffs respectfully request that the Court grant summary judgment and vacate the Policy Notice in its entirety.

STATEMENT OF FACTS

A. The TPP Program

Teenage pregnancy has long been a significant public health concern in the United States because of the range of health, social, and economic effects adolescent childbearing can have on adolescents, their children, and broader society. *See* Statement of Mat. Facts Pursuant to L.Cv.R. 7(h) in Support of Pls.’ Mot. for Summ. J. (Pls.’ SOMF) ¶ 1 (citing Alexandria K. Mickler & Jessica Tollestrup, Cong. Rsrch. Serv., R45184, Teen Births in the United States: Overview and Recent Trends 1 (2025)). Despite a substantial decline over the past two decades, the rate of unintended adolescent pregnancy in the United States remains higher than that of comparable high-income countries, with persistent racial, ethnic, and geographic disparities. *Id.*

In 2009, Congress created the TPP Program to fund a wide array of evidence-based, scientifically rigorous approaches to reducing teen pregnancy and associated health risks. Pub. L. No. 111-117, 123 Stat. 3034, 3253 (2009). In doing so, Congress appropriated \$110 million “to fund medically accurate and age appropriate programs that reduce teen pregnancy.” *Id.* Since then, Congress has continuously funded the TPP Program at approximately the same funding and with the same statutory requirements. *See, e.g.*, Pub. L. No. 118-47, 138 Stat. 460, 671 (2024).

Congress requires HHS to fund two tiers of TPP Programs, “Tier 1” and “Tier 2.” Pls.’ SOMF ¶ 6. At issue in this case is Tier 1, which requires grantees to “replicat[e]” “medically accurate and age appropriate programs” that have “been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or

¹ Plaintiffs are no longer pursuing their claim that the Policy Notice violates the First Amendment.

other associated risk factors.” 138 Stat. at 671.² Consistent with this mandate, HHS designates programs eligible for “replication” through the agency’s Teen Pregnancy Prevention Evidence Review (TPPER) process, a rigorous process akin to peer review. Pls.’ SOMF ¶ 12 (citing OASH, *Updated Findings from the HHS Teen Pregnancy Prevention Evidence Review*, <https://opa.hhs.gov/research-evaluation/teen-pregnancy-prevention-program-evaluations/tpp-evidence-review#ftn1> (last visited Aug. 24, 2025) (OASH, *TPPER Findings*)). Relying on a systematic review of studies and program evaluations, TPPER determines whether a program has been proven effective in serving the required TPP goals: reducing teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors. *Id.* ¶ 13 (citing OASH, *TPPER Findings*). Each Plaintiffs’ Tier 1 TPP project has been approved to replicate, with fidelity, at least one of the evidence-based programs that HHS has identified on its pre-approved list as effective and consistent with Congress’s mandate for the program. *See id.* ¶ 47 (citing Decl. of Wendy Stark (PPGNY Decl.) ¶¶ 13-14; Decl. of Jenna Tosh (PPCCC Decl.) ¶ 26, 28; Decl. of Christine Cole (PPH Decl.) ¶ 12-13, 16).

B. The TPP Program Application and Award Process

TPP Program grant recipients, including Plaintiffs, receive project funding through two related processes: a competitive award cycle and an annual non-competitive continuing award process. Pls.’ SOMF ¶ 17. Consistent with HHS’s regulations, 45 C.F.R. § 52.6, the TPP Program’s competitive award cycle begins with a notice of funding opportunity (NOFO), by which the agency declares its intention to award funds and outlines the program goals, objectives, and conditions for applying. Pls.’ SOMF ¶ 18 (citing HHS, OASH, OPA, *Advancing Equity in*

² Tier 2 grantees are responsible for “develop[ing], replicat[ing], refin[ing], and test[ing]” new “medically accurate and age appropriate programs” “for preventing teenage pregnancy.” 138 Stat. at 671.

Adolescent Health through Evidence-Based Teen Pregnancy Prevention Programs and Services, Notice of Funding Opportunity, AH-TP1-23-001, (2023 NOFO) at 5-6).

HHS grants these awards for a “project period,” during which HHS “intends to support the project without requiring the project to re compete for funds.” 45 C.F.R. § 52.6(c). Each year, grantees submit a non-competing continuation award application (NCC application) consisting of a progress report for the current budget year and a work plan, budget, and budget justification for the upcoming year. Pls.’ SOMF ¶ 20 (citing 2023 NOFO at 56).

Plaintiffs PPGNY, PPCCC, and PPH are grantees whose projects were designed in response to HHS’s 2023 Tier 1 TPP NOFO, which solicited applications for projects in communities and populations with the greatest unmet needs that replicated evidence-based programs that were “culturally and linguistically appropriate, trauma-informed, and inclusive of all youth.” Pls.’ SOMF ¶ 21 (citing 2023 NOFO at 11). Each grantee’s project was approved for a five-year performance period from 2023 to 2028, subject to the annual non-compete continuation funding application process. Pls. SOMF ¶ 22 (citing PPGNY Decl. ¶¶ 12, 19; PPCCC Decl. ¶ 26; PPH Decl. ¶ 9). Each Plaintiffs’ third-year of funding was approved on July 2, 2025. *Id.* (citing PPGNY Decl. ¶ 25; PPCCC Decl. ¶ 39; PPH Decl. ¶ 24).

When a TPP continuation award is granted, the funds are made available in an online account, and Plaintiffs “draw down” funds as needed to reimburse them for their approved project expenses. Pls.’ SOMF ¶ 23. Through the process of accessing funds already awarded to them—i.e., “drawing down” the awarded funds—TPP funding recipients certify that they will comply with program policies, including, as of July 2, 2025, the Policy Notice. *Id.* Plaintiffs have not drawn down any funds since HHS issued the Policy Notice on July 2, 2025. *Id.* ¶ 49 (citing PPGNY Decl. ¶ 60; PPCCC Decl. ¶ 83; PPH Decl. ¶ 61).

C. HHS's Imposition of New Requirements on the TPP Program

Over the past several months, HHS has engaged in a pattern of escalating efforts to undermine the statutory goals of the TPP Program—first through the imposition of an Executive Order “alignment” requirement on Plaintiffs’ NCC applications, and now through a sweeping Policy Notice that not only requires Plaintiffs to “align” with Executive Orders as a condition of continued funding but also imposes a host of additional content-based restrictions that are vague, lack scientific reasoning, and are fundamentally incompatible with the purposes and statutory requirements of the TPP Program.

A little more than two weeks before the Tier 1 NCC application deadlines, OASH issued its *Guidance for Preparing a Non-Competing Continuation (NCC) Award Application, Teen Pregnancy Prevention (TPP) Program Recipients (AH-TP1-23-001)* (2025) (NCC Notice) to Tier 1 TPP funding recipients. Pls.’ SOMF ¶ 24. The NCC Notice imposed, for the first time, a requirement that grantees “align” their programs with *all* Executive Orders. *Id.* (citing NCC Notice at 4-5). Plaintiffs all submitted their NCC applications without certifying compliance with the Executive Order “alignment” requirement. *Id.* ¶ 25 (citing PPGNY Decl. ¶ 24; PPCCC Decl. ¶ 38; PPH Decl. ¶ 23.). HHS granted Plaintiffs’ NCC applications, after they and others filed a lawsuit challenging the Tier 1 NCC Notice. *Id.* ¶ 26 (citing *Planned Parenthood of Greater N.Y. v. HHS (PPGNY I)*, No. 25-1334 (TJK) (D.D.C. May 1, 2025), Dkt. No. 1).

On July 2, 2025, HHS granted Plaintiffs’ NCC applications—albeit subject to the terms of the Policy Notice, which it published that same day. Pls.’ SOMF ¶¶ 26, 27. As a result, the *PPGNY I* plaintiffs no longer faced harm from the potential denial of their applications and voluntarily dismissed the case on July 11, 2025, before the Court had resolved the merits of any of the plaintiffs’ claims. Notice of Voluntary Dismissal, *PPGNY I*, No. 25-1334 (D.D.C. July 11, 2025), Dkt. No. 34.

While HHS characterizes its Policy Notice as merely “clarify[ing] OASH policy,” Policy Notice at 1, the Policy Notice in fact imposes new and substantive conditions on continued funding—both via its Executive Order “alignment” requirement and by imposing additional sweeping new content mandates. Specifically, the Policy Notice imposes five content mandates: (1) an **anti-DEI mandate** that prohibits TPP programming from including “discriminatory equity ideology,” and “diversity, equity, or inclusion-related discrimination”; (2) a **prohibition of certain LGBTQ+-inclusive content** that explicitly bans so-called “gender ideology”; (3) an **anti-“normalizing” sex mandate** that prohibits TPP programming from including any “sexually explicit content” or “content that encourages, normalizes, or promotes sexual activity for minors”; (4) the **redefining of “medically accurate”** in a manner that is both medically *inaccurate* and exceptionally burdensome on program participants, as well as particularly impractical in a group educational context; and (5) an **opt-out requirement** that TPP programs must “provide parents advance notice . . . and the ability to opt out of any content or activities, especially those related to sexuality, that may burden their religious exercise.” *See* Policy Notice at 3-5.

D. The Policy Notice’s Ongoing Impact on Plaintiffs’ TPP Projects and Services

HHS’s actions directly threaten Plaintiffs’ ongoing TPP projects and their ability to access funds in order to execute those projects. Despite HHS approving Plaintiffs’ TPP projects for a third year, the Policy Notice’s unlawful requirements present Plaintiffs with an impossible choice, whether to (1) alter their TPP programs to draw down the awarded funds (which requires certifying compliance with the Policy Notice) and risk undermining the effectiveness of their projects, contravening their missions, and alienating the vulnerable populations they serve, (2) continue on with their TPP programming as previously approved with the likely outcome of an enforcement

action by HHS, or (3) shut down their programs entirely to avoid these negative outcomes, abandoning their partnerships and the communities they serve. Pls.’ SOMF ¶ 48 (citing PPGNY Decl. ¶ 40; PPCCC Decl. ¶ 65; PPH Decl. ¶ 38).

Plaintiffs designed their budgets, programming, staffing, and partnerships with community organizations based on the understanding that HHS would provide continued funding. Pls.’ SOMF ¶ 50 (citing PPGNY Decl. ¶¶ 61-63; PPCCC Decl. ¶ 74; PPH Decl. ¶¶ 61-63). By conditioning that funding on Plaintiffs’ acceding to unlawful and standardless requirements, the Policy Notice disrupts Plaintiffs’ operations, thwarts their ability to provide the funded TPP programs and education services, and threatens their reputation, stakeholder relationships, and community goodwill with many local partners in areas where programming is offered. *Id.* (citing PPGNY Decl. ¶ 67-68; PPCCC Decl. ¶ 68; PPH Decl. ¶ 45). These disruptions threaten Plaintiffs’ ability to provide public health programming to communities that HHS has identified as having the highest unmet need and perpetuate the negative health outcomes this program was designed to address. *Id.* (citing PPGNY Decl. ¶ 68-70; PPCCC Decl. ¶ 67; PPH Decl. ¶ 45-47).

E. Procedural History

Plaintiffs filed this litigation on July 29, 2025. ECF No. 1. That same day, PPGNY and PPCCC filed a motion for a temporary restraining order. ECF No. 3. The Court held argument and denied the motion on July 31, on the grounds that PPGNY and PPCCC had not demonstrated imminent irreparable harm. ECF No. 18. None of the Plaintiffs have been able to draw down funds for year three of their TPP projects, which began July 1, as a result of the Policy Notice. Pls.’ SOMF ¶ 49 (citing PPGNY Decl. ¶ 60; PPCCC Decl. ¶ 83; PPH Decl. ¶ 61).

Since the Court’s denial of Plaintiffs’ Motion for a Temporary Restraining Order, PPGNY has been forced to shut down its TPP project due to the loss of access to funds, but PPGNY remains

in the TPP program and will attempt to restart its project if this case provides relief.³ Pls.’ SOME ¶ 51 (citing PPGNY Decl. ¶¶ 62-63, 66). PPCCC has had to allocate its limited, unallocated reserves to pay staff and cover other program expenses due to the loss of access to TPP grant funds, which it can only do for a brief period; without relief, PPCCC has no other funds to cover the costs of its TPP project and will soon be forced to shut down its program and furlough staff. *Id.* ¶ 52 (citing PPCCC Decl. ¶¶ 83-85). PPH has also briefly kept its project afloat by reallocating resources and pausing certain contracts, but can only operate its project on this reduced budget for a short time and will soon have to shut down its TPP project absent relief. *Id.* ¶ 53 (citing PPH Decl. ¶¶ 62-63).

LEGAL STANDARD

The APA instructs the reviewing court to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” as well as agency action taken “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2). In APA cases, “[t]he entire case on review is a question of law.” *Rempfer v. Sharfstein*, 583 F.3d 860, 865 (D.C. Cir. 2009) (quoting *Marshall Cnty. Health Care Auth. v. Shalala*, 988 F.2d 1221, 1226 (D.C. Cir. 1993)). Thus, summary judgment in APA cases “serves as the mechanism for deciding, as a matter of law, whether the agency action is supported by the administrative record and otherwise consistent with the APA standard of review.”

³ In its declaration submitted with the TRO briefing to this Court, PPGNY stated “[g]iven the options before us and absent relief from this Court, PPGNY will leave the TPP Program, which means that it will have to shut down its Project STAR programming.” Dkt. No. 3-6 ¶ 47. However, PPGNY has since come to understand that it may remain in the program without drawing down its allocated funds while this case proceeds. To be clear, the anticipated harm has indeed occurred—PPGNY has had to shut down its Project STAR due to the loss of access to its TPP funds. But because the Policy Notice is the reason PPGNY is unable to draw down those funds, PPGNY hopes to attempt to rebuild its project should the Court grant relief at this stage.

Sierra Club v. Mainella, 459 F. Supp. 2d 76, 90 (D.D.C. 2006) (citing *Richards v. INS*, 554 F.2d 1173, 1177 & n.28 (D.C. Cir. 1977)).

As for constitutional claims, Rule 56 requires courts to grant summary judgment “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “[I]n the context of *ultra vires* . . . claims, there are no questions of fact, because whether or not a statute or the Constitution grants the President the power to act in a certain way is a pure question of law.” *Am. Fed’n of Gov’t Emps., AFL-CIO v. Trump*, 318 F. Supp. 3d 370, 394 (D.D.C. 2018), *rev’d and vacated on other grounds*, 929 F.3d 748 (D.C. Cir. 2019).

ARGUMENT

Under threat of grant termination and suspension, the Policy Notice requires TPP grantees to “align” their projects with Executive Orders and imposes a range of content mandates that (1) violate the APA because they are contrary to law and arbitrary and capricious; (2) invite arbitrary and discriminatory enforcement in violation of the Fifth Amendment, and (3) exceed the authority Congress assigned to HHS, and are thus *ultra vires*. Because the Policy Notice violates the APA, vacatur is appropriate.

I. The Policy Notice Violates the APA Because it is Contrary to Law and Arbitrary and Capricious

Agency action should be set aside if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 41 (1983). As a threshold matter, the Policy Notice is final agency action that is therefore reviewable under the APA. *See Planned Parenthood of NYC, Inc. v. HHS (PPNYC)*, 337 F. Supp. 3d 308, 326 (S.D.N.Y. 2018) (concluding that terms of TPP Program funding are final agency action that applicants may challenge). The Policy Notice violates the APA

because it is contrary to law, as it contravenes Congress’s directives for the TPP Program, and because it is arbitrary and capricious.

a. The Policy Notice is Quintessential Final Agency Action

The Policy Notice represents HHS’s final word on continuing obligations for TPP Program participants, and it carries immediate legal consequences for grantees. Plaintiffs need not wait until HHS takes an enforcement action against them. It is well established that a program participant may challenge an agency’s generally applicable requirements before they are applied in an individual case. Plaintiffs are also not free to ignore HHS’s new requirements, as failure to comply carries explicit legal consequences, including termination and suspension. The Policy Notice thus meets both of the requirements for final agency action that is subject to APA review. *See Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

The Policy Notice is the Consummation of the Agency’s Process. On its face, the Policy Notice plainly represents HHS’s complete and final decision to fundamentally alter the TPP Program’s terms. These dramatic changes—including broad content mandates, an amorphous “alignment” requirement, revised definitions, and an opt-out requirement—are not interim in nature. They are not “informal, or only the ruling of a subordinate official, or tentative.” *Soundboard Ass’n v. Fed. Trade Comm’n*, 888 F.3d 1261, 1267 (D.C. Cir. 2018) (quoting *Abbott Labs. v. Gardner*, 387 U.S. 136, 151 (1967)). Rather, they represent HHS’s “last word on the matter.” *Whitman v. Am. Trucking Ass’ns*, 531 U.S. 457, 478 (2001). Plaintiffs “will be afforded no additional opportunity to make the arguments to the agency that they now present in this” lawsuit. *CropLife Am. v. EPA*, 329 F.3d 876, 882 (D.C. Cir. 2003); *see also Sackett v. E.P.A.*, 566 U.S. 120, 127 (2012) (finding final agency action where plaintiffs have “no entitlement to further Agency review”). Neither the Policy Notice nor HHS regulations provide a mechanism for reconsideration of the Policy Notice’s terms, which are fixed. HHS is, of course, free to revisit its

decision to impose these new requirements on the program. But this possibility of rescinding the requirements “does not make an otherwise definitive decision nonfinal.” *U.S. Army Corps of Eng’rs v. Hawkes Co.*, 578 U.S. 590, 598 (2016). And the Policy Notice declares—point blank—that “OASH will not continue to fund materials or activities” not in compliance with its newfound understanding of the “TPP Program’s statutory scope.” Policy Notice at 6.

Under basic administrative law principles, it does not matter whether HHS has already enforced the Policy Notice against Plaintiffs. Courts have long understood that the reviewability of an agency’s later individualized decision does not affect the final nature of a generally applicable regulation. *See Abbott Labs.*, 387 U.S. at 149-51; *Hawkes Co.*, 578 U.S. at 599-600 (2016) (explaining that agency action may be final even if it “would have effect only if and when” it was implemented “against a particular [regulated party]” (quoting *Abbott Labs.* 387 U.S. at 150)); *Frozen Food Exp. v. United States*, 351 U.S. 40, 44 (1956) (finding order defining regulatory exemptions to be final because of effects on regulated parties’ “civil and criminal risks”). HHS has “publicly articulate[d] an unequivocal position . . . and expects regulated entities to alter their primary conduct to conform to that position.” *Ciba-Geigy Corp. v. U.S.E.P.A.*, 801 F.2d 430, 436 (D.C. Cir. 1986). As a result, “the agency has voluntarily relinquished the benefit of postponed judicial review.” *Id.*

Applicable cases demonstrate that Plaintiffs can challenge the Policy Notice now rather than waiting to contest an enforcement decision. In *CropLife America*, for instance, the D.C. Circuit held that a press release changing criteria for pesticide safety evaluations represented final agency action because the “directive constitute[d] a binding regulation that [wa]s directly aimed at and enforceable against” the petitioners, and its “clear and unequivocal language . . . reflect[ed] an obvious change in established agency practice” creating a “binding norm.” 329 F.3d 876, 881

(D.C. Cir. 2003). The Policy Notice, which expressly says the agency had previously “erred in approving such material,” Policy Notice at 5-6, here similarly represents “an obvious change in established agency practice” through “clear and unequivocal language” “directly aimed at” Plaintiffs, *CropLife Am.*, 329 F.3d at 881; *see also Nat’l Mining Assoc’n v. Jackson*, 768 F. Supp. 2d 34, 38, 44 (D.D.C. 2011) (finding that an agency took final action when it “implemented a change in the permitting process” through “a series of memoranda and a detailed guidance” absent any “grant or denial of the various permits at issue”).

Legal Consequences Flow from the Policy Notice. The Policy Notice speaks in mandatory terms and imposes “obligations” on TPP grantees. *Bennett*, 520 U.S. at 178. By its terms, TPP Program grant recipients that are “noncompliant with the [Policy Notice] may face grant suspension . . . and grant termination.” Policy Notice at 5. In other words, the Policy Notice “has a direct and immediate . . . effect on [Plaintiffs’] day-to-day business.” *Her Majesty the Queen in Right of Ontario v. EPA*, 912 F.2d 1525, 1531 (D.C. Cir. 1990). This present binding effect is patent from the Policy Notice’s plain text. The Policy Notice changes “OASH policy for [TPP Program] grant recipients,” and “delineate[s] when materials and activities are not ‘medically accurate,’ ‘age appropriate,’ do not ‘reduce teen pregnancy,’ or are otherwise outside the scope of the TPP Program.” Policy Notice at 1. It introduces “obligations” to include an opt-out mechanism in TPP programming and “outlines [new] evaluation standards for TPP Program grant recipients and evidence-based programs.” *Id.*

The Policy Notice does not equivocate. These requirements “appl[y] to TPP Program grant recipients” now. *Id.* The notice makes clear that Plaintiffs must adhere to these instructions, specifying that grant recipients “are expected to ensure all program materials comply with this [Policy Notice].” *Id.* at 5. HHS explains that programs “cannot” receive TPP funding “if they

include . . . ideological content such as the content at issue in *Mahmoud*, gender ideology, or discriminatory equity ideology (as such terms are defined in Executive Order 14190).” *Id.* at 3-4. Grant recipients are also “expected to” implement an opt-out mechanism. *Id.* at 3.

If there were any lingering doubt as to the compulsory nature of these mandates, HHS attaches severe legal sanctions for failure to comply with the revised requirements in a section titled “Compliance.” *Id.* at 6. “[T]hose determined noncompliant with the [Policy Notice] may face grant suspension under 45 C.F.R. § 75.371 and grant termination under 45 C.F.R. § 75.372(a) before October 1, 2025, and, starting October 1, 2025, termination under 2 CFR §§ 200.340(a)(1)-(4).” *Id.* at 6; *see also* 2 C.F.R. § 180.800(b)(3) (providing for government-wide debarment for violation of program requirements). HHS then threatens that “any expenditures associated” with activities it deems to violate the Policy Notice “are not allowable, reasonable, or allocable to programs that include such content,” thus subjecting expenditures inconsistent with the Notice to potential clawback and other sanctions. *Id.* at 5 (citing 45 C.F.R. §§ 75.403-405). By stating these legal consequences explicitly, HHS has made unmistakably clear that the Policy Notice binds TPP grant recipients.

The Policy Notice thus “tell[s] regulated parties what they must do or may not do in order to avoid liability.” *Nat’l Min. Ass’n v. McCarthy*, 758 F.3d 243, 252 (D.C. Cir. 2014). Plaintiffs are not “free to ignore” the Policy Notice because it may “be the basis for an enforcement action against” them. *Id.* The Policy Notice “from beginning to end . . . reads like a ukase. It commands, it requires, it orders, it dictates.” *Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1023 (D.C. Cir. 2000). The D.C. Circuit has found far less compulsory language indicative of final agency action, holding that action is reviewable even when a guidance document insists that it carries no legal consequences whatsoever. *See id.*; *see also Ipsen Biopharms., Inc. v. Azar*, 943 F.3d 953, 957-58

(D.C. Cir. 2019) (holding that a *letter* amounted to final agency action where it subjected party to increased legal risk).

Furthermore, the Policy Notice imposes new requirements and does not simply reiterate Plaintiffs’ pre-existing obligations. There is no question that the anti-DEI mandate, prohibition of certain LGBTQ+-inclusive content, anti-“normalizing” sex mandate, and redefinition of “medically accurate” represent new directives that were not present in the NOFO or the NCC Notice.⁴ Nor can the opt-out requirement be found in prior guidance. With respect to the Executive Order “alignment” requirement, although the NOFO requires grant recipients to “comply” with Executive Orders, the Policy Notice’s alignment requirement imposes additional restrictions on Plaintiffs’ programs. For one, “align” and “comply” mean different things—to “align” means to “array on the side of or against a party or cause,” while “comply” means to “to conform ... as required.”⁵ That distinction is especially acute when applying Executive Orders, which typically “focus[] solely on the internal management of the Executive Branch” and impose no direct obligations on private parties. *Marin Audubon Soc’y v. FAA*, 121 F.4th 902, 913 (D.C. Cir. 2024). That is, absent the new alignment requirements, most Executive Orders do not on their own require Plaintiffs to “comply” with anything at all. That is true of the Executive Orders at issue here, all of which direct only *federal agencies* to take specific action and impose no direct requirements on grantees. See Policy Notice at 2-3. Indeed, government counsel has characterized the alignment requirement as mandating that grantees “‘comport’ your project with the policy goals set by the

⁴ HHS tries to obscure the novel nature of these requirements by insisting that the Policy Notice simply “clarifies” grant recipients’ responsibilities that flow from their “preexisting obligations.” See Policy Notice at 1. The Policy Notice does no such thing. It instead represents a complete about-face on core aspects of the TPP Program. The government’s language appears only intended to frustrate judicial review of its final agency action.

⁵ *Align*, Merriam Webster, <https://www.merriam-webster.com/dictionary/align>; *Comply*, Merriam Webster, <https://www.merriam-webster.com/dictionary/comply> (emphasis added).

President” notwithstanding that “[m]any executive orders don’t apply to individuals or recipients, they apply to agencies.” Tr. of Prelim. Inj. Hr’g at 53:2-8, *PPGNY I*, No. 25-1334 (D.D.C. June 4, 2025).

The reviewability of HHS’s action is especially clear given courts’ “‘pragmatic’ approach . . . to finality.” *Hawkes*, 578 U.S. at 599. The Policy Notice has the “actual legal effect” of compelling Plaintiffs to change their TPP Programs under threat of noncompliance proceedings, which may involve funding clawbacks, administrative investigations, suspension, and termination. *Nat’l Min. Ass’n*, 758 F.3d at 252; Policy Notice at 5-6. HHS’s threat of legal sanctions has compelled Plaintiffs to choose between violating the Policy Notice, substantially modifying their programs, or ending their education programming. *See* Pls.’ SOMF ¶ 48 (citing PPGNY Decl. ¶ 40; PPCCC Decl. ¶ 65; PPH Decl. ¶ 38). The practical effect of HHS’s action is undeniable, and Plaintiffs feel its legal consequences now.

b. The Policy Notice Contravenes Congress’s Directives for the TPP Program

The Policy Notice violates the APA because it is contrary to law. To the extent the Policy Notice’s requirements are discernable, they defy at least three of Congress’s longstanding directives: (1) that Tier 1 funding “shall be used for *replicating* programs” (2) that “have been proven *effective* through rigorous evaluation,” and (3) that all TPP programming must be “medically accurate.” 138 Stat. at 671 (emphasis added).

1. The Policy Notice contravenes the statutory replication requirement.

Congress has mandated that Tier 1 funding be used for “*replicating* programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors.” 138 Stat. at 671 (emphasis added). Consistent with this mandate, programs are identified as effective and eligible for “replication” through HHS’s TPPER process, a rigorous process akin to peer review. OASH,

TPPER Findings. What it means to “replicate[] a program” is well established in the public health field and for the TPP Program: it requires the program administrator to “provid[e] the program the way it was conducted when it was researched and found to be effective.” Pls.’ SOMF ¶ 9 (quoting Decl. of Leslie M. Kantor, PhD, MPH (Kantor Decl.) ¶ 24b). Though minor adaptations of approved programs are permitted, such adaptations must be carefully thought out. *Id.* (citing Kantor Decl. ¶¶ 48-49). Indeed, “the Office of Population Affairs has issued very specific guidelines about the types of permissible adaptations, which exclude any components “critical to a program’s ability to produce outcomes.” *Id.* (citing Kantor Decl. ¶ 49); *see, e.g.*, HHS, *Making Adaptations Tip Sheet*, https://acf.gov/sites/default/files/documents/prep-making-adaptations-ts_0.pdf (“All adaptation changes, regardless of their motives, need to be reviewed and approved in the context of maintaining fidelity to the core components.”).

The Policy Notice violates the statutory requirement that Tier 1 programs “replicat[e] programs that have been proven effective,” because it expressly “require[s] some grantees to revise their TPP Program curricula and content”—apparently on an ad hoc basis—to meet the Policy Notice’s newly imposed requirements, including to excise proscribed “ideological content” and to “align” with all Presidential Executive Orders. Policy Notice at 6; *see also id.* at 5-6 (stating even those participants whose programs have been approved must “ensure all program materials comply with this [Policy Notice]”). To “revise” a program is the opposite of “replicating” it and plainly contravenes the statutory replication requirement as it would require removal of materials and content and implementation of such programs in a manner that has not been proven effective. *See Planned Parenthood of Greater Wash. & N. Idaho v. HHS*, 946 F.3d 1100, 1113 (9th Cir. 2020) (“[T]he 2018 Tier 1 [NOA] would incorrectly permit grants for programs not proven effective, contrary to the TPPP”); *id.* (“A replication requires an original implementation.”); *PPNYC*, 337 F.

Supp. 3d at 331-37 (“Defendants have violated their statutory obligation to select model ‘programs’ ‘proven effective through rigorous evaluation.’”).

As set forth in the Policy Notice, the unspecified changes required for Executive Order and ideological alignment may be substantial, and include, among other changes, major adaptations to existing curricula, and updating policies, staffing, and training. *See* Policy Notice at 6 (“We understand that compliance with this PPN may require some grantees to revise their TPP Program curricula and content.”). Making substantial “revis[ions]” to approved programs and curricula without a rigorous analysis of how such changes affect the program’s core components, *id.*, is the opposite of “replicating” them, 138 Stat. at 671; *see Replicate*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/replicate> (last visited July 27, 2025) (defining “replicate” as to “duplicate” or “repeat”). Because the Policy Notice requires excision and addition of content from curricula, its requirements are irreconcilable with the statutory requirement that grantees “replicate” programs that have been proven effective through rigorous evaluation.

2. *The Policy Notice contravenes the statutory “effectiveness” requirement.*

The Policy Notice’s prohibition on “normaliz[ing]” sex is fundamentally incompatible with effective teen pregnancy prevention and could, in effect, be enforced as an abstinence-only requirement. Comprehensive sexual education includes topics like contraception, consent, and healthy relationships—acknowledging that some teens are or will become sexually active. Pls.’ SOMF ¶ 41 (citing Kantor Decl. ¶¶ 44-45). If such content is forbidden for “normalizing” sex, educators will be left with abstinence as the only permissible message. Abstinence-only-until-marriage programs have been shown to be ineffective in changing adolescent sexual behavior. *Id.* ¶ 40 (citing Kantor Decl. ¶¶ 21, 43) *see also id.* ¶ 5 (“The impact evaluation found that youth who received abstinence education under the program did not have different outcomes than youth in the control” (quoting Jessica Tollestrup, Cong. Rsch. Serv., R45183, Adolescent Pregnancy:

Federal Prevention Programs 22 (2024))). Thus, by framing medically accurate, developmentally appropriate, and evidence-based information and programs about safe sex as impermissible “normalization,” the anti-normalizing sex mandate suppresses critical health education and undermines the statutory requirement that Tier 1 TPP programs replicate “effective” programming approved through the TPPER process. *See* 138 Stat. at 671; *cf. Multnomah Cnty. v. Azar*, 340 F. Supp. 3d 1046, 1067-68 (D. Or. 2018) (vacating 2018 Tier 1 Funding Announcement as “not in accordance with law” because “HHS ... ignore[d] the qualifier that the programs ‘must be proven effective by rigorous evaluation.’”). For these reasons, Plaintiffs cannot and do not provide programming that promotes abstinence as the only appropriate behavior for youth as it is not an approach rooted in evidence and reflective of the real world decisions that our participants are contemplating. Pls.’ SOMF ¶ 40 (citing PPGNY Decl. ¶ 48; PPCCC Decl. ¶ 56; PPH Decl. ¶ 42).

3. *The Policy Notice contravenes the statutory requirement that TPP programs be “medically accurate.”*

The Policy Notice’s requirement that TPP programs adhere to the “biological reality of sex” as including only “males and females” contravenes the statutory requirement that TPP programs be “medically accurate.” It is long-standing and well-established, both by HHS and the scientific community, that medical accuracy means: “Verified or supported by the weight of research conducted in compliance with accepted scientific methods; and published in peer-reviewed journals, where applicable or comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete.” Pls.’ SOMF ¶¶ 34-35; *see also* 42 U.S.C. § 713(e)(2) (defining medical accuracy in the context of personal responsibility education programs). HHS’s assertion that “information” is not “medically accurate” if it “denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females,” Policy Notice at 5, erases the existence of intersex and

transgender individuals and is directly contrary to widely available and accepted, and peer-reviewed scientific evidence. *See, e.g.,* Pls.’ SOMF ¶ 38 (“[A] large scientific literature on the biological basis of sex . . . concludes that there is significant variation within the category of biological sex.” (quoting Kantor Decl. ¶ 57)); Pediatric Endocrine Soc’y, *The Biological Reality of Sex and Intersex: A Response to the Executive Order* (Feb. 11, 2025), <https://pedsendo.org/wp-content/uploads/2025/02/Society-Statement-on-Biological-Sex-Development-and-DSD-2025.pdf> (“The proposed definitions of biological sex within the Executive Order should not and cannot apply to people born with biological conditions known as Differences of Sex Development . . . a collection of rare medical conditions that occur before birth in which biological sex development does not follow the typical path.”); *Orr v. Trump*, 778 F. Supp. 3d 394, 415 (D. Mass. 2025) (“Viewed as a whole, the language of the Executive Order is candid in its rejection of the identity of an entire group—transgender Americans—who have always existed and have long been recognized in, among other fields, law and the medical profession.”). By defining “medical accuracy” in a manner that denies the existence of intersex and transgender individuals, the Policy Notice’s binary definition of sex fails to reflect medical reality and violates the statutory requirement for TPP programs to be medically accurate.

c. The Policy Notice Violates the APA Because it is Arbitrary and Capricious

The Policy Notice is also unlawful because it is arbitrary and capricious. Under the APA, courts must “hold unlawful and set aside” arbitrary or capricious agency action. 5 U.S.C. § 706(2). The Policy Notice is arbitrary and capricious because it: (1) is so vague that it fails to provide adequate notice and ensure nonarbitrary enforcement; (2) “relied on factors which Congress has not intended it to consider,” (3) “entirely failed to consider an important aspect of the problem,” (4) “offered an explanation for its decision that runs counter to the evidence before the agency,” *Solondz v. Fed. Aviation Admin.*, 141 F.4th 268, 276 (D.C. Cir. 2025) (quoting *State Farm*, 463

U.S. at 43), and (5) failed to provide a sound reason for any changes in the agency’s position, *FCC v. Fox Television Stations, Inc. (Fox I)*, 556 U.S. 502 (2009).

1. *The Policy Notice is so vague that it is arbitrary and capricious*

The Policy Notice violates the APA because it is so vague that it is arbitrary and capricious. Due Process vagueness principles “extend[] beyond the Fifth Amendment Due Process Clause” as a “well-established principle of administrative law.” *Nissan Chem. Corp. v. FDA*, 744 F. Supp. 3d 1, 8 n.3 (D.D.C. 2024); *see also Ariz. Cattle Growers’ Ass’n v. U.S. Fish & Wildlife, Bureau of Land Mgmt.*, 273 F.3d 1229, 1233 (9th Cir. 2001) (“We also find that it was arbitrary and capricious for the [agency] to issue terms and conditions so vague as to preclude compliance therewith.”); *Gen. Elec. Co. v. EPA*, 53 F.3d 1324, 1329 (D.C. Cir. 1995) (“[A]s long ago as 1968, we recognized [the Due Process] ‘fair notice’ requirement in the civil administrative context.”). Under the APA, it is “*necessary* to give guidance on how the [agency] is likely to apply the [rule] in future instances.” *Firearms Regul. Accountability Coal., Inc. v. Garland*, 112 F.4th 507, 526 (8th Cir. 2024) (emphasis added). Here, the Policy Notice is so vague that it is ripe for arbitrary and discriminatory enforcement in violation of this requirement. *See also Christopher v. SmithKline Beecham Corp.*, 567 U.S. 142, 158-59 (2012) (“It is one thing to expect regulated parties to conform their conduct to an agency’s interpretations . . . it is quite another to require regulated parties to divine the agency’s interpretations in advance or else be held liable . . . in an enforcement proceeding . . .”). Moreover, agencies must consider vagueness in enacting rules, *see Timpinaro v. SEC*, 2 F.3d 453, 460 (D.C. Cir. 1993), *as amended on denial of reh’g* (Nov. 9, 1993) (remanding rule where “the SEC Order adopting the Rule manifests no concern about its possible

vagueness”), which HHS failed to do here. Specifically, the Policy Notice is vague as to what its content mandates prohibit and vague as to what it means to “align” with Executive Orders.⁶

Vague as to what content mandates prohibit. The Policy Notice imposes a series of content mandates that lack clear standards and thereby invite arbitrary and discriminatory enforcement. These include the anti-DEI mandate, a prohibition on so-called “harmful ideologies,” the anti-normalizing sex mandate, redefinition of what qualifies as “medically accurate” information, and the imposition of an opt-out requirement. Each of these mandates uses open-ended language that grants officials broad, subjective discretion to decide when a grantee’s content violates the Program’s requirements, allowing for arbitrary enforcement and making the Policy Notice arbitrary and capricious.

The Policy Notice targets what the administration might view as “DEI” initiatives, prohibiting TPP programs from including “discriminatory equity ideology” and “diversity, equity, or inclusion-related discrimination.” Policy Notice at 4-5. These broad and undefined terms confer sweeping discretion on agency officials to determine when a grantee’s content or approach runs afoul of the Policy Notice’s requirements. By declining to tie these prohibitions to established anti-discrimination standards or provide any limiting principles, the Policy Notice authorizes

⁶ Unlike a Due Process Clause claim, discussed in Section III below, which requires that plaintiffs have a protected property interest at stake, APA claims that challenge agency action as so vague as to be arbitrary and capricious do not require courts to evaluate whether there is a protected property interest. *See Nissan Chem. Corp.*, 744 F. Supp. 3d at 9 n.3 (“It is therefore not necessary for the Court to address . . . whether a patent term is a constitutionally protected property interest” because “the fair notice doctrine has extended beyond the Fifth Amendment Due Process Clause [into] administrative law”); *FCC v. Fox Television Stations, Inc. (Fox II)*, 567 U.S. 239, 253-54 (2012) (remanding an unconstitutionally vague rule without finding a property interest); *Nat’l Educ. Ass’n v. U.S. Dep’t of Educ.*, 779 F. Supp. 3d 149, 185 (D.N.H. 2025) (without addressing a property interest, finding that where a letter is ‘action . . . by which rights or obligations have been determined, or from which legal consequences will flow,’ . . . due process requires that it ‘give fair notice of conduct that is forbidden or required’” (citations omitted)).

enforcement based on subjective judgments. Federal courts across the country have struck down similar broad DEI prohibitions as arbitrary and capricious. *See, e.g., Am. Pub. Health Ass’n v. Nat’l Insts. of Health*, No. 25-cv-10787, 2025 WL 1822487, at *17 (D. Mass. July 2, 2025) (“Reliance on an undefined term of DEI (or any other category) ‘is arbitrary and capricious because it allows the [Public Officials] to arrive at whatever conclusion it wishes without adequately explaining the standard on which its decision is based.’” (quoting *Firearms Regul. Accountability Coal.*, 112 F.4th at 525)); *Nat’l Educ. Ass’n*, 779 F.Supp.3d at 187 (finding likelihood of success because on vagueness claim because “to label a program as a ‘diversity, equity, and inclusion’ program necessarily involves ‘appeals to abstract principles’”). That risk is particularly great given that the Policy Notice defines DEI not in terms of applicable federal antidiscrimination laws, but instead to include any “ideology” that purportedly “minimizes agency, merit, and capability in favor of immoral generalizations.” Exec. Order No. 14,190, 90 Fed. Reg. 8,853 (Jan. 29, 2025); *see* Policy Notice at 4 (incorporating Executive Order 14,190’s definitions).

The Policy Notice also broadly prohibits TPP programming from including certain “ideological content” that the government deems “harmful,” but provides no objective standards for identifying what qualifies as such content. To the extent the Policy Notice references specific categories—such as “content at issue in *Mahmoud*,” “gender ideology,” and “discriminatory equity ideology”—it offers no definitions or limiting principles to guide enforcement. *See* Policy Notice at 4. These vague and entirely subjective terms grant agency officials sweeping discretion to determine what ideologies are deemed “harmful.”

The Policy Notice additionally imposes a prohibition on “sexually explicit content” and “content that encourages, normalizes, or promotes sexual activity for minors.” Policy Notice at 4-5. The Policy Notice does not define the terms “encourages,” “normalizes” or “promotes,” nor

does it provide guidance as to how the agency will enforce those terms. This problem is compounded by the obvious fact that any discussion of teen pregnancy prevention necessarily requires discussion, and acknowledgment, of sexual activity and anatomy to ensure that the program is effective. *See* Pls.’ SOMF ¶ 39. Sex education unavoidably entails education about sex. In practice, the Policy Notice enables penalizing medically accurate and evidence-based education in favor of abstinence-only messaging, even where not expressly required. At best, opening this door is so vague as to be arbitrary and capricious. At worst, it runs directly counter to Congress’s statutory mandate for the TPP program. *See supra* subpart I(b).

Additionally, while the Policy Notice states that “OASH is concerned” about several definitions used in prior NOFOs, it fails to articulate what aspects of those definitions are objectionable or how grantees are expected to respond. Policy Notice at 4. This ambiguity grants officials broad discretion to retroactively penalize program content already approved by the agency without any objective standard. As one example, the Policy Notice redefines “medically accurate” to require instruction on the “full range of health risks” associated with contraceptives, but offers no guidance as to what level of detail is required, or how that threshold will be judged, or even how that could be accomplished in a classroom setting. Policy Notice at 5. This vague and open-ended requirement enables agency officials to enforce compliance based on subjective views about contraception or public health messaging. For instance, agency officials could claim that a grantee is noncompliant because every mention of contraception must be accompanied by an exhaustive, disclaimer-style disclosure akin to the fine print in a pharmaceutical advertisement.

Finally, the Policy Notice, invoking the U.S. Supreme Court decision in *Mahmoud v. Taylor*, 606 U.S. ___ (2025), imposes an opt-out requirement on TPP programs: to “provide parents advance notice (including relevant specifics [presumably about the program’s contents]) and the

ability to opt out of any content or activities, especially those related to sexuality, that may burden their religious exercise.” Policy Notice at 3. The Policy Notice offers no standards for proscribing what content “may burden” religious exercise, nor does it specify how the opt-out mechanism is expected to function or what content must trigger it. This absence of clear criteria delegates sweeping discretion to agency officials to determine whether a grantee’s program is compliant, allowing enforcement to turn on officials’ subjective or ideological assessments of religious burden. The lack of standards for this requirement render it arbitrary and capricious.

Vagueness As To What It Means To “Align” with Executive Orders. Moreover, the Policy Notice’s “alignment” requirement invites arbitrary and discriminatory enforcement by granting officials unchecked discretion to determine whether a grantee’s project sufficiently “aligns” with Executive Orders. The Policy Notice requires TPP Program recipients to “revise their projects to align with Executive Orders.” Policy Notice at 1. Yet it offers no objective standards or limiting principles for determining what “alignment” entails. Notably, the Policy Notice does not require applicants to “*comply*” with the Executive Orders, which themselves impose no direct obligations on private parties and instead provide direction only for specified *governmental* actors.⁷ Unlike a word like “comply” that has a settled legal meaning, the word “alignment”—like the words “‘annoying’ or ‘indecent’”—has a meaning that turns on “wholly subjective judgments without statutory definitions, narrowing context, or settled legal meanings.” *United States v. Williams*, 553 U.S. 285, 306 (2008). The vagueness of the “alignment” requirement is exacerbated by the fact that of the more than 190 Executive Orders issued since January 20, 2025, most (if not all) are

⁷ See H. Comm. on Gov’t Operations, 85th Cong., Executive Orders and Proclamations: A Study of a Use of Presidential Powers 1 (Comm. Print 1957) (“Executive orders are generally directed to, and govern actions by, Government officials and agencies. They usually affect private individuals only indirectly.”).

entirely irrelevant to teenage pregnancy prevention, addressing topics from national security to immigration to cultural-renaming initiatives.⁸ Several have already been enjoined.⁹ The Policy Notice vests unbounded discretion in agency officials by offering no standards for reconciling potentially conflicting directives within and among Executive Orders, or for determining how “alignment” with the President’s policy goals should be enforced, and is thus arbitrary and capricious.

2. The Policy Notice relies on factors not intended by Congress.

At the outset, the Policy Notice relies on factors not intended by Congress, including “the President’s clear policy directive to protect children from harmful ideologies” without consideration of how those ideological preferences impact the program’s effectiveness. Policy Notice at 3; *cf. Nebraska v. Su*, 121 F.4th 1, 16 (9th Cir. 2024) (holding that an agency action violates the APA when the action relied on political directives not authorized by statute). Congress made a deliberate choice to pursue *evidence-based* social policy initiatives through the tiered evidence approach. Pls.’ SOMF ¶ 16 (citing Tollestrup, *supra*, at 4). “The creation of the TPP Program as an evidence-based model coincided with a larger movement across the federal government to engage in evidence-based policymaking, which sought to ensure that public funds were appropriated for approaches backed by evidence and that investments were made in

⁸ See, e.g., Exec. Order No. 14161, 90 Fed. Reg. 8451 (Jan. 20, 2025) (entitled “Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats”); Exec. Order No. 14172, 90 Fed. Reg. 8629 (Jan. 20, 2025) (entitled “Restoring Names That Honor American Greatness”).

⁹ See, e.g., *Chicago Women in Trades v. Trump*, 2025 WL 1118659, at *1 (N.D. Ill. Apr. 15, 2025) (enjoining enforcement of EOs 14151 and 14173 insofar as they mandated termination of equity-related grant or compliance certification by grantee); see also *Litigation Tracker: Legal Challenges to Trump Administration Actions*, Just Security (July 22, 2025), <https://perma.cc/8JKK-NJUG> (collecting cases in which injunctions have been issued). The Policy Notice’s failure to distinguish those Executive Orders that remain in effect from others compounds both the arbitrariness and vagueness of the “alignment” requirements.

evaluations to help build out the evidence base related to solving particular problems.” *Id.* (quoting Kantor Decl. ¶ 25). Congress meant what it said when it deployed the TPP Program statutory framework: Tier 1 funds must be spent on “replicating” programs that have been empirically “proven effective” to reduce teen pregnancy. 138 Stat. at 671; *see also Healthy Teen Network v. Azar*, 322 F. Supp. 3d 647, 659 (D. Md. 2018) (“[T]he [TPP] appropriation was not an unrestricted sum of money to use for any purpose that might fall within HHS’s broad mandate, but rather directs the agency to use the funds to support proven or innovative medically accurate methods of preventing teenage pregnancy.”). It did not authorize HHS to instead allocate or withhold funds based on its ideological preferences that undermine or jeopardize the program’s effectiveness.

By eschewing evidence-based decision-making in favor of unreasoned viewpoint requirements, the agency exceeded the “small range of choices” Congress allowed it. *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971). The agency erred here in basing the Policy Notice and continued TPP funding on political concerns instead of program effectiveness, requiring “alignment” with over 190 of Executive Orders¹⁰ and imposing content mandates restricting viewpoints that it deems as harmful. *See* Policy Notice at 1-4. HHS additionally considered impermissible factors when it short-circuited the tiered evidence approach by declaring that TPP Program grantees must not “den[y] the biological reality of sex or otherwise fail[] to distinguish appropriately between males and females,” *id.* at 5—a mandate that is “clearly medically inaccurate,” Pls.’ SOMF ¶ 38 (quoting Kantor Decl. ¶ 64). These considerations are

¹⁰ The Policy Notice highlights five particular Executive Orders: *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* (14168), *Ending Radical Indoctrination in K-12 Schooling* (14190), *Protecting Children From Chemical and Surgical Mutilation* (14187), *Ending Radical and Wasteful Government DEI Programs and Preferencing* (14151), and *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* (14173). Policy Notice at 1-2.

plainly incompatible with the statutory text, which instructs the agency to select programs by their medical accuracy and proven effectiveness as opposed to their “alignment” with unrelated ideological priorities.

3. *The Policy Notice fails to consider an important aspect of the problem.*

In issuing the Policy Notice, the agency also “ignore[d]” the most “important aspect of the problem” before it: effective prevention of teen pregnancy. *Ohio v. EPA*, 603 U.S. 279, 293 (2024) (quoting *State Farm*, 463 U.S. at 43). The Policy Notice prohibits content that is “sexually explicit” or “encourages, normalizes, or promotes” sexual activities. Policy Notice at 4-5. “Normaliz[ing]” sexual activities could encompass providing any information about them at all. But effective sex education is impossible without talking about sex. *See* Pls.’ SOMF ¶ 39 (citing Kantor Decl. ¶¶ 43-45). Indisputably, any discussion of teen pregnancy prevention necessarily requires discussion, and acknowledgment, of sexual activity and anatomy to ensure that the program is effective. The Policy Notice’s prohibition failed to account for how evidence-based programming that had been proven effective could be implemented without acknowledgment of sexual activity.

The agency similarly undertook no effort to spell out how its changes to the concepts of “health equity” and “inclusivity” might further the TPP Program’s evidence-based goals. *See* Policy Notice at 4-5. To state the obvious: teens of different backgrounds and gender identities can become pregnant. Excluding inclusive content does nothing to prevent pregnancy; and it ignores the reality that teens from diverse backgrounds still need effective education. *See also, e.g.,* Pls.’ SOMF ¶ 45 (“Cultural and linguistic appropriateness is essential to ensure that programs meet the needs of youth who, in a country as large and varied as the United States, come from different settings (*e.g.*, rural, suburban and urban), cultural backgrounds, and may or may not speak English as a first language.” (quoting Kantor Decl. ¶ 54)). The agency also failed to consider that the most

effective way to reach different populations is to customize programming to their cultural backgrounds and unique needs. Here, Plaintiffs selected and implemented their projects to meet unique needs of underserved communities, Pls.’ SOMF ¶ 47; *id.* (PPGNY’s project was “intended to ensure that its programming addressed gaps in existing curricula that failed to account for unique needs of many communities including LGBTQ+ youth” (quoting PPGNY Decl. ¶ 42)); *see id.* (“Due to challenges, such as language and transportation barriers, members of these communities are often unable to benefit from other sex education programs . . . PPCCC designed a project to meet these gaps in services.” (quoting PPCCC Decl. ¶ 80)); *id.* (“PPH designed its TPP Project to meet the needs of underserved communities within the areas that we serve” including “rural Nebraskan counties” and “Nebraska tribes” (quoting PPH Decl. ¶¶ 13-16)).

Nor does the Policy Notice grapple with Congress’s directives governing the TPP Program. The notice does not explain, for example, how requiring program participants to revise their programs will further or even comply with Congress’s mandate that Tier 1 programs must “replicat[e] programs that have been proven effective through rigorous evaluation.” 138 Stat at 671. To the contrary, “‘replicating’ requires the prior existence of something that is to be duplicated, repeated, copied, or reproduced.” *PPNYC*, 337 F. Supp. 3d at 333. By mandating and prohibiting content at odds with the core curricula that make the models HHS already approved successful, the notice nullifies the replication requirement that both Congress and HHS established.

In addition, because the agency “was ‘not writing on a blank slate,’ it was required to assess whether there were reliance interests, determine whether they were significant, and weigh them against competing policy concerns.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 33 (2020) (citation omitted and emphasis removed); *see, e.g., AIDS Vaccine Advoc. Coal.*

v. Dep't of State, 770 F. Supp. 3d 121, 139 (D.D.C. 2025) (finding agency action arbitrary and capricious where it ignored the reliance interests of grantees). Reliance interests here are substantial. Plaintiffs are entering year three of their five-year grant cycle. They have designed their budgets, programming, staffing, and partnerships with community organizations based on the understanding that HHS would provide continued funding. Pls.' SOMF ¶ 50 (citing PPGNY Decl. ¶¶ 61-63; PPCCC Decl. ¶ 74; PPH Decl. ¶¶ 61-66). The agency further failed to consider how the new requirements, in conjunction with their vague mandates, would affect schools and local communities that rely on effective public health programming. *Cf. Massachusetts v. Nat'l Insts. of Health*, 770 F. Supp. 3d 277, 309 (D. Mass. 2025) (finding action arbitrary and capricious where it "fails to consider the impact . . . on public health.").

The agency paid only lip service to these concerns, acknowledging that some materials "previously approved by OASH" would now need to be revised but claiming—without explanation—that it had "taken that into account." Policy Notice at 5. Its only justification was a bare assertion that the prior administration's approach was unlawful. *See id.* at 6. Yet an agency's novel and unsupported claim that its prior action was unlawful provides no license to run roughshod over regulated parties' reliance interests or dispense with the APA's requirement of reasoned decision-making. *Regents of the Univ. of Cali.*, 591 U.S. at 30 (holding that the agency's decision to rescind DACA failed to consider "legitimate reliance" even though the government thought the program unlawful). "[C]onclusory statements" like these fall far short of what the law demands. *Nat'l Institutes of Health*, 770 F. Supp. 3d at 310 (D. Mass. 2025); *see also AIDS Vaccine Advoc. Coal.*, 770 F. Supp. 3d at 139 (similar); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 224 (2016) ("In light of the serious reliance interests at stake, the Department's conclusory statements do not suffice to explain its decision.") (citing *Fox I*, 556 U.S. at 515-16)).

4. The Policy Notice's explanation runs counter to evidence.

Courts “have not hesitated to vacate” agency action “when the agency has not responded to empirical data or to an argument inconsistent with its conclusion.” *Comcast Corp. v. FCC*, 579 F.3d 1, 8 (D.C. Cir. 2009). An agency action is arbitrary and capricious when it has “offered an explanation for its decision that runs counter to the evidence.” *Ark Initiative v. Tidwell*, 816 F.3d 119, 127 (D.C. Cir. 2016) (quoting *Motor Vehicle Mfrs. Ass’n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). Given the consensus of scientific literature and the evidence developed through the program materials HHS has already approved, at least two aspects of the Policy Notice violate this cardinal rule.

First, HHS ignored evidence that present programming has been proven effective at reducing teen pregnancy and plainly furthers Congress’s statutory mandate. In the last few decades, “teen pregnancy prevention researchers have achieved notable success in identifying programs that can be effective in reducing teen pregnancy, [STIs], and associated sexual risk behaviors.” HHS, *ASPE Research Brief: Making Sense of Replication Studies*, at 1 (May 2015), https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//55351/rb_TPP_Replication.pdf. And “[m]uch of the supporting research evidence” for HHS’s approved Tier 1 programs, like those replicated by PPGNY and PPCCC, “comes from rigorous randomized controlled trials, considered the ‘gold standard’ in evaluation research.” *Id.* at 1. On the other hand, the Policy Notice’s anti-normalizing sex requirement could be enforced as requiring abstinence-only programming, which has been scientifically shown to be ineffective at preventing teenage pregnancy and other associated risk behaviors. *See, e.g.,* John S. Santelli, M.D., M.P.H. *et al.*, *Abstinence-Only-Until-Marriage Policies and Programs*, 61 J. ADOLESCENT HEALTH 400, 400 (“[Abstinence only] programs are not effective in delaying initiation of sexual intercourse or changing other

behaviors.”). Indeed, for this very reason, Congress diverted funding from abstinence-only sexual education programs to the TPP Program’s tiered, evidence-based model. Pls.’ SOMF ¶ 16. As recognized by Congress and HHS—and supported by overwhelming scientific evidence—effective sexual education requires acknowledging the reality that some adolescents are or will become sexually active. *Id.* ¶ 41 (citing Kantor Decl. ¶¶ 20-21). The Policy Notice’s anti-normalizing sex requirement ignores this reality.

Second, as previously explained, the Policy Notice’s assertion that “information” is not “medically accurate” if it “denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females,” Policy Notice at 5, runs directly counter to widely available scientific evidence. *See, e.g.,* Tiffany Jones, *Intersex Studies: A Systematic Review of International Health Literature*, 8 SAGE OPEN 2 (April 2018) (“Research has generally estimated that 1.7% to 4% of people go on to actually have intersex variations.”); Claire Ainsworth, *Sex Redefined*, 518 NATURE 288, 288-90 (February 19, 2015) (“[D]octors have long known that some people straddle the boundary—their sex chromosomes say one thing, but their gonads (ovaries or testes) or sexual anatomy say another.”). The agency’s decision to redefine sex—and in doing so erase the existence of individuals with intersex characteristics and transgender individuals—therefore cannot be sustained because it “rests upon a factual premise that is unsupported.” *Genuine Parts Co. v. EPA*, 890 F.3d 304, 346 (D.C. Cir. 2018) (citation and quotation marks omitted).

5. *There is no good cause for HHS changing policy.*

Although the Policy Notice purports merely to “clarify” program requirements, its stark departure from evidence-based decision-making and imposition of new ideological requirements mark a significant change in agency policy. *See* Policy Notice at 1, 4-6 (explaining that the agency

was correcting supposed “deficiencies” in existing definitions of statutory language and claiming it “erred” in prior project approvals). Where, as here, an agency changes its policy, it must show “good reasons” for doing so. *Fox I*, 556 U.S. at 514-15. HHS “must provide a more detailed justification than would suffice for a policy ‘created on a blank slate’ where ‘its new policy rests upon factual findings that contradict those which underlay its prior policy; or when its prior policy has engendered serious reliance interests that must be taken into account.’” *Ass’n of Am. Universities v. Nat’l Sci. Found.*, 2025 WL 1725857, at *16 (D. Mass. June 20, 2025) (quoting *Fox I*, 556 U.S. at 515). When an agency changes its position, “a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy.” *Id.* (quoting *Fox I*, 556 U.S. at 516). The Policy Notice offers no such reasoned explanation.

The Policy Notice does not even recognize that the Executive Order “alignment” mandate far exceeds the requirement in HHS’s prior NOFOs that grant recipients “comply” with Executive Orders. And where the Policy Notice does recognize a change in position, it gives no good reason for doing so. *See, e.g.*, Policy Notice at 4 (indicating “concern[s]” about prior definitions, but not specifying what is concerning or why the definitions are not within the statutory scope of the TPP Program); *id.* at 6 (concluding that the prior administration “erred” in approving some TPP Program materials, but giving no substantive reason for why or how it has determined what is “unrelated to reducing teen pregnancy”). The Policy Notice asserts that certain materials or ideologies are beyond the scope of the TPP Program but does not provide “a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy.” *Fox I*, 556 U.S. at 516. For instance, the Policy Notice does not explain how excluding content that is inclusive of all gender identities from the program will further the prevention of unintended teen pregnancy. Nor does it explain any change in facts or circumstances as to why inclusive

programming no longer falls within the scope of the TPP Program, where such programming was *required* by the agency in earlier years. *See* Pls.’ SOMF ¶ 47 (“The 2023 NOFO required recipients “to make materials and information . . . inclusive of all youth.” (quoting 2023 NOFO at 11)).

The Policy Notice also fails to give any reason for abandoning the agency’s prior definitions of “adolescent-friendly services,” “age appropriateness,” “equitable environment,” “health equity,” “inclusivity,” and “medical accuracy.” Policy Notice at 5-6. Indeed, the Policy Notice does not even identify *how* the agency’s prior interpretations erred, stating only that the agency “is concerned” that these definitions may “include deficiencies based on the statutory language.” *Id.* at 4. Nebulous “concern[.]” is no substitute for reasoned decision-making.

The agency’s redefining of “medical accuracy” is particularly egregious. Previously, the agency defined medical accuracy as: “Verified or supported by the weight of research conducted in compliance with accepted scientific methods; and published in peer-reviewed journals, where applicable or comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete.” *Id.* Not only is this definition consistent with the well-established and longstanding meaning of medical accuracy within public health and evidence-based policy, Pls.’ SOMF ¶ 35, but it is also identical to the definition of “medically accurate and complete” that Congress provided for under the Personal Responsibility Education Program in 42 U.S.C. § 713(e)(2), another federally-funded sex education program. HHS does not identify what is “deficient” in this definition nor any factual findings that contradict it. Instead, the agency redefines medical accuracy in a manner that, as previously discussed, is itself medically inaccurate. *Cf. Ass’n of Am. Universities*, 2025 WL 1725857 at *18 (finding an agency’s action was “arbitrary and capricious because it ignores important aspects of the problem, namely [the agency’s] statutory directive to ‘support basic

scientific research and programs to strengthen scientific research potential and scientific education programs.” ((quoting 42 U.S.C. § 1862(a)(1)).

Moreover, the Policy Notice’s prohibition on teaching “gender ideology,” Policy Notice at 5, appears to “disallow discussions about gender roles which are essential to helping young people learn to communicate, negotiate and refuse unprotected sexual activity.” Pls.’ SOMF ¶ 42 (quoting Kantor Decl. ¶ 63). “[A] review of studies on teen pregnancy prevention programs . . . shows that teen pregnancy prevention programs that address issues of gender are more likely to result in reductions of sexually transmitted diseases and teen pregnancy.” *Id.* ¶ 44 (quoting Kantor Decl. ¶ 63). “Examining how gender roles and expectations may influence how adolescents engage in relationships is a very important component of pregnancy prevention.” *Id.* (quoting Kantor Decl. ¶ 63). HHS did not provide any justification for its change of position on why, contrary to research, such discussions fall outside the scope of Congress’s directives for the TPP Program.

Lastly, the Policy Notice fails to explain why teen pregnancy prevention curricula, which are selected based on their effectiveness in reaching particular communities in which they are offered, would be less effective if they contain purported “DEI”-related materials that are lawful. Nor could it: Plaintiffs’ sex education programs are taught on an individualized basis, specifically crafted for the communities that receive them—communities HHS has, in the past, recognized experience particularly high rates of teen pregnancy and STIs. Pls.’ SOMF ¶ 47 (citing Tier 1 NOFO at 5-6, 11).

II. The Policy Notice Is Unconstitutionally Vague in Violation of the Fifth Amendment

The Policy Notice is unconstitutionally vague, in violation of the Fifth Amendment, which guarantees that no person shall be deprived of life, liberty, or property without due process of law. U.S. Const. amend. V. A core requirement of due process is that laws and regulations must contain

adequate safeguards to prevent arbitrary and discriminatory enforcement. *See Beckles v. United States*, 580 U.S. 256, 262 (2017). A regulation that is “so standardless that it invites arbitrary enforcement” offends due process. *United States v. Bronstein*, 849 F.3d 1101, 1106 (D.C. Cir. 2017) (quoting *Johnson v. United States*, 576 U.S. 591, 595 (2015)).

As a threshold issue, Plaintiffs have a property interest protected by due process here: an interest in receiving continued TPP Program funding. *See, e.g., Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 576 (1972) (“[A] person receiving [governmental] benefits under statutory and administrative standards defining eligibility for them has an interest in continued receipt of those benefits that is safeguarded by procedural due process.”). The void for vagueness doctrine has long been held to protect the interests that derive from similar benefits, even if the vague government requirement appears in an administrative action rather than a statute or rule. *See, e.g., Karem v. Trump*, 960 F.3d 656, 665 (D.C. Cir. 2020) (upholding vagueness challenge to revocation of a White House press pass); *Nat’l Educ. Ass’n v. U.S. Dep’t of Educ.*, 2025 WL 1188160, at *18 (D.N.H. Apr. 24, 2025) (upholding vagueness challenge to an agency letter threatening to revoke federal funding); *Timpinaro v. SEC*, 2 F.3d 453, 460 (D.C. Cir. 1993) (remanding unconstitutionally vague SEC rule); *see also Fox II*, 567 U.S. at 253-54 (similar).

To be sure, this Court recently concluded that other grant recipients had no protected property interest in receiving funding terminable by an agency at will. *See Urban Sustainability Dirs. Network v. U.S. Dep’t of Ag.*, 2025 WL 2374528, at *23 (D.D.C. Aug. 14, 2025). The Court need not reach the question of whether Plaintiffs have a protected property interest here, or whether the Policy Notice is unconstitutionally vague, because summary judgment should be granted for Plaintiffs’ for all the independent reasons set forth in Part I above. However, if the Court does reach the issue, it should hold that Plaintiffs have a protected property interest because the TPP

Program’s two-track application process plainly creates an expectation that program participants will receive continued funding—or at least be eligible to receive funding on like terms—during their approved five-year project period. And the Policy Notice also clearly meets the standard for unconstitutional vagueness because it “authorizes or even encourages arbitrary and discriminatory enforcement,” *Hill v. Colorado*, 530 U.S. 703, 732 (2000), as detailed in subpart I(b)(1), *supra*.

III. The Policy Notice is *Ultra Vires*

“Judicial review for *ultra vires* agency action rests on the longstanding principle that if an agency action is unauthorized by the statute under which the agency assumes to act, the agency has violated the law.” *Fed. Express Corp. v. United States Dep’t of Com.*, 39 F.4th 756, 763 (D.C. Cir. 2022) (cleaned up). “Stated simply, a claim that an agency acted *ultra vires* is a claim that the agency acted ‘in excess of its delegated powers.’” *Eagle Tr. Fund v. U.S. Postal Serv.*, 365 F. Supp. 3d 57, 67 (D.D.C. 2019), *aff’d*, 811 F. App’x 669 (D.C. Cir. 2020) (quoting *Leedom v. Kyne*, 358 U.S. 184, 188 (1958)). “Accordingly, an agency acts *ultra vires* if it attaches conditions to formula grants that are unauthorized by statute.” *California v. Trump*, 2025 WL 1667949, at *14 (D. Mass. June 13, 2025).

Here, Defendants have imposed funding conditions that are not authorized by Congress and are directly at odds with the TPP Program’s governing statute. The statute allocates funds for “medically accurate and age appropriate programs that reduce teen pregnancy,” with specific requirements for Tier 1. 138 Stat. at 671. The Policy Notice’s Executive Order “alignment” requirement and five content mandates impose additional obligations not contemplated by Congress. These requirements conflict with the statutory mandate that Tier 1 programs “replicate” rigorously evaluated models and that all programs be “medically accurate”—terms with well-established meanings in public health. *See* Pls.’ SOMF ¶¶ 34-35; *supra* subpart I(b)(3). The Policy Notice’s requirement to define sex in a manner that excludes transgender persons directly

contradicts the statute’s mandate that programs be “medically accurate.” *See* Pls.’ SOMF ¶ 38; *supra* subpart I(b)(2). And requiring programs to make modifications to “align” with Executive Orders and exclude certain “ideologies” defy the requirement that TPP Tier 1 recipients “replicat[e]” programs already approved by HHS. *PPNYC*, 337 F. Supp. 3d at 333. By conditioning appropriated funds on the fulfillment of criteria irreconcilable with those Congress prescribed, Defendants have acted beyond their authority, violated the separation of powers and encroached upon Congress’s spending power, and thereby acted *ultra vires*. *Cf. California*, 2025 WL 1667949, at *15.

IV. Vacatur Is Warranted

Section 706 requires that “[t]he reviewing court *shall* . . . hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2) (emphasis added). Under the APA, “[v]acatur is the presumptive remedy for arbitrary and capricious agency action.” *St. Lawrence Seaway Pilots Ass’n v. U.S. Coast Guard*, 357 F. Supp. 3d 30, 38 (D.D.C. 2019); *see also United Steel v. Mine Safety & Health Admin.*, 925 F.3d 1279, 1287 (D.C. Cir. 2019) (“The ordinary practice is to vacate unlawful agency action.”). “Over the decades, [the Supreme Court] has affirmed countless decisions that vacated agency actions, including agency rules.” *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 603 U.S. 799, 830 (2024) (Kavanaugh, J., concurring). “In the words of the D.C. Circuit: ‘When a reviewing court determines that agency regulations are unlawful, the ordinary result is that the rules are vacated—not that their application to the individual petitioners is proscribed.’” *Id.* (quoting *Harmon v. Thornburgh*, 878 F.2d 484, 495, n.21 (D.C. Cir. 1989)); *see also Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2567 (2025) (Kavanaugh, J., concurring) (similar).

That ordinary remedy is appropriate here. The Policy Notice is unlawful to its core. It conflicts with Congress’s express requirements for the TPP Program, deprives program

participants of due process by subjecting them to the risk of arbitrary enforcement, and reflects total disregard for the substantial reliance interests at stake and the harm on vulnerable populations it inflicts. Although courts “sometimes” impose a lesser remedy like remand, *Allina Health Servs. v. Sebelius*, 746 F.3d 1102, 1110 (D.C. Cir. 2014), there is no sound reason to do so here. The Policy Notice “fundamental[ly]” conflicts with statutory requirements, and keeping program terms in limbo for the ongoing award year would be far more disruptive than returning to the pre-Policy Notice terms that governed participants’ programs during the first two years of their grants. *Id.* Consistent with the APA’s clear instruction, the Court should set the unlawful Policy Notice aside.

CONCLUSION

For the foregoing reasons, the Court should grant Plaintiffs’ motion for summary judgment.

Dated: August 25, 2025

Respectfully submitted,

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PLANNED PARENTHOOD OF
GREATER NEW YORK *et al.*)
)
)
Plaintiffs,)
v.) Civil Action No. 25-cv-2453
)
)
U.S. DEPARTMENT OF HEALTH AND)
HUMAN SERVICES *et al.*)
)
)
Defendants.)
)

The TPP Program

1. Teenage pregnancy has long been a significant public health concern in the United States because of the range of health, social, and economic effects adolescent childbearing can have on adolescents, their children, and broader society. Alexandria K. Mickler & Jessica Tollestrup, Cong. Rsrch. Serv., R45184, *Teen Births in the United States: Overview and Recent Trends* 1 (2025).

2. While unintended teenage pregnancy rates in the United States have steadily decreased since the 1960s, the rate of unintended adolescent pregnancy in the United States remains higher than that of comparable high-income countries, with persistent racial, ethnic, and geographic disparities. Mickler & Tollestrup, *supra*, at 1.

3. Teenage pregnancy continues to be a “significant public health concern” in this country “because of the range of health, social, and economic effects adolescent childbearing can have on adolescents, their children, and broader society.” Mickler & Tollestrup, *supra*, at 1.

4. In 2009, Congress shifted most of the prior federal spending for teen pregnancy prevention and sex education away from abstinence-only-until-marriage programs and towards a new funding stream, the Teenage Pregnancy Prevention (TPP) Program, which focused on evidence-based approaches to teen pregnancy prevention. Decl. of Leslie M. Kantor, PhD, MPH (Kantor Decl.) ¶ 21 (attached hereto as Ex. A). Congress appropriated \$110 million “to fund medically accurate and age appropriate programs that reduce teen pregnancy.” Pub. L. No. 111-117, 123 Stat. 3034, 3253 (2009).

5. The TPP Program was created in response to the growing body of literature showing abstinence-only-until-marriage programs had little to no effect on adolescent behavior, and evidence showing that teen pregnancy and HIV prevention programs with specific characteristics were effective in promoting healthy behaviors. Kantor Decl. ¶ 21; *see also* Jessica Tollestrup, Cong. Rsch. Serv., R45183, Adolescent Pregnancy: Federal Prevention Programs 22 (2024) (“The impact evaluation found that youth who received abstinence education under the program did not have different outcomes than youth in the control . . .”).

6. Since then, Congress has continuously funded the TPP Program at approximately the same level with the same statutory requirements. *See, e.g.*, Pub. L. No. 118-47, 138 Stat. 460, 671 (2024).

7. Congress requires the U.S. Department of Health and Human Services’ (HHS) to fund two tiers of TPP Programs, “Tier 1” and “Tier 2.”

8. Tier 1 grantees are required to “replicat[e]” “medically accurate and age appropriate programs” that have “been proven effective through rigorous evaluation to reduce teenage

pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors.” 138 Stat. at 671.¹

9. It is well established in the public health field and for the TPP Program that replicating a program requires “providing the program the way it was conducted when it was researched and found to be effective.” Kantor Decl. ¶ 24.

10. Tier 1 Grantees are required to replicate evidence-based programs with fidelity. Replication with fidelity requires adhering very closely to the way the program was conducted when it was researched and found to be effective and adhering to the core components of a program. Kantor Decl. ¶ 24(b); HHS, OASH, OPA, Advancing Equity in Adolescent Health through Evidence-Based Teen Pregnancy Prevention Programs and Services, Notice of Funding Opportunity, AH-TP1-23-001, (2023 NOFO) at 8, 65 (defining “Fidelity” as “Degree to which an implementer adheres to the core components of an evidence-based program”) (attached hereto as Ex. B). Though minor adaptations of approved programs are permitted, such adaptations must be carefully thought out. Kantor Decl. ¶¶ 48-49. Indeed, “[i]n the past, any adaptations that were made to evidence based teen pregnancy programs were closely overseen by the Office of Population Affairs,” which issued very specific guidelines about the types of adaptations that could be made. *Id.* ¶ 48; *see, e.g.*, HHS, *Making Adaptations Tip Sheet*, https://acf.gov/sites/default/files/documents/prep-making-adaptations-ts_0.pdf (“All adaptation changes, regardless of their motives, need to be reviewed and approved in the context of maintaining fidelity to the core components.”).

¹ Tier 2 grantees, by contrast, are responsible for “develop[ing], replicat[ing], refin[ing], and test[ing]” new “medically accurate and age appropriate programs” “for preventing teenage pregnancy.” 138 Stat. at 671.

11. Core components are “[t]he parts of the evidence-based program or its implementation that is determined by the developer to be the key ingredients related to achieving the outcomes associated with the program.” 2023 NOFO at 64.

12. HHS designates programs eligible for “replication” through the agency’s Teen Pregnancy Prevention Evidence Review (TPPER) process, a rigorous process akin to peer review. The evidence-based programs that TPPER identifies as pre-approved are placed on a list and can be selected for replication by TPP Tier 1 program applicants and participants. OASH, *Updated Findings from the HHS Teen Pregnancy Prevention Evidence Review*, <https://opa.hhs.gov/research-evaluation/teen-pregnancy-prevention-program-evaluations/tpp-evidence-review#ftn1> (last visited Aug. 24, 2025) (hereinafter OASH, *Updated Findings*).

13. Relying on a systematic review of studies and program evaluations, the TPPER is used to determine whether a program is proven effective in serving the required TPP goals: reducing teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors. OASH, *Updated Findings*.

14. “[T]een pregnancy prevention researchers have achieved notable success in identifying programs that can be effective in reducing teen pregnancy, sexually transmitted infections (STIs), and associated sexual risk behaviors.” HHS, *ASPE Research Brief: Making Sense of Replication Studies*, at 1 (May 2015), https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/55351/rb_TPP_Replication.pdf (hereinafter HHS, *ASPE Research*).

15. And “[m]uch of the supporting research evidence” for HHS’s approved Tier 1 programs “comes from rigorous randomized controlled trials, considered the ‘gold standard’ in evaluation research.” HHS, *ASPE Research* at 1.

16. Congress made a deliberate choice to pursue *evidence-based* social policy initiatives through the tiered evidence approach. *See* Tollestrup, *supra*, at 4. The TPP Program’s creation “as an evidence-based model coincided with a larger movement across the federal government to engage in evidence-based policymaking, which sought to ensure that public funds were appropriated for approaches backed by evidence and that investments were made in evaluations to help build out the evidence base related to solving particular problems.” Kantor Decl. ¶ 25.

The TPP Program Application and Award Process

17. TPP Program grant recipients, including Plaintiffs, receive project funding through two distinct processes: a competitive award cycle and an annual non-competitive continuing award process.

18. Consistent with HHS’s regulations, 45 C.F.R. § 52.6, the TPP Program’s competitive award cycle begins with a notice of funding opportunity (NOFO), by which the agency declares its intention to award funds and outlines the program goals, objectives, and conditions for applying. *See, e.g.*, 2023 NOFO at 5-7.

19. HHS grants these awards for a “project period,” during which HHS “intends to support the project without requiring the project to recompete for funds.” 45 C.F.R. § 52.6(c).

20. Each year, grantees submit a non-competing continuation award application (NCC application) consisting of a progress report for the current budget year, and a work plan, budget, and budget justification for the upcoming year. 2023 NOFO at 56.

21. Plaintiffs, Planned Parenthood of Greater New York (PPGNY), Planned Parenthood of California Central Coast (PPCCC), and Planned Parenthood of the Heartland (PPH) are Tier 1 TPP grantees whose projects were designed in response to HHS’s 2023 NOFO, which

solicited applications for projects in communities and populations with the greatest unmet needs that replicated evidence-based programs that were “culturally and linguistically appropriate, trauma-informed, and inclusive of all youth.” 2023 NOFO at 11.

22. Each grantee’s project was approved for a five-year performance period from 2023 to 2028, subject to an annual non-compete continuation funding application process. Decl. of Wendy Stark (PPGNY Decl.) ¶¶ 12, 19 (attached hereto as Ex. C); Decl. of Jenna Tosh (PPCCC Decl.) ¶ 26 (attached hereto as Ex. D); Decl. of Christine Cole (PPH Decl.) ¶ 9 (attached hereto as Ex. E). Each Plaintiffs’ third-year of funding was approved on July 2, 2025. PPGNY Decl. ¶ 25; PPCCC Decl. ¶ 39; PPH Decl. ¶ 24.

23. When a TPP continuation award is granted, the funds are made available in an online account, and Plaintiffs “draw down” funds as needed to reimburse them for their approved project expenses. PPH Decl. ¶ 26. Through the process of accessing funds already awarded to them—i.e., “drawing down” the awarded funds—TPP funding recipients certify that they will comply with program policies. *Id.*

HHS’s Imposition of New Requirements on the TPP Program

24. A little more than two weeks before the Tier 1 NCC application deadlines, OASH issued its *Guidance for Preparing a Non-Competing Continuation (NCC) Award Application, Teen Pregnancy Prevention (TPP) Program Recipients (AH-TP1-23-001)* (NCC Notice) to Tier 1 TPP funding recipients. *See* OPA, *Guidance for Preparing a Non-Competing Continuation (NCC) Award Application, Teen Pregnancy Prevention (TPP) Program Recipients (AH-TP1-23-001)* (2025) (NCC Notice) (attached hereto as Ex. F). The NCC Notice imposed a new requirement that grantees “align” their programs with *all* Executive Orders. *Id.* at 4-5.

25. Plaintiffs all submitted their NCC applications without certifying compliance with the Executive Order “alignment” requirement. PPGNY Decl. ¶ 24; PPCCC Decl. ¶ 38; PPH Decl. ¶ 23.

26. HHS granted Plaintiffs’ NCC applications, after they and others filed a lawsuit challenging the Tier 1 NCC Notice. *See Planned Parenthood of Greater N.Y. v. HHS (PPGNY I)*, No. 25-1334 (TJK) (D.D.C. May 1, 2025), Dkt. No. 1. On July 2, 2025, HHS granted Plaintiffs’ NCC applications. PPGNY Decl. ¶ 25; PPCCC Decl. ¶ 39; PPH Decl. ¶ 24. As a result, the *PPGNY I* plaintiffs no longer faced the potential denial of their applications and voluntarily dismissed *PPGNY I* on July 11, 2025, before the Court had resolved the merits of any of the *PPGNY I* plaintiffs’ claims. Notice of Voluntary Dismissal, *PPGNY I*, No. 25-1334 (D.D.C. July 11, 2025), Dkt. No. 34.

27. The same day that HHS granted Plaintiffs’ NCC applications, it also published the OASH, *OASH Teen Pregnancy Prevention Program Policy Notice* (Policy Notice) (dated July 1, 2025), attached hereto as Exhibit G. *See* OASH, HHS, *HHS Issues Policy to Stop the Radical Indoctrination of Children and Ensure Parental Oversight for Teen Pregnancy Prevention Grants* (Jul. 2, 2025), <https://health.gov/news/hhs-issues-policy-stop-radical-indoctrination-children-and-ensure-parental-oversight-teen>. The Policy Notice states that TPP program recipients that are “noncompliant with [its terms] may face grant suspension . . . and grant termination.” Policy Notice at 5.

28. The Policy Notice purports to “clarify OASH policy for [TPP Program] grant recipients.” Policy Notice at 1. “Additionally, [the Policy Notice] outlines evaluation standards for TPP Program grant recipients and evidence-based program” and “delineate[s] when materials and

activities are not ‘medically accurate,’ ‘age appropriate,’ do not ‘reduce teen pregnancy,’ or are otherwise outside the scope of the TPP Program.” *Id.*

29. Specifically, the Policy Notice states that TPP projects “must . . . not instruct[] . . . ideological content,” such as “discriminatory equity ideology,” the “content at issue in *Mahmoud*,” which the Policy Notice identifies as “LGBTQ+-inclusive” content, and “gender ideology.” Policy Notice at 4. The Policy Notice also states that “material or instruction outside the scope of the TPP Program” includes “content that encourages, normalizes, or promotes sexual activity for minors, including anal and oral sex, or masturbation, including through sexually themed roleplay” and “content on the eroticization of birth control methods.” *Id.* The Policy Notice adopts new definitions in lieu of previously-established agency definitions for the TPP Program, including the definition of “Medical Accuracy,” such that “[c]ontent that is not ‘medically accurate’ may include inaccurate information about methods of contraception, including associated health risks, or information that denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females, such as for the purpose of body literacy.” *Id.* at 4-5. Finally, the Policy Notice states that TPP programs have an “obligation[]” to “provide parents advance notice . . . and the ability to opt out of any content or activities, especially those related to sexuality, that may burden their religious exercise.” *Id.* at 3-5. These requirements “appl[y] to TPP Program grant recipients” now. *Id.* at 1. And grant recipients “are expected to ensure all program materials comply with [the Policy Notice].” *Id.* at 6.

30. While the Policy Notice states that “OASH is concerned” about several definitions used in prior NOFOs “based on the statutory language and Congressional intent of the TPP Program,” it does not point to specific terms within those definitions that are of concern nor does

it identify other specific aspects of the definitions themselves that are objectionable. Policy Notice at 4-5.

31. The Policy Notice’s new definition of “medically accurate” requires instruction on the “full range of health risks” associated with contraceptives, but offers no guidance as to what level of detail is required or how that threshold will be judged. Policy Notice at 5.

32. The Policy Notice also asserts that “[c]ontent that is not ‘medically accurate’ may include inaccurate information about methods of contraception, including associated health risks, or information that denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females, such as for the purpose of body literacy.” Policy Notice at 5.

33. The Policy Notice further states that “the prior administration erred in approving [some program] materials” and that “compliance with this PPN may require some grantees to revise their TPP Program curricula and content.” Policy Notice at 6.

The Policy Notice’s Content Mandates Contradict Widely Available and Peer-Reviewed Scientific Evidence and Risks Undermining the TPP Program’s Efficacy

34. HHS previously defined medical accuracy as: “Verified or supported by the weight of research conducted in compliance with accepted scientific methods; and published in peer-reviewed journals, where applicable or comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete.” 2023 NOFO at 65.

35. The previous definition was consistent with the well-established and longstanding meaning of medical accuracy within public health and evidence-based policy, Kantor Decl. ¶ 22, and identical to the definition of “medically accurate and complete” that Congress provided for under the Personal Responsibility Education Program in 42 U.S.C. § 713(e)(2).

36. In the Policy Notice, the agency declared it was “concerned” about this definition and offered an alternative definition for Medical Accuracy. Policy Notice at 5.

37. The Policy Notice’s defines medical accuracy as requiring teaching that there are only two sexes and denying the existence of gender diversity. Policy Notice. at 5.

38. Teaching that there are only two sexes is “clearly medically inaccurate” based on a review of the scientific literature about biology and the expert opinions of key professional organizations such as the American Psychological Association and contradicts widely available and accepted, and peer-reviewed scientific evidence recognizing the existence of intersex and transgender individuals. *See, e.g.*, Kantor Decl. ¶ 64; *id.* ¶ 57 (“[A] large scientific literature on the biological basis of sex . . . concludes that there is significant variation within the category of biological sex.”); Pediatric Endocrine Soc’y, *The Biological Reality of Sex and Intersex: A Response to the Executive Order* (Feb. 11, 2025), available at <https://pedsendo.org/public-policy/the-biological-reality-of-sex-and-intersex-a-response-to-the-executive-order-defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/> (“The proposed definitions of biological sex within the Executive Order should not and cannot apply to people born with biological conditions known as Differences of Sex Development . . . a collection of rare medical conditions that occur before birth in which biological sex development does not follow the typical path.”); *see also* Tiffany Jones, *Intersex Studies: A Systematic Review of International Health Literature*, 8 SAGE OPEN 2 (May 2018) (“Research has generally estimated that 1.7% to 4% of people go on to actually have intersex variations.”), available at <https://journals.sagepub.com/doi/10.1177/2158244017745577>; Claire Ainsworth, *Sex Redefined*, 518 NATURE 288, 288-90 (February 19, 2015) (“[D]octors have long known that some

people straddle the boundary—their sex chromosomes say one thing, but their gonads (ovaries or testes) or sexual anatomy say another.”), available at <https://www.nature.com/articles/518288a>.

39. The Policy Notice does not define how the agency will assess whether content is “sexually explicit” or “encourages”, “normalizes”, or “promotes” sexual activity for minors in assessing compliance. *See generally*, Policy Notice.

40. This prohibition could be implemented to require abstinence-only programming, which has been scientifically shown to be ineffective at preventing teenage pregnancy and other associated risk behaviors. *See, e.g.*, John S. Santelli, M.D., M.P.H. *et al.*, *Abstinence-Only-Until-Marriage Policies and Programs*, 61 J. ADOLESCENT HEALTH 400, 400 (“[Abstinence only] programs are not effective in delaying initiation of sexual intercourse or changing other behaviors.”), available at [https://www.jahonline.org/article/S1054-139X\(17\)30297-5/fulltext](https://www.jahonline.org/article/S1054-139X(17)30297-5/fulltext); *see also* Kantor Decl. ¶¶ 21; 43. Plaintiffs cannot and do not provide programming that promotes abstinence as the only appropriate behavior for youth as it is not an approach rooted in evidence and reflective of the real world decisions that our participants are contemplating. *See* PPGNY Decl. ¶ 48; PPCCC ¶ 56; PPH Decl. ¶ 42.

41. Congress, HHS, and overwhelming scientific evidence have recognized that effective sexual education requires acknowledging the reality that some adolescents are or will become sexually active. Kantor Decl. ¶¶ 20-21. Comprehensive sexual education includes topics like contraception, consent, and healthy relationships—acknowledging that some teens are or will become sexually active. *Id.* ¶¶ 44-45.

42. The Policy Notice’s prohibition on teaching “gender ideology,” Policy Notice at 4, appears to “disallow discussions about gender roles which are essential to helping young people learn to communicate, negotiate and refuse unprotected sexual activity.” Kantor Decl. ¶ 63.

43. Discussions about gender roles and expectations are an important component of effective sexual education programs and essential to helping young people learn to communicate, negotiate, and refuse unprotected sexual activity. Kantor Decl. ¶ 63.

44. “[A] review of studies on teen pregnancy prevention programs . . . shows that teen pregnancy prevention programs that address issues of gender are more likely to result in reductions of sexually transmitted diseases and teen pregnancy.” Kantor Decl. ¶ 63. “Examining how gender roles and expectations may influence how adolescents engage in relationships is a very important component of pregnancy prevention.” *Id.*

45. Finally, the Policy Notice prohibits certain kinds of content that makes the program inclusive to various communities and identities. Excluding inclusive content does nothing to prevent pregnancy; and it directly contravenes the TPP Program grants at issue, which were expressly solicited to serve communities and populations with greatest unmet needs and thus to replicate evidence-based programs that were “culturally and linguistically appropriate, trauma-informed, and inclusive of all youth.” 2023 NOFO at 8, 11, 25, 44; *see also, e.g.*, Kantor Decl. ¶ 54 (“Cultural and linguistic appropriateness is essential to ensure that programs meet the needs of youth who, in a country as large and varied as the United States, come from different settings (e.g., rural, suburban and urban), cultural backgrounds, and may or may not speak English as a first language.”).

The Policy Notice’s Impact on Plaintiffs’ TPP Programming and Services

46. Plaintiffs PPGNY, PPCCC, and PPH are Tier 1 TPP grantees whose projects were designed and approved for a five-year performance period pursuant to HHS’s 2023 NOFO, and for the current year of non-compete continuation funding, which is the third year of the five-year grant cycle. *See* PPGNY Decl. ¶¶ 11-12; PPCCC Decl. ¶¶ 21-26; PPH Decl. ¶¶ 10-12.

47. Each of Plaintiffs' Tier 1 TPP Program projects has been approved to replicate, with fidelity, at least one of the evidence-based programs that HHS has identified on its pre-approved list as effective and consistent with Congress's mandate for the program. *See* PPGNY Decl. ¶¶ 13-14, 16; PPCCC Decl. ¶¶ 26, 28; PPH Decl. ¶¶ 12-13, 16. The 2023 NOFO required recipients "to make materials and information culturally and linguistically appropriate, trauma-informed, and inclusive of all youth," and to "advance equity in . . . communities and populations with the greatest needs." 2023 NOFO at 5-6, 11. And Plaintiffs selected and implemented their projects to meet unique needs of underserved communities. *See* PPGNY Decl. ¶ 42 (PPGNY's project was "intended to ensure that its programming addressed gaps in existing curricula that failed to account for unique needs of many communities including LGBTQ+ youth"); PPCCC Decl. ¶ 80 ("Due to challenges, such as language and transportation barriers, members of these communities are often unable to benefit from other sex education programs . . . PPCCC designed a project to meet these gaps in services."); PPH Decl. ¶¶ 13-16 ("PPH designed its TPP Project to meet the needs of underserved communities within the areas that we serve" including "rural Nebraskan counties" and "Nebraska tribes").

48. Despite HHS approving Plaintiffs' TPP projects for a third year, the Policy Notice's requirements present Plaintiffs with the impossible choices as to whether to (1) alter their TPP programs to draw down the awarded funds (which requires certifying compliance with the Policy Notice) and risk alienating the vulnerable populations they serve, (2) continue on with their TPP programming as previously approved with the likely outcome of an enforcement action by HHS, or (3) shutting down their programs entirely to avoid these negative outcomes, abandoning their partnerships and the communities they serve. *See* PPGNY Decl. ¶ 40; PPCCC Decl. ¶ 65; PPH Decl. ¶ 38.

49. As a result of the Policy Notice, and specifically because the process of drawing down funds requires TPP funding recipients to certify that they will comply with program policies—including the Policy Notice, none of the Plaintiffs have drawn down funds for year three of their TPP projects. PPGNY Decl. ¶ 60; PPCCC Decl. ¶ 83; PPH Decl. ¶ 61.

50. Plaintiffs designed their budgets, programming, staffing, and partnerships with community organizations based on the understanding that HHS would provide continued funding. *See* PPGNY Decl. ¶¶ 61-63; PPCCC Decl. ¶ 74; PPH Decl. ¶¶ 61-63. As Plaintiffs' declarations explain, the Policy Notice disrupts Plaintiffs' operations, thwarts their ability to provide the funded TPP programs and education services, and threatens their reputation, stakeholder relationships, and community goodwill with many local and geographic partners in areas where programming is offered. PPGNY Decl. ¶¶ 67-68; PPCCC Decl. ¶ 68; PPH Decl. ¶ 45. These disruptions threaten Plaintiffs' ability to provide public health programming to communities that HHS has identified as having the highest unmet need and perpetuate the negative health outcomes this program was designed to address. PPGNY Decl. ¶¶ 68-70; PPCCC Decl. ¶ 67; PPH Decl. ¶¶ 45-47.

51. Since the Court's denial of Plaintiffs' Motion for a Temporary Restraining Order, PPGNY has been forced to shut down its TPP programming due to the loss of access to funds. PPGNY Decl. ¶ 62. PPGNY has also issued staff layoff notices. *Id.* ¶ 63. PPGNY remains in the TPP program and will work to rebuild its project if this case provides relief. *Id.* ¶ 66.

52. PPCCC has had to reallocate its limited, unbudgeted reserves to pay staff and cover other program expenses due to the loss of access to TPP grant funds, which it can only do for a brief period; without relief, PPCCC has no other funds to cover the costs of its TPP project and will soon be forced to shut down its program and furlough staff. PPCCC Decl. ¶ 84.

53. PPH has also briefly kept its project afloat by reallocating resources and pausing certain contracts, but can only operate its project on this reduced budget for a short time and will soon have to shut down its TPP project without relief. PPH Decl. ¶¶ 62-63.

Dated: August 25, 2025

Respectfully submitted,

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EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PLANNED PARENTHOOD OF
GREATER NEW YORK *et al.*,

Plaintiffs,
v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES *et al.*,

Defendants.

Case No.1:25-cv-02453-BAH

**DECLARATION OF LESLIE M. KANTOR, PhD, MPH,
IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Leslie M. Kantor, PhD, MPH, declare as follows:

1. I am the Chair of the Department of Urban-Global Public Health at the School of Public Health at Rutgers, The State University of New Jersey, a position I have held since April 2018, after 12 years as an Assistant Professor of Clinical Population and Family Health at the Mailman School of Public Health at Columbia University. I received a Master of Public Health from the Department of Population and Family Health at Columbia's Mailman School of Public Health in 1992 and a PhD from Columbia's School of Social Work in 2015 with a concentration in Social Policy and Administration.

2. In addition to my faculty appointments, I have also served on the staff of various health care and policy organizations, including SIECUS (Sexuality Information and Education Council of the United States) from 1992 to 1996, Planned Parenthood of New York City from 1996 to 2003, and the Planned Parenthood Federation of America, where I served as the Vice President of Education, from 2010 to 2018.

3. From 2017–2023, I served on the Board of Directors of ETR Associates, a national non-profit organization that develops, implements, evaluates, and disseminates science-based resources to advance health and opportunities for youth, adults, and communities.

4. I am a member of the American Public Health Association and the Society for Family Planning, among other professional associations.

5. I have over three decades of experience in the field of public health, prevention research, and evidence-based health education. I have extensive research and programmatic experience in sex education and adolescent health, including studying and evaluating various approaches to teen pregnancy and sexually transmitted infection (STI) prevention. I am the author of more than seventeen peer-reviewed, scientific articles as well as numerous book chapters and monographs on topics related to teen pregnancy prevention and effective interventions. Several of my articles outline the policy and funding history for various approaches to teen pregnancy and STI prevention in the United States. I was the co-editor of a special issue of the peer-reviewed, scientific journal *Sexuality Research and Social Policy* focused on abstinence-only-until-marriage programs and have studied and written extensively about those programs.

6. I have been a principal investigator/researcher for over \$4 million in grants for over a dozen research projects on several topics related to teen pregnancy prevention and sex education, including identifying best practices in sex education, conducting preliminary research in order to design technology-based approaches to sex education, and rigorously evaluating teen pregnancy prevention interventions. I have experience with a variety of approaches to program evaluation including randomized controlled trials, quasi-experimental designs, and implementation and acceptability evaluations. I have also taught program planning and evaluation to graduate students at both Rutgers University and Columbia University.

7. I have studied and spoken extensively about the U.S. Department of Health and Human Services' (HHS) Teen Pregnancy Prevention Program (TPP Program), which is at issue in this litigation.

8. A copy of my curriculum vitae with a complete listing of my professional background, experience, and publications is attached hereto as Exhibit A.

9. The opinions I express herein are my own and not those of the institutions with which I am affiliated.

10. Based on my years of training and experience in these substantive areas as well as my familiarity with the scientific literature related to teen pregnancy prevention efforts and strategies, including the TPP Program, it is my opinion that:

- a. the terms used by Congress in funding the TPP Program have settled meanings within the fields of prevention research and sex education that have long been understood as such;
- b. the Executive Order alignment requirement first introduced in the 2025 Tier 1 Office of Population Affairs (OPA) Guidance for Preparing a Non-Competing Continuation Award Application (hereafter, "2025 NCC Notice"), and incorporated into the Office of the Assistant Secretary for Health (OASH) Teen Pregnancy Prevention Policy Notice dated July 1, 2025, ("Program Policy Notice"), conflicts with the goals of the TPP Program;
- c. the identified Executive Orders are not designed for meeting the goals of teen pregnancy prevention and are in conflict with the guidelines and purpose of the TPP Program;

- d. the additional requirements imposed in the Program Policy Notice shift the definition of key terms away from scientific standards, appear to encourage a reversion to programs that focus on abstinence as the only appropriate behavior for youth, provide unbalanced information about contraception, and limit the use of key pedagogical strategies used in effective TPP programs. Additionally, the Program Policy Notice's distinction between teaching and "encouraging, normalizing or promoting" sexual activity is in conflict with the standards of the TPP Program;
- e. adjustments to evidence-based TPP programs that have previously been rigorously tested and found to work may render those programs ineffective and may create harms for participants; and

11. This declaration proceeds in the following manner. First, I address the public health need in the United States for a federal program to prevent teen pregnancy. Second, I discuss why evidence-based TPP programming replaced federal funding for abstinence-only programming. Third, I address the notice Plaintiffs received regarding their non-competitive continuation award applications ("NCC applications"). Fourth, I address the Program Policy Notice Plaintiffs received after submitting their applications. Finally, I discuss one particularly concerning aspect of these notices: their medical inaccuracy.

12. I am not being compensated for my testimony in this matter.

Public Health Need in the United States for a Federal Program to Prevent Teen Pregnancy

13. The United States has historically had much higher teen pregnancy and sexually transmitted infection rates than other high income countries. Rates of teen pregnancy, birth, and

abortion for teens in the United States have declined in recent years but remain higher than in comparable countries.¹

14. Adolescent pregnancy has negative sequelae for individuals, families, and society. Teen pregnancy interferes with young people's ability to complete education, which may have lifelong implications. Teen parents are 70% less likely than non-parenting teens to obtain a high school diploma or GED,² and teen parents obtain fewer years of education overall compared to people who do not become parents as teenagers.³

15. Societally, the costs of teen pregnancy are high. At the time the TPP Program was passed by Congress, estimates of the economic costs of teen pregnancy were \$9.4 billion annually.⁴ These costs included direct costs of supporting perinatal and infant healthcare as well as costs related to public assistance, foster care, and other services needed by teen parents and their children.

16. Sexually transmitted infections (STIs) among adolescents in the United States are also public health and economic concerns. In 2023 (the most recent year for which a complete year of data is available), the Centers for Disease Control and Prevention reported that there were 2.4 million cases of reportable STIs in the United States and that close to half of those cases were

¹ Gilda Sedgh *et al.*, *Adolescent Pregnancy, Birth, and Abortion Rates Across Countries: Levels and Recent Trends*, 56 J. ADOLESCENT HEALTH 223 (2015).

² Jennifer Manlove *et al.*, *Subsequent Fertility Among Teen Mothers: Longitudinal Analyses of Recent National Data*, 62 J. MARRIAGE & FAM. 430 (2000).

³ Jennifer B. Kane *et al.*, *The Educational Consequences of Teen Childbearing*, 50 Demography 2129 (2013).

⁴ Patricia M. Herman *et al.*, *Cost Analysis of a Randomized Trial of Getting to Outcomes Implementation Support for a Teen Pregnancy Prevention Program Offered in Boys and Girls Clubs in Alabama and Georgia*, 21 PREVENTION SCI. 1114 (2020).

among 15–24 year olds, consistent with data showing that young people contract a disproportionate share of STIs.⁵

17. STIs have individual and societal costs. Certain STIs are associated with long term, chronic health issues, including infertility.⁶ The economic costs of STIs are estimated to be \$16 billion annually.⁷

18. Until 2009, the United States government’s support for teen pregnancy prevention initiatives was mainly for abstinence-only-until-marriage programs. Abstinence-only-until-marriage programs are those that exclusively promote no sex until marriage.⁸

19. Abstinence-only programs historically limited the provision of information about condoms and other forms of contraception to discussion about failure rates.⁹

20. Congress’s previous funding for abstinence-only-until-marriage programs included support for evaluations of these programs.¹⁰ Those evaluations and others showed limited effects of abstinence-only programs on altering teen sexual behaviors, including limited impact of these programs on helping teens abstain from sexual activity and no improvements in rates of birth control and condom use.¹¹

The Evidence-Based Model of the Teen Pregnancy Prevention Program Was Developed In Response to the Failure of Abstinence-Only-Until-Marriage Programs

⁵ *National Overview of STIs in 2023*, Ctrs. for Disease Control & Prevention (Nov. 12, 2024), <https://www.cdc.gov/sti-statistics/annual/summary.html>.

⁶ *Sexually Transmitted Infections (STIs)*, World Health Org. (May 29, 2025), [https://www.who.int/news-room/fact-sheets/detail/sexually-transmitted-infections-\(stis\)](https://www.who.int/news-room/fact-sheets/detail/sexually-transmitted-infections-(stis)).

⁷ *Sexually Transmitted Infections Prevalence, Incidence, and Cost Estimates in the United States*, Ctrs. for Disease Control & Prevention (Apr. 3, 2024), <https://www.cdc.gov/sti/php/communication-resources/prevalence-incidence-and-cost-estimates.html>.

⁸ John S. Santelli *et al.*, *Abstinence-Only-Until-Marriage: An Updated Review of U.S. Policies and Programs and Their Impact*, 61 J. ADOLESCENT HEALTH 273, 274–75 (2017).

⁹ *Id.*

¹⁰ *Id.* at 275.

¹¹ *Id.* at 276.

21. In response to the growing body of literature showing abstinence- only-until-marriage programs had little to no effect on adolescent behavior and a growing body of evidence showing that teen pregnancy and HIV prevention programs with specific characteristics did work to promote healthy behaviors,¹² Congress, in 2009, shifted most of the federal spending for teen pregnancy prevention and sex education away from abstinence-only-until-marriage programs and toward a new funding stream focused on evidence-based approaches to teen pregnancy prevention, the TPP Program.¹³

22. The terms that Congress chose in funding the TPP Program—“medically accurate” and “replicating programs that have been proven effective through rigorous evaluation”—have well-established and longstanding meanings within public health and evidence-based policymaking, and more broadly in the scientific and research community and literature.

23. For example, the Society for Prevention Research (SPR) is a leading multi-disciplinary organization within the public health field of prevention research. In 2004, SPR appointed a task force of researchers from institutions including Columbia University, University of Pennsylvania, Duke University, and the National Institute of Mental Health at the National Institutes of Health to determine the “most appropriate criteria for prevention programs and

¹² Douglas Kirby, *Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy (Summary)*, 32 AM. J. HEALTH EDUC. 348 (2001).

¹³ Congress appropriated \$110,000,000 for grants to fund “medically accurate and age appropriate programs that reduce teen pregnancy,” with not less than \$75,000,000 directed to “replicating programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors,” which was implemented as “Tier 1.” Congress directed that a smaller portion of funds, not less than \$25,000,000, go to “research and demonstration grants to develop, replicate, refine and test additional models and innovative strategies for preventing teenage pregnancy,” which was implemented as “Tier 2.” Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, 123 Stat. 3034, 3253 (2009). On an annual basis, Congress has reauthorized this program on the same terms in amounts ranging from \$98,000,000 to \$110,000,000. Adrienne L. Fernandes-Alcantara, Cong. Rsch. Serv., R45183, *Teen Pregnancy: Federal Prevention Programs* 6 (2018).

policies to be judged efficacious, effective, or ready for dissemination.”¹⁴ The task force generated guidelines intended to define the most effective ways to evaluate public health prevention programs, including criteria for describing and replicating programs as well as criteria for evaluating their efficacy.¹⁵ These guidelines are widely followed and generally recognized as objective and authoritative throughout public health fields.

24. The 2005 SPR guidelines and other literature in the general fields of public health and prevention research as well as literature specific to the teen pregnancy context define the terms used by Congress in creating the TPP Program as follows:

- a. *Program*: A program is a planned, coordinated group of activities, processes, and procedures designed to achieve a specific purpose. A program should have specified goals, objectives, and structured components (e.g., a defined curriculum, an explicit number of treatment or service hours, and an optimal length of treatment) to ensure the program is implemented with fidelity to its model.¹⁶ The SPR publishes the peer-reviewed scientific journal *Prevention Science* and is committed to promoting the highest quality science needed to effectively scale up evidence-based programs, practices and policies to combat public health

¹⁴ Brian R. Flay *et al.*, *Standards of Evidence: Criteria for Efficacy, Effectiveness and Dissemination*, 6 PREVENTION SCI. 151, 152 (2005).

¹⁵ See generally *id.* at 151–75.

¹⁶ See Douglas Kirby, *Emergency Answers 2007: Research Findings on Programs to Reduce Teen Pregnancy and Sexually Transmitted Diseases*, Nat’l Campaign to Prevent Teen & Unplanned Pregnancy 13 (Nov. 2007), <https://powertodecide.org/sites/default/files/resources/primary-download/emerging-answers.pdf>; Douglas Kirby *et al.*, *Tool to Assess the Characteristics of Effective Sex and STD/HIV Education Programs*, Healthy Teen Network 65 (Feb. 2007), <https://www.wisetoolkit.org/sites/default/files/Tool%20to%20Assess%20the%20Characteristics%20of%20Effective%20Sex%20and%20STD%20HIV%20Education%20Programs.pdf> (“A program is a set of activities packaged in a purposeful way with the goal of preventing a problem, treating a problem, and/or supporting an individual or a group.”).

problems.¹⁷ SPR guidelines note that a program should be “described at a level that would allow others to implement/replicate it” and that “[m]anuals and, as appropriate, training and technical support must be readily available.”¹⁸

- b. *Replication*: Replication of a program means providing the program the way it was conducted when it was researched and found to be effective.¹⁹ Replication with fidelity means adhering very closely to the way the program was conducted when it was researched and found to be effective. SPR notes that “scientific replication” means delivering the same intervention on a new, similar population and ensuring that the intervention is delivered in the same way with the same training as in the original study.²⁰
- c. *Rigorous Evaluation*: There are well-established standards of evidence that guide the research methods that must be used to demonstrate whether a prevention program has been responsible for the outcomes that were measured.²¹ The SPR guidelines include a number of research characteristics that must be in place in order to be able to say that a program worked. For example, rigorous evaluation requires that there be one group that receives the program and another group that does not receive the program (e.g., a control group). The most rigorous design includes randomly assigning individual participants to either the

¹⁷ *About SPR*, Soc’y for Prevention Rsch., <https://preventionresearch.org/about-spr/> (last visited July 28, 2025); *Mission, Vision, Values, and Strategic Plan*, Soc’y for Prevention Rsch., <http://preventionresearch.org/about-spr/mission-statement/> (last visited July 28, 2025).

¹⁸ Flay *et al.*, *supra* note 14, at 154, 163.

¹⁹ *Id.* at 162.

²⁰ *Id.*

²¹ *Id.*

program/intervention group or the control group—a randomized control trial or RCT.²²

- d. *Proven Effective*: In general, if there is a rigorous research design and a statistically significant difference is found on the outcome(s) of interest between the program/intervention group and the control group, the program would be considered to be effective. There must be findings on the main outcomes of interest (e.g., for prevention programs, those are usually behavioral outcomes rather than only knowledge or attitude outcomes) and the measures and statistical procedures used must adhere to scientific standards.²³
- e. *Medically Accurate*: Information is medically accurate if it is supported by the weight of scientific evidence that is conducted consistent with generally recognized scientific theory and under accepted scientific methods. Such evidence also must be published in peer-reviewed scientific journals and recognized as accurate and objective by mainstream professional organizations (such as the American Medical Association and the American Public Health Association); government agencies (such as the Centers for Disease Control and Prevention, Food and Drug Administration); or scientific advisory groups (such as the National Academies of Science, Engineering, and Medicine).²⁴

25. The creation of the TPP Program as an evidence-based model coincided with a larger movement across the federal government to engage in evidence-based policymaking, which sought to ensure that public funds were appropriated for approaches backed by evidence and that

²² See *id.* at 151–75.

²³ *Id.* at 170.

²⁴ John S. Santelli, *Medical Accuracy in Sexuality Education: Ideology and the Scientific Process*, 98 AM. J. PUB. HEALTH 1786 (2008).

investments were made in evaluations to help build out the evidence base related to solving particular problems.²⁵ In shifting the balance of teen pregnancy prevention funding to an evidence-based model, Congress likewise dedicated federal funds to those programs that had demonstrated evidence of success, rather than those that were unproven.²⁶ With an emphasis on rigorous evaluation, Congress intended to build the scientific evidence on what works to prevent teen pregnancy and associated risk factors.

26. A critical goal of prevention research and evidence-based policymaking is to expand the evidence portfolio to determine which programs work, for which populations, and under which circumstances. Equally important, for replication studies in particular, is the aim to report on null or negative findings, as each such study adds to the development of the body of evidence in important ways.²⁷ The TPP Program embodied this goal by providing for both the development and evaluation of previously unevaluated programs (Tier 2) and the replication of programs that had been proven effective in at least one rigorous evaluation (Tier 1) to determine their effectiveness among other populations and in other settings. There have been 4 sets of grants made as part of the TPP Program. Program periods took place from 2010–2015, 2015–2020, 2020–2025 and 2023–2028, which is the program period for current grantees.²⁸

²⁵ Evelyn M. Kappeler & Amy Feldman Farb., *Historical Context for the Creation of the Office of Adolescent Health and the Teen Pregnancy Prevention Program*, 54 J. ADOLESCENT HEALTH S3, S3–S4 (2014); Comm’n on Evidence-Based Policymaking, *The Promise of Evidence-Based Policymaking* 15–16 (Sept. 2017).

²⁶ Kappeler & Farb., *supra* note 25, at S3–S6; Comm’n on Evidence-Based Policymaking, *supra* note 25, at 94; Ron Haskins & Greg Margolis, *Show Me the Evidence: Obama’s Fight for Rigor and Results in Social Policy* 67–101 (Brookings Inst. Press 2014).

²⁷ Flay *et al.*, *supra* note 14, at 151–75.

²⁸ *Current Teen Pregnancy Prevention Grant Recipients*, Off. Population Affs., <https://opa.hhs.gov/grant-programs/teen-pregnancy-prevention-program/tpp-grant-recipients/current-tpp-grant-recipients> (last visited July 24, 2025).

27. Tier 1 grantees of the TPP Program have been required to replicate programs for which strong evidence of efficacy (e.g., positive behavioral outcomes) already exists. Tier 1 grantees must choose a program which is part of an evidence review developed and maintained by HHS and replicate that program with fidelity. Many grantees also received funds to undertake additional evaluation studies as part of their grants to assess whether their programs continue to have the same positive outcomes in the settings and with the participants for whom they are implementing their programs.²⁹ This is because programs may work in one setting but not another, or may work for some groups of people but not for others.

28. A large number of new evaluation studies have been published based on the results of Tier 2 evaluations as well as evaluations of Tier 1 replication studies, which study programs that had previous evidence of effectiveness and are being tested on new populations or in new settings. These evaluation findings are published in peer-reviewed, scientific literature and are used to update the HHS evidence review. That evidence review typically resides on the Office of Population Affairs website. However, it has recently been removed from that website.³⁰

29. Articles summarizing results of these TPP Program replication studies have been published in various scientific publications, including a special issue of the *American Journal of Public Health* in 2016.³¹ Another large summary of the evaluations of TPP Program-funded programs examined all forty-four replication studies of curricula that are part of the evidence

²⁹ *Teen Pregnancy Prevention (TPP) Program Evaluations*, Off. Population Affs., <https://opa.hhs.gov/research-evaluation/teen-pregnancy-prevention-program-evaluations> (last visited July 24, 2025).

³⁰ The evidence review as it was included on the Office of Population Affairs website as of January 18, 2025 is archived. See *Welcome to the Teen Pregnancy Prevention Evidence Review*, Youth.gov, <https://web.archive.org/web/20250118112947/https://youth.gov/evidence-innovation/tpper> (last visited July 24, 2025).

³¹ Amy Feldman Farb & Amy L. Margolis, *The Teen Pregnancy Prevention Program (2010–2015): Synthesis of Impact Findings*, 106 AM. J. PUB. HEALTH S9 (2016).

review and was published by Juras *et al.* in 2022 in the highly regarded, peer-reviewed scientific journal *Prevention Science*.³² As that review noted: “These evaluations provided a unique opportunity to generate evidence on what works and for whom because of their rigor (grantees received intensive technical assistance by a federal evaluation contractor), consistently reported outcomes (a common core of survey items and behavioral outcomes was used in all of the evaluations), transparency (the agency agreed to release evaluation findings regardless of their results), and quality and fidelity of implementation (92% of all sessions observed by an independent facilitator were rated as very high or high quality, and 95% were implemented with high fidelity to the specified program model).” Thus, the TPP Program has successfully served the dual purposes of providing direct educational services to youth and helping to expand the number of programs that are rigorously tested and found to work to help change adolescent behaviors in ways that are consistent with preventing teen pregnancy as well as to test previously evaluated programs with new groups of young people to see if they remain effective.

The 2025 NCC Notice Requires Alignment With Recent Executive Orders that Conflict With the Goals of the TPP Program

30. On March 31, 2025, current TPP23 Tier 1 grantees received the Tier 1 2025 NCC Notice, which: “prescribes the content, information, and requirements for the OPA NCC award application.” Rather than providing typical guidance for continuing grants as part of multi-year awards, the 2025 NCC Notice focuses on aligning the current grants, which are mid-way through the five-year award period, with recent Executive Orders issued by the Trump Administration. While the NCC Notice requires grantees to align with “all” of the Executive Orders, there are subset of those Executive Orders which are specified in the Notice as particularly relevant.

³² Randall Juras *et al.*, *Adolescent Pregnancy Prevention: Meta-Analysis of Federally Funded Program Evaluations*, 109 AM. J. PUB. HEALTH 1 (2019).

31. The 2025 NCC Notices list these five Executive Orders that “may be of most relevance to the work of the TPP program”:

- Executive Order 14168: *Defending Women From Gender Ideology Extremism and Restoring Biological Truths to the Federal Government*
- Executive Order 14190: *Ending Radical Indoctrination in K-12 Schooling*
- Executive Order 14187: *Protecting Children From Chemical and Surgical Mutilation*
- Executive Order 14151: *Ending Radical and Wasteful Government DEI Programs and Preferencing*
- Executive Order 14173: *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*

32. Those Executive Orders do not address teen pregnancy prevention or the underlying goals of the TPP Program. In my opinion, attempting to add or incorporate content from the Executive Orders to the TPP programs would inherently dilute the TPP Program’s goals, which are to give young people the information and skills they need to delay sex until they are ready and to use protection such as contraception and condoms when they do engage in sex. Because the Executive Orders do not address pregnancy prevention goals, aligning with those orders, by definition, goes beyond the boundaries of the current TPP Program.

33. I understand that the Plaintiffs in this litigation’s Tier 1 NCC applications were approved by the United States Department of Health and Human Services (“HHS”), albeit subject to the Program Policy Notice, discussed below.

The Program Policy Notice is Harmful and Improperly Shifts Program Standards and Definitions

34. It is my understanding that on July 1, 2025, after Plaintiffs had all submitted their NCC applications and roughly concurrent with the approval of those applications, HHS issued an additional “notice” to the Plaintiffs. This Program Policy Notice states that previously approved materials may now be out of compliance with shifting ideas by the current administration.

35. The Program Policy Notice not only codifies the Executive Order “alignment” requirement first introduced in the NCC Notices, but also imposes a number of additional new requirements. Thus, grantees who have already worked to try to align their programs with the Executive Orders, as requested in their NCC continuing application grants, are now being asked to further revise their programs with the Program Policy Notice’s new requirements.

36. In my opinion, the Program Policy Notice is harmful. It shifts the definitions of key terms away from scientific standards, appears to encourage a reversion to teen pregnancy prevention programs that focus on abstinence and provide unbalanced information about contraception, and limits the use of key pedagogical strategies used in effective teen pregnancy programs. This type of programming does not reflect what is known about the characteristics of effective approaches to teen pregnancy prevention as educators cannot effectively teach about pregnancy prevention without discussing sex.

37. As an initial matter, the Program Policy Notice attempts to entirely redefine the scope of the TPP Program, stating that:

Materials or activities outside the TPP Program’s statutory scope, including those that are not “medically accurate,” “age appropriate,” or are unrelated to reducing teen pregnancy, as described in this PPN, and any expenditures associated therewith are not allowable, reasonable, or allocable to programs that include such content. *See* 45 C.F.R. §§ 75.403-405. TPP Program grant recipients are expected to ensure all program materials comply with this PPN. We are aware that curricula and other program materials—including content disqualified herein as not “medically accurate” or not “age appropriate” or unrelated to reducing teen pregnancy—were previously approved by OASH, and we have taken that into account in weighing factors relating to this policy notice. However, for the reasons described above, the prior administration erred in approving such materials and that approval exceeded the agency’s authority to administer the program consistent with the legislation as enacted by Congress. We understand that compliance with this PPN may require some grantees to revise their TPP Program curricula and content.

38. As for what OASH now considers “medically accurate,” the Program Policy Notice states that:

OASH will determine whether program content is “medically accurate” consistent with the statutory language. “Medically accurate” materials or instructions with pharmaceutical or health-related recommendations are expected to include information on a full range of health risks, so that minors and their parents or guardians can make fully informed decisions. Content that is not “medically accurate” may include inaccurate information about methods of contraception, including associated health risks, or information that denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females, such as for the purpose of body literacy.

39. As explained earlier in this declaration, medical accuracy has settled meanings within science: Information is medically accurate if it is supported by the weight of scientific evidence that is conducted consistent with generally recognized scientific theory and under accepted scientific methods. Such evidence also must be published in peer-reviewed scientific journals and recognized as accurate and objective by mainstream professional organizations (such as the American Medical Association and the American Public Health Association); government agencies (such as the Centers for Disease Control and Prevention, Food and Drug Administration); or scientific advisory groups (such as the National Academies of Science, Engineering, and Medicine).³³

40. It is highly concerning and inappropriate for HHS to say that it is redefining medical accuracy and to put forth a definition which appears to reserve the right of the agency to determine whether information is medically accurate after a medical accuracy review has already taken place and previously determined the programs to be medically accurate. This new definition seems to reserve to the current Administration the ability to define medical accuracy as it desires, rather than based on scientific standards which require that accuracy be determined by the preponderance of the scientific evidence and by credible scientific and medical organizations. This is a problem because grantees are unable to meet a standard which is undefined and current program reviewers

³³ Santelli, *supra* note 24.

may use their own opinions rather than established facts to determine whether content is medically accurate.

41. Moreover, as discussed in depth below, teaching that there are only two sexes is medically inaccurate based on a review of the scientific literature about biology and the expert opinions of key professional organizations such as the American Psychological Association.

42. The Program Policy Notice also imposes an obligation on grantees to provide a “full range of health risks” of methods of contraception. While it is typical for teen pregnancy prevention programs to provide information about both the benefits and risks of contraception, the Program Policy Notice seemingly requires programs to put the emphasis on risks rather than benefits. Given that contraceptive methods currently approved by the FDA in the United States have gone through rigorous scientific testing and that pregnancy and birth are much more medically risky than the use of any available method of contraception, the July notice appears to require the provision of unbalanced information about contraception emphasizing risks.

43. Further, the Program Policy Notice appears to suggest that programs revert to emphasizing abstinence as the only appropriate behavior for adolescents. All TPP programs funded by the Tier 1 funding have the goal of delaying sexual activity. However, evaluations of TPP programs that have been conducted through Tier 1 funding have shown that it is programs that provide medically accurate, balanced information and skill building related to both abstinence and contraception that are effective in helping young people to delay sexual activity. Moreover, as set forth above, evaluations of abstinence-only programs have shown limited effects on altering teen sexual behaviors, including limited impact of these programs on helping teens abstain from sexual activity and no effects on participants’ use of birth control and condoms.

44. While the Program Policy Notice does not define “age appropriate”—except to state that HHS is concerned that the definitions in the 2023 NOFO “include deficiencies”—the Program Policy Notice does state that “[m]aterial or instruction that is not age appropriate for minors may include content that promotes sexual activity for minors.” However, it does not explain what HHS perceives to “promote” sexual activity. Similarly, it asserts that materials that encourage, normalize, or promote sexual activity for minors are outside the scope of the TPP Program. However, the Program Policy Notice does not explain what HHS perceives to be the distinction between teaching and “encourag[ing], normaliz[ing] or promot[ing].” This is an issue because the goal of helping young people to either avoid sexual activity or use protection such as contraception and condoms requires the discussion of sexual behavior. A program reviewer may easily misconstrue discussion of sexual behaviors as “normalizing” simply by addressing these issues. Without direct education about and discussion of sexual behaviors with youth, it is impossible to conduct effective TPP programs.

45. Further, the Program Policy Notice refers to “sexually themed roleplay,” an inflammatory characterization of the common pedagogical practice of asking students to practice communication skills and talk through interpersonal situations, as something that “encourages, normalizes, or promotes sexual activity for minors.” In addition to the Program Policy Notice’s suggestion that there is something inappropriate occurring in these programs, this particular exclusion is concerning in this context given that the skills needed to avoid unintended pregnancy are the abilities to communicate, negotiate and refuse sexual behavior. If students are prohibited from practicing such conversations in the context of TPP programs, the programs are eliminating one of the most useful components of an educational intervention to reduce young people’s risk of early pregnancy. People learn and master any skill more readily when they have a chance to

practice it rather than only to hear about it. For example, one could watch a video about how to swing a golf club. However, it is much more likely that one will learn to swing a golf club properly by taking a lesson and actually swinging a golf club. For young people, hearing that they should say no to unwanted sexual activity is not as useful as practicing saying no in a role play situation or practicing requesting that a partner use a condom or that they wait to have sex until a method of birth control can be obtained.

46. Finally, as noted, the Program Policy Notice codifies the Executive Order “alignment” requirement first introduced in the NCC Notices.

47. In my opinion, complying with the requirements of the Program Policy Notice will likely require some TPP grantees to make major adaptations to their programs, which as HHS has acknowledged, would compromise the fidelity of the program and reduce its impact.

48. The Office of Population Affairs defines major adaptations as: “changes to the program that alter the program’s core components.” “A major adaptation could compromise fidelity of the program and might reduce the impact of the program on intended outcomes.” HHS instructs TPP grantees that they “should be extremely cautious about making major adaptations to a program with an existing evidence base.”³⁴ Further, the Office of Population Affairs suggests checking with program developers (*e.g.*, the authors of the programs) before making any adaptations. The 2025 NCC Notice does not require any conferring with program developers prior to proposing changes to align with the Executive Orders. Indeed, grantees may make changes which program developers would object to.

³⁴ Emily Forrester & Russell Cole, *Core Components of Teen Pregnancy Prevention Programs*, OPA, at 4 (Apr. 20, 2023), https://rhntc.org/sites/default/files/resources/opa_tpp_program_Components_brief_4-20-2023.pdf.

49. “Core Components” are those that are “critical to a program’s ability to produce outcomes.”³⁵ As noted in an HHS Office of Population Affairs publication *Core Components of Teen Pregnancy Prevention Programs*:

Some TPP program developers provide adaptation guidance which can be used by program implementers and funders alike to maintain program integrity when making adaptations. Core and noncore components can be thought of through this same lens; if a developer designates a program component as core, then any adaptation of this component is probably not permissible and likely considered a major adaptation. (These major adaptations might constitute an implementation that lacks fidelity to the model.)³⁶

50. In other words, changes to core components can threaten the integrity of a program. And the Office of Population Affairs has recognized that “major adaptation[] might constitute an implementation that lacks fidelity to the model.”³⁷

51. In my opinion, the Program Policy Notice is harmful if it requires grantees to make major adaptations to evidence-based programs. If integrity to the core components is not maintained, the programs will be based on new and untested ideas from a set of Executive Orders and requirements in the Program Policy Notice that are not based on the science of adolescent development, the science of behavior change, or any other idea of relevance to teen pregnancy prevention. Further, any alteration of core program components will mean that essentially one program has been discontinued and another new program has been implemented with students, requiring changes to the evaluations and introducing challenges to understanding whether it is the old content or the new content that is driving any changes in the evaluation results.

52. The 2023 NOFO for Tier 1 includes requirements that programs adhere to a set of program requirements that reflect a body of evidence related to youth with particular needs for

³⁵ *Id.*

³⁶ *Id.* at 3.

³⁷ *Id.* at 4.

pregnancy prevention programs and program characteristics that have demonstrated efficacy in promoting healthy behaviors: “Recipients must ensure that all materials delivered to study participants are medically accurate and age appropriate. We also expect recipients to ensure that all materials are complete, culturally and linguistically appropriate, trauma-informed, user-centered, and inclusive of all youth.” The TPP Program has incorporated guidance over time to ensure that programs meet the needs of youth and communities that continue to have elevated rates of teen pregnancy. Among these requirements are that programs are “trauma-informed” and “culturally and linguistically appropriate.” In the NOFO, these important aspects of program curricula and implementation are defined as follows:

- a. Trauma-informed approach – “Refers to how a program, agency, organization, or community thinks about and responds to those who have experienced or may be at risk for experiencing trauma. It is an approach that: (1) realizes the widespread impact of trauma and potential paths for recovery; (2) recognizes the signs and symptoms of trauma in youth, families, staff, and others; (3) responds by fully integrating knowledge about trauma into policies, procedures, and practices; and (4) seeks to actively resist re-traumatization.”³⁸
- b. Culturally and linguistically appropriate – “Assures that materials and language used are respectful of and responsive to the cultural and linguistic needs of the population being served. This includes being respectful and responsive to

³⁸Off. Population Affs., *Notice of Funding Opportunity: Advancing Equity in Adolescent Health through Evidence-Based Teen Pregnancy Prevention Programs and Services* (“FY 2023 Tier 1 NOFO”) 66, <https://apply07.grants.gov/apply/opportunities/instructions/PKG00280464-instructions.pdf>.

individual cultural health beliefs and practices, preferred languages, health literacy levels, and communication needs.”³⁹

53. There is extensive scientific literature demonstrating that youth that have experienced trauma are at higher risk of engaging in health risk behaviors. The key measure of trauma is Adverse Childhood Experiences (ACES) which are measured through a validated scale. In a nationally representative sample of high school students, “[t]hree in four students experienced one or more ACE and nearly one in five students experienced four or more ACEs.”⁴⁰ The relevance to sexual behavior, and thus to pregnancy prevention, has been demonstrated by studies such as Song and Qian which found that: “Adolescents who reported each category of ACEs were more likely to initiate sex, have multiple sex partners, engage in unprotected sex, and be involved in pregnancy.”⁴¹ This high prevalence shows that programs for youth in the United States must take trauma into account.

54. Cultural and linguistic appropriateness is essential to ensure that programs meet the needs of youth who, in a country as large and varied as the United States, come from different settings (*e.g.*, rural, suburban and urban), cultural backgrounds, and may or may not speak English as a first language. The NOFO for Tier 1 programs refers grant applicants to the National CLAS Standards.⁴² Among these standards is: “[p]rovide effective, equitable, understandable, and

³⁹ *Id.* at 64.

⁴⁰ Elizabeth A. Swedo *et al.*, *Adverse Childhood Experiences and Health Conditions and Risk Behaviors Among High School Students—Youth Risk Behavior Survey, United States, 2023*, 73 *Morbidity & Mortality Wkly. Rep. Supplements* 39, 46 (2024).

⁴¹ Wei Song & Xueqin Qian, *Adverse Childhood Experiences and Teen Sexual Behaviors: The Role of Self-Regulation and School-Related Factors*, 90 *J. SCH. HEALTH* 830, 830 (2020).

⁴² FY 2023 Tier 1 NOFO, *supra* note 39, at 51.

respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs.”⁴³

55. Professionals in the youth development, adolescent health, and health education fields have been incorporating these concepts into programs for at least a decade. Keeping the attention of adolescents and ensuring that information about health is incorporated necessitates that programs be relevant to the particular backgrounds of youth participating in programs. If programs are not tailored in these ways, the programs are less likely to have relevance to the youth that are participating and will thus be less likely to be effective.

The Program Policy Notice Requires TPP Programs to Provide Medically Inaccurate Information, Which May Lead to Negative Outcomes

56. Of particular concern about the Program Policy Notice is that the requirement to “align” with Executive Orders conflicts with the Congressional mandate that TPP programs be medically accurate.

57. *Executive Order 14168 Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* states that: “It is the policy of the United States to recognize two sexes, male and female. These sexes are not changeable and are grounded in fundamental and incontrovertible reality.”⁴⁴ This assertion in the Executive Order does not align with a large scientific literature on the biological basis of sex which concludes that there is significant variation within the category of biological sex.

⁴³ *National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care*, HHS, <https://thinkculturalhealth.hhs.gov/clas/standards> (last visited July 24, 2025).

⁴⁴ *Executive Order 14168 Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, White House (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>.

58. While a full review of the literature on the areas of biological sex and gender as both a social construct and a factor that can influence biology is beyond the scope of this statement, scientists with deep expertise on these topics have noted, for example: “Importantly, the sexually dimorphic brain, similar to most sex differences, does not fall into a hard binary readout—but rather is on a continuum or spectrum with each cell and each brain region comprised of varying degrees of ‘male’ and ‘female.’ This is because the influences from very early neurodevelopmental time points, and perhaps even earlier than fertilization, are complex and multifaceted and frequently depend on the sex chromosome compliment [sic] of the individual or the sex of the parent contributing a given gene.”⁴⁵ Bale and Epperson further note that: “Also, critical to the discussion of sex and gender in the human laboratory is the interaction between an individual’s experiences, based upon society’s concept of their gender, and the developing central nervous system.”⁴⁶

59. In addition to biological evidence that there is a spectrum of biological sex rather than just two sexes, there are individuals who are transgender, and mainstream medical and psychological organizations in the United States and internationally recognize that people’s gender identity does not always align with their chromosomal or biologically defined sex. As the American Psychological Association notes, transgender people have always existed and “[t]ransgender persons have been documented in many indigenous, Western, and Eastern cultures and societies from antiquity until the present day. However, the meaning of gender nonconformity may vary from culture to culture.”⁴⁷ The American Academy of Pediatrics, in their policy

⁴⁵ Tracy L. Bale & C. Neill Epperson, *Sex as a Biological Variable: Who, What, When, Why, and How*, 42 *Neuropsychopharmacology* 386, 386 (2017).

⁴⁶ *Id.* at 387.

⁴⁷ *Understanding Transgender People, Gender Identity and Gender Expression*, Am. Psych. Ass’n (Mar. 9, 2023), <https://www.apa.org/topics/lgbtq/transgender-people-gender-identity-gender-expression>.

statement passed in 2018 and reaffirmed in 2023, notes that clinicians are increasingly seeing young patients that identify as transgender and that clinicians should provide appropriate care and support to these patients and their families.⁴⁸

60. *Executive Order 14168 Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* states that:

‘Gender ideology’ replaces the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true. Gender ideology includes the idea that there is a vast spectrum of genders that are disconnected from one’s sex. Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body.⁴⁹

61. While my opinion, informed by decades of experience as a health educator, program implementer, and researcher, is that this description is a misrepresentation of how gender is taught in the context of teen pregnancy prevention, a reasonable interpretation of “alignment” with this Executive Order would be to teach that there are only 2 sexes and to disallow lesson plans or language that are inclusive of students who believe that their gender identity is different than their biological sex. Removing inclusive content in this way will detract from the goals of providing pregnancy prevention education by ignoring the reality that teens from diverse backgrounds with diverse identities all need and deserve effective pregnancy prevention education.

62. Youth who identify as transgender are a particularly vulnerable group in the United States. Johns *et al.* note that: “Transgender youths (those whose gender identity does not align with their sex) experience disparities in violence victimization, substance use, suicide risk, and sexual

⁴⁸ Jason Rafferty *et al.*, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142 *Pediatrics* 1 (2018).

⁴⁹ White House, *supra* note 45.

risk compared with their cisgender peers (those whose gender identity does align with their sex).”⁵⁰ In an analysis of data from the national Youth Risk Behavior Survey, the 1.8% of youth who identified as transgender were at higher risk of teen pregnancy for many reasons: “Transgender students were more likely than cisgender students to report first sexual intercourse before age 13 years, sexual intercourse with four or more persons than were cisgender students, and no method to prevent pregnancy at last sexual intercourse.”⁵¹ In my opinion, to suggest that teen pregnancy prevention programs should not acknowledge or be inclusive of this group of vulnerable young people and address their needs for education to reduce their risks directly conflicts with the intended purpose of the Teen Pregnancy Prevention Program.

63. Further, the prohibition on discussing gender at all disallows important content from some of the teen pregnancy programs. Examining how gender roles and expectations may influence how adolescents engage in relationships is a very important component of pregnancy prevention. The Executive Order, by prohibiting discussions of gender, would appear to disallow discussions about gender roles which are essential to helping young people learn to communicate, negotiate and refuse unprotected sexual activity. For example, a review of studies on teen pregnancy prevention programs by Haberland shows that teen pregnancy prevention programs that address issues of gender are more likely to result in reductions of sexually transmitted diseases and teen pregnancy. Programs that do not have these components may shift knowledge or attitudes but are less likely to help participants change their behaviors which is what is necessary to actually

⁵⁰ Michelle M. Johns *et al.*, *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students – 19 States and Large Urban School Districts, 2017*, 68 *Morbidity & Mortality Wkly. Rep.* 67, 67 (2019).

⁵¹ *Id.* at 68.

help young people avoid pregnancy and sexually transmitted diseases.⁵² The types of examinations of gender that may lead to these positive changes include components of lesson plans that ask students to think about stereotypes about males and females and how these ideas might influence whether girls feel comfortable communicating assertively in romantic relationships or whether boys feel like they are supposed to always want to have sex which may interfere with decision-making and the ability to abstain or use prevention methods.

64. As a longtime health educator who previously taught pregnancy prevention programs to youth, I can attest that students always have questions based on issues they are hearing about in their communities, from entertainment, and in social and traditional media. I believe that the Executive Orders and other recent actions make questions about gender even more likely to come up in the context of teen pregnancy prevention programs. Current program implementers are now placed in a challenging situation for which no clear guidance has been provided. If program implementers adhere to the idea that only two sexes exist, as stated in the Executive Orders, they are in a position to do harm to students who hold identities other than male or female as well as to students who may have family members or friends who have those identities. Further, they will be disseminating information that is clearly medically inaccurate.

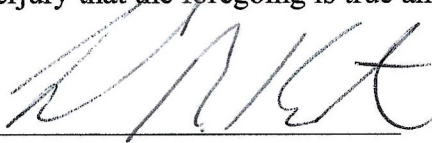
65. Given the risks of undermining the effectiveness of evidence-based teen pregnancy prevention programs by adapting existing evidence-based programs in a manner that has never before been tested, the lack of guidance about what those adaptations should consist of, and the potential dissemination of medical misinformation that is required to strictly implement the

⁵² Nicole A. Haberland, *The Case for Addressing Gender and Power in Sexuality and HIV Education: A Comprehensive Review of Evaluation Studies*, 41 Int'l Persps. Sex & Reprod. Health 31 (2015).

Executive Order on sex and gender, the Program Policy Notice does not align with the original Congressional intent or funding purpose of the TPP Program.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

Date: 8/20/2025



Leslie M. Kantor, PhD, MPH

EXHIBIT B



U.S. Department of Health and Human Services

Office of Population Affairs

Notice of Funding Opportunity: Advancing Equity in Adolescent Health through
Evidence-Based Teen Pregnancy Prevention Programs and Services

Opportunity Number: AH-TP1-23-001

Application Due Date:
04/18/2023 at 6:00 PM Eastern

OVERVIEW

FEDERAL AGENCY NAME

The Office of the Assistant Secretary for Health, Office of Population Affairs

FUNDING OPPORTUNITY TITLE

Advancing Equity in Adolescent Health through Evidence-Based Teen Pregnancy Prevention Programs and Services

ACTION

Notice

ANNOUNCEMENT TYPE

Initial CA (Cooperative Agreement)

FUNDING OPPORTUNITY NUMBER

AH-TP1-23-001

ASSISTANCE LISTING NUMBER AND PROGRAM:

93.297 , Teenage Pregnancy Prevention Program

DATES

Application Deadline: 04/18/2023 by 6:00 PM Eastern.

Technical Assistance Webinar: 02/21/2023 at 2:00 pm and 6:00 pm Eastern.

EXECUTIVE SUMMARY

The Office of Population Affairs announces the availability of funds for Fiscal Year (FY) 2023 under the authority of Division H, Title II of the Consolidated Appropriations Act, 2023 (Public Law No. 117-328).

This notice solicits applications for projects to serve communities and populations with the greatest needs and facing significant disparities to advance equity in adolescent health through the replication of evidence-based teen pregnancy prevention programs (EBPs) and services. Funding for projects authorized under this Notice of Funding Opportunity (NOFO) is to replicate EBPs and not for service delivery. While ancillary supportive services provided to complement replication of EBP (see Section A.2.f.) may be allowable, services are not the primary purpose of this NOFO.

The goal of this initiative is to improve sexual and reproductive health outcomes, promote positive youth development, and advance health equity for adolescents, their families, and communities through the replication of medically accurate and age-appropriate evidence-based teen pregnancy prevention programs (EBPs). EBPs are programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors. OPA intends to make available approximately \$68.6 million for an estimated 70 awards. We will give recipients a six-month planning period during which they will finalize the selection of the EBPs that they will implement within their defined community and population. We seek a broad competition for awards and are interested in projects that will expand access to high-quality programs to improve sexual and reproductive health outcomes and promote positive youth development.

The amount of funding an applicant may request ranges from \$350,000 to \$2 million per year for a period of up to five years (five 12-month budget periods). Funding for budget periods beyond the first year is dependent on approval of a non-competing continuation application. Funding requests for the project should reasonably support the number of participants anticipated being served through EBP implementations over the duration of the project period. Recipients should be mindful of realistic and feasible goals based on funding level received. The historical annual reach per funding range based on prior TPP awards is presented in the table. Costs may differ based on various factors such as geographic region, specific focus population of participants, available resources, etc. The information also does not reflect inflation or cost-of-living adjustments that have been made over time. The table is provided only as background information. We do not use the information in the Table as the basis for determining funding levels.

Annual Budget	Annual EBP Participant Reach
\$350,000 - \$749,999	At least 500 per year
\$750,000 - \$999,999	At least 1,500 per year
\$1,000,000 - \$1,249,999	At least 3,000 per year
\$1,250,000 - \$1,499,999	At least 6,000 per year
\$1,500,000 - \$1,749,000	At least 10,000 per year
\$1,750,000 - \$2,000,000	At least 15,000 per year

The Office of the Assistant Secretary for Health (OASH) encourages all applicants to review all program requirements, eligibility information, application format and submission information, evaluation criteria, and other information in this funding announcement to ensure that their applications comply with all requirements and instructions.

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A. PROGRAM DESCRIPTION

The Office of Population Affairs announces the availability of funds for Fiscal Year (FY) 2023 under the authority of Division H, Title II of the Consolidated Appropriations Act, 2023 (Public Law No. 117-328).

OASH works to advance health equity, especially for those who have suffered historic disparities. In support of this vision, OPA promotes health across the reproductive lifespan through innovative, evidence-based sexual and reproductive health and family planning programs, services, strategic partnerships, evaluation, and research. The Teen Pregnancy Prevention (TPP) Program is a national, evidence-based program that funds diverse organizations working to reach adolescents to improve sexual and reproductive health outcomes and promote positive youth development.

OPA intends this Teen Pregnancy Prevention (TPP) Program initiative to advance equity in adolescent health by targeting resources to specifically support replication of medically accurate and age-appropriate evidence-based teen pregnancy prevention programs (EBPs) and services in communities and populations with the greatest needs.

1. Background

While there has been great progress in reducing unintended teen pregnancy, the U.S. teen birth rate of 15.4 per 1,000 females aged 15 to 19 years in 2020 [1] remains higher than that in many other developed countries, including Canada and the United Kingdom [2]. Young people ages 15 to 24 account for nearly half of all new cases of sexually transmitted infections (STI) [3]. Additionally, there continues to be significant disparities in adolescent sexual health outcomes by race, ethnicity, geography, and among those that have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality [1,4, 5].

Birth rates are higher among American Indian/Alaska Native (AI/AN), Black, Hispanic, and Native Hawaiian/ Pacific Islander adolescents than among teens overall. For example, in 2020, AI/AN adolescent females ages 15 to 19 had the highest birth rate (25.7 births per 1,000 females ages 15-19), followed by Black adolescents (24.4 births per 1,000 females ages 15-19) [1]. Sexual minorities face similar disparities. Young gay and bisexual males have disproportionately high rates of HIV, syphilis, and other sexually transmitted diseases (STDs). Additionally, adolescent lesbian and bisexual females are more likely to have ever been pregnant than their heterosexual counterparts [6].

Disparities between states persist, with state-specific 2020 teen birth rates ranging from 6.1 per 1,000 in Massachusetts to 27.9 per 1,000 in Mississippi [1]. Within any given state, teen birth rates vary greatly, especially as it relates to urbanicity, with rural counties having the highest

teen birth rates [7]. Further, adolescents in certain settings are disproportionately affected by unintended teen pregnancy and birth than other groups. For example, young women living in foster care are more than twice as likely to become pregnant than young women not in foster care [8]. Youth involved in the juvenile justice system experience higher rates of risky sexual behaviors compared to their non-system involved peers. They are also disproportionately affected by unintended pregnancy and more likely to be teen parents [9].

While often characterized as a time of turmoil and risk for young people, adolescence is a developmental period rich with opportunity for youth to learn and grow. During this time, youth have the potential to become individuals able to make healthy decisions and form healthy relationships with others. However, the “promise of adolescence can be severely curtailed by economic, social, and structural disadvantage and, in all too many cases, by racism, bias, and discrimination” [10]. In the past two years alone, COVID-19 has had significant impacts on the health and well-being of children and youth across America. Especially impacted are those that were already economically and socially marginalized due to historical inequities including youth in low-income families; youth of color; youth in foster care and those who have aged out; and youth living with disabilities. Social isolation and disruption in access to various youth programming and services increased mental health challenges and severely impacted some of our most vulnerable youth such as those in the child welfare system [11]. TPP Programs have an opportunity to become vectors of resilience and restoration for youth affected by the adversities and/or trauma caused or intensified by the COVID-19 pandemic. TPP Programs can offer the supports needed through evidence-based teen pregnancy prevention programs and services.

We aim to bolster adolescent health outcomes equitably and mitigate disparities through evidence-based teen pregnancy prevention programs and services. Health equity is the attainment of the highest level of health for all people. Achieving health equity requires valuing everyone equally with focused and ongoing societal efforts to address avoidable inequalities, historical and contemporary injustices, and the elimination of health and health care disparities [12].

Advancing health equity in teen pregnancy prevention will require sustained, multi-pronged, multi-level interventions and strategies that are both innovative and evidence based. It also requires projects to fully explore the needs of their community and population to recognize and understand what inequities exist and the underlying causes contributing to them. Through this deep examination, projects can then work toward providing youth-centered, high-quality programming and services that improve sexual and reproductive health outcomes and promote positive youth development.

2. Expectations for Funded Projects

Award recipients under this opportunity should meet each of the below expectations in the execution of their project.

a. Focus on Areas of Greatest Need and Facing Significant Disparities

To advance health equity and direct resources to those communities and populations with the greatest need and facing significant disparities, we expect recipients to focus their project on a community(ies) and population(s) that are disproportionately affected by unintended teen pregnancy and STIs. Recipients may serve a single community or multiple communities within

their project. Multiple communities could include communities within the same state, communities across states, etc. Recipients should have a defined community(ies), with clear geographic boundaries, in order to ensure that they identify the number of youth that they will serve. Within the community(ies), recipients should have a clearly identified population of focus. Primary participants to receive programming under an award should be adolescents and youth. Projects should focus on serving youth who are at disproportionately affected by unintended teen pregnancies (including rapid repeat pregnancy) and STIs due to factors such as:

- Race;
- Ethnicity;
- Geography; and/or
- Otherwise historically underserved or marginalized. This includes those that have been adversely affected by persistent poverty and inequality (e.g., youth experiencing homelessness, youth in foster care, youth in juvenile justice, LGBTQI+ youth, youth with disabilities, expectant and/or parenting teens, etc.).

We expect recipients to continuously assess the needs and resources of the community and population of focus through the collection and analysis of qualitative and quantitative data. The purpose of ongoing data collection and analysis is to ensure recipients are targeting their efforts in communities and among populations with the greatest need and maintaining an understanding of what the specific needs and resources are, who the key stakeholders are, and the relationship between all these components that may be driving disparities within the community(ies).

We also expect recipients to engage key stakeholders, community members, and partners in data collection, interpretation of findings, refining priorities, and developing solutions to address disparities within the community.

b. Engage in a Planning Period

The planning period is an opportunity for the recipient to set the project up for success in meeting all the expectations over the life of the project. Under this NOFO, we will allow up to a 6-month planning period for recipients to select EBPs that are the best fit for the youth and communities served, prepare all settings to implement selected EBPs to scale, and prepare for seamless execution of activities to achieve the goals of the project. During the planning period, we expect recipients to engage youth, parents/caregivers, and key community stakeholders to ensure the project is of the highest quality, responsive to the needs identified, and the best fit for the community(ies) and population(s) the recipient will serve. By the end of the planning period, we expect recipients to meet key milestones and begin implementing selected EBPs in all identified settings (see Replicate to Scale Evidence-Based Teen Pregnancy Prevention Programs with Fidelity and Quality expectation). Recipients should achieve the following milestones during the planning phase:

- Review initial needs assessment submitted as part of application and **build upon it** to ensure a clear understanding of the needs and resources of the community and specific population(s) of focus.
- Demonstrate the project will not duplicate efforts in the community and among the population of focus.

- Select EBPs that are a good fit, demonstrating clear alignment between the selected EBPs, project goals and desired outcomes, needs of the community/population, and the capacity/readiness of the implementation site(s) and implementing organization(s).
- Finalize the plan for reviewing all program materials and disseminated information throughout the course of the project and complete review of materials related to the selected EBPs to ensure materials are age appropriate, medically accurate, culturally and linguistically appropriate, trauma-informed, and inclusive of all youth.
- Pilot, refine, and be ready to replicate selected EBP(s) to scale, including:
 - Submitting and obtaining a decision on all proposed adaptations and
 - Having implementation plans in place for each implementation site.
- Demonstrate organizational readiness to implement the project through staffing, training, and clear project management processes and protocols.
- Finalize the work plan.
- Finalize a Monitoring and Improvement Plan that clearly accounts for selected EBPs and implementation settings.
- Establish and execute a partnership engagement plan to include establishment of MOAs with all implementation partners.

We expect recipients to engage in activities during the planning period that result in their ability to begin fully executing all expectations of the award. Failure of a recipient to make satisfactory progress toward completion of planning period milestones by the end of the six-month planning period may be deemed poor performance and affect future funding decisions (Section F.17.e).

c. Replicate to Scale Evidence-Based Teen Pregnancy Prevention Programs with Fidelity and Quality

A key strategy for advancing equity in the TPP Program includes increasing the opportunities available to youth and their families within a community to receive evidence-based programs (EBPs). EBPs are those programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors (see below).

We are interested in projects that will make the greatest impact on improving sexual and reproductive health outcomes and promoting positive youth development. The goal of replicating EBPs to scale is to expand the reach of programs and serve greater numbers of youth, their families, and other key stakeholders (e.g., youth-serving professionals, trusted adults) with EBPs. Recipients will achieve this goal by ensuring EBPs are a good match to communities and populations of focus and by breaking down barriers to participation and ensuring access to EBPs [13]. If intervention strategies are to achieve real benefits for communities and the larger population, recipients must implement them effectively, with fidelity and quality, and to scale.

We expect recipients to promote and improve the health and well-being of the whole person by replicating EBPs over the course of adolescence and across an adolescent's physical and social environments. You must replicate EBPs with fidelity and quality. We refer to implementation of an EBP as "replication." Fidelity refers to the degree to which an implementer adheres to the

core components of an evidence-based program.

We expect recipients to replicate EBPs to scale **in 3 or more settings**, reaching communities, and youth within those communities, with the greatest need. The settings in which recipients will replicate EBPs should clearly connect with the need of the focus population as well as the various physical and social environments where youth live, learn, work, play, and worship. For this NOFO, settings include, but are not limited to, schools, clinics, community-based organizations, houses of worship, detention centers, and group and residential care programs. Recipients may include other settings if you demonstrate that such settings serve youth with the greatest disparities in the identified community(ies). We will count each setting listed above separately, considering each as one individual setting. We consider “school setting” as one setting that encompasses elementary, middle, high schools, charter schools, **and** alternative schools.

In each setting, recipients should adopt strategies to implement and scale the selected EBP to maximize youth participation. A key strategy for taking programs to scale is to implement programs through partnerships, coalitions, networks, and/or, systems within the community. For example, recipients should implement programs:

- district-wide in the community rather than within individual schools or in individual classrooms;
- in partnership with an existing and well-established after-school program rather than creating a new after-school program; and/or
- within all juvenile detention facilities in the community rather than one facility.

Funding requests over the project should reasonably support the number of participants over the duration of the EBP implementations. Recipients should be mindful of realistic and feasible goals based on funding level received.

1. Identifying and Selecting Evidence-Based Teen Pregnancy Prevention Programs

Identifying and selecting EBPs requires an intentional process that ensures the programs selected are a good fit for the needs of the community and population(s) of focus. Fit refers to how well a program matches, or is appropriate for, the community, organization, stakeholders, and potential participants (e.g., youth). Recipients should use the planning period (see Planning Period expectation) to revisit their project goals and desired outcomes, needs of the community and population, and capacity/readiness of the implementation sites and implementing organization(s). Recipients should use this information to identify, pilot, and be ready to replicate to scale EBPs that are a good fit for the needs of the community and population(s) of focus. The purpose of assessing fit is to either avoid programs that do not fit well or improve fit by making allowable adaptations.

Adaptations are changes made to the program content, delivery, or other core components of the program. Recipients may not significantly change the program’s core components or compromise program fidelity (i.e., compromise the underlying elements/components of the program). Recipients may make minor adaptations to EBPs. Minor adaptations are allowable if they improve the fit and relevancy of the program to the community and population of focus.

Selected EBPs should lay the foundation for developmentally appropriate behavioral skills related to improving sexual and reproductive health outcomes and promoting positive youth development. As such, youth should receive a complement of EBPs at multiple times over the course of their adolescence to have a lasting impact on improving outcomes and reducing disparities. The information provided should be sequential, consistent, and reinforcing. For example, social-emotional learning and positive youth development programs offer great potential benefit by equipping adolescents with the foundational skills they need to engage in impulse control and self-regulation. Such skills ultimately help youth make healthy decisions in a variety of situations. Social-emotional learning and positive youth development programs can also establish a foundation upon which other specific behavioral skills (e.g., negotiating condom use, initiation of sex) can be built. Recipients can and should implement these programs as a complement, not a replacement, to inclusive, evidence-based sex education, and sexual health services [14]. Therefore, we encourage recipients to implement several EBPs to align with the needs of the community and population of focus.

We strongly recommend that recipients leverage lessons learned and best practices from previous youth development and teen pregnancy prevention efforts. Such information will serve as a foundation from which to further refine selection of EBPs. It will also assist in efficiently ensuring an EBP that truly fits the needs of the community and population that you will serve. We expect recipients to obtain approval from us for selected EBPs prior to piloting the programs. We will provide further guidance to recipients on the EBP approval process upon award. While we expect recipients to be ready to implement the selected EBPs to scale by the end of the planning period (see Planning Period expectation), we will allow recipients to add or remove EBPs throughout the course of the project period to address the needs of the community and population(s) of focus on a continuous basis.

2. Eligibility of Programs to be Replicated and Implemented to Scale

Eligible EBPs for replication are those that meet the criteria listed below.

- Study Quality - Meets the criteria for the quality of an evaluation study per the criteria established in the [HHS TPP Evidence Review \(TPPER\) protocol, version 6.0](#).
- [Evidence of Effectiveness on Sexual Risk Behaviors - At a minimum, one of the identified EBPs to be implemented must demonstrate impact on sexual risk behaviors using the evidence of effectiveness as outlined in the HHS TPP Evidence Review \(TPPER\) protocol, version 6.0.](#)
- Evidence of Effectiveness on Behavioral Risk Factors Underlying Teenage Pregnancy or Other Associated Risk Factors - In addition to implementing at least one EBP with evidence of effectiveness on sexual risk behaviors, recipients may also implement EBPs that demonstrate impact on non-sexual behavioral risk factors underlying teenage pregnancy. If replicating such a program, the recipient must clearly demonstrate how the outcomes are related to preventing teen pregnancy **and** address the needs of the community and population of focus.

The U.S. Department of Health and Human Services (HHS) anticipates reinstating and updating the [HHS TPP Evidence Review \(https://tppevidencereview.youth.gov\)](https://tppevidencereview.youth.gov). The HHS Office of the

Assistant Secretary for Planning and Evaluation (ASPE) leads the HHS TPP Evidence Review (TPPER) and it is a tool that can be used by recipients to assist in the selection of EBPs. The TPPER is systematic process for reviewing evaluation studies against a rigorous standard to identify programs with evidence of effectiveness in reducing teen pregnancy, STIs, or associated sexual risk behaviors. TPPER defines the criteria for the quality of an evaluation study and the strength of evidence for a particular intervention. ASPE recently updated the evidence review standards in Fall 2022. **We anticipate ASPE will make findings from this new update publicly available on the TPPER website in early 2023.**

d. Review Materials Prior to Implementation

We require recipients to make all materials used and information disseminated within the funded project age appropriate and medically accurate. We expect recipients to make materials and information culturally and linguistically appropriate, trauma-informed, and inclusive of all youth. This includes all materials associated with the EBP. It also includes any supplemental materials and information (e.g., participant booklets, pamphlets, handouts, web content, podcasts, posters, scripts, and facilitators' answers to participant questions) used and disseminated by the recipient and its implementation partners (if applicable). See Glossary in Section I.4 for definitions of age appropriate, medically accurate, culturally and linguistically appropriate, trauma-informed, and inclusivity.

We expect recipients to clearly understand the content that they disseminate through their project and to ensure that the content is responsive to the needs of and appropriate for the community and population of focus. Recipients will be responsible for ensuring subject-matter experts (e.g., age appropriateness, medical accuracy, etc.) review all materials used and information disseminated within the funded project and in the replication of EBPs. Recipients are also responsible for making any necessary changes prior to implementation. We expect recipients to inform us of the review process, findings, and plans to address any issues identified. We will review and approve any changes made to the EBPs to address age appropriateness, medical accuracy, cultural and linguistic appropriateness, trauma-informed approaches, and inclusivity prior to implementation. We require recipients to submit all program materials to us for a medical accuracy review. Recipients may not begin implementation of EBPs or use and disseminate materials without prior approval.

Recipients should use a process for assessing program materials and disseminated information, including those used by implementation partners, at least annually to ensure that they remain age appropriate, medically accurate, culturally and linguistically appropriate, trauma-informed, and inclusive. Recipients may make additional changes to materials, as needed, to meet the expectations of this opportunity; however, we must review and approve any changes prior to use.

e. Engage Youth, Caregivers, and the Community Throughout the Project

We expect recipients to use a community-driven, multi-sector approach to maximize the impact of their project. The role of communities is crucial to promoting health equity and positive youth development. Communities hold the expertise to identify and implement solutions that address

their specific needs [15]. Community engagement harnesses the skills and talents of a community's most important resource – its people. Involving community members in health initiatives can foster connectedness and trust, improve assessment efforts, and build the capacity of individuals to positively affect their community. Additionally, this engagement can enhance the effectiveness of proposed strategies and increase the sustainability of such strategies.

We expect adolescents, as key stakeholders in communities, to be involved as respected partners in making decisions about programs and services intended for them. Recipients should meaningfully engage youth, as equal partners, in the design, implementation, and monitoring of the project. Partnerships and meaningful engagement should occur in a safe, supportive, and inclusive environment that creates equitable opportunities for all. Such environments should help individuals and groups feel safe, respected, engaged, and valued for who they are and for their contributions to the project and their community [16].

Youth perspectives, expertise, voices, and values – especially of those who have been disadvantaged and/or marginalized – should be honored and amplified through meaningful adult-youth partnerships. Further, those projects developed in partnership with youth are more likely to be effective at engaging the population and, therefore, to have a greater impact. Involving youth as partners in making decisions that affect them increases the likelihood that they will accept and adopt such decisions as part of their everyday lives. In addition, empowering youth to identify and respond to community needs helps them become empathetic, reflective individuals, and potentially sets them on a course to continue this important work in their future [17].

Of course, investing in youth also requires investing in the adult caregivers who support them. We expect recipients to implement engagement strategies for parents/caregivers that demonstrates a commitment to support these trusted adults in respecting the developing agency of adolescents. Agency is defined as adolescents' ability to set goals aligned with values, perceive oneself as able to act on the goal, and then act towards achieving the goal [18]. We also expect recipients to provide guidance and education to parents/caregivers that support them in developing and maintaining positive relationships and reinforce positive, healthy decision-making with youth.

Supportive familial, caregiver, and adult relationships play a significant role in fostering positive outcomes for adolescents [10]. Parents have a unique opportunity to share their own morals, values, and beliefs with their children, and their influence is often seen as greater than that of friends [19]. The effects of healthy parent-child communication on sexual decision-making among youth is well-documented. Many adolescents believe it is easier to postpone sexual activity and avoid unintended pregnancy if they can have open and honest conversations about these topics with their parents [20].

Finally, building linkages with the whole community is an important element of the project. We expect recipients to have a community engagement strategy aimed at engaging key stakeholders, community organizations, and leaders throughout the entire project. This includes the design, implementation, and monitoring of the project. We encourage recipients to be innovative in approaching community engagement with the goal of having a sustained impact on advancing health equity in adolescent sexual and reproductive health outcomes and positive youth

development. The engagement strategy should build trust; enlist new resources and allies; enhance communication; and empower community members and organizations in their roles as active agents of change.

We expect recipients will develop and/or leverage partnerships and/or coalitions to help mobilize resources, influence systems, and serve as catalysts for changing policies, programs, and practices within the community. We expect key stakeholders, community organizations, and leaders are reflective of the community and population you will serve and should include, but not be limited to, youth, parents/caregivers, youth-serving professionals, and other youth-identified trusted adults.

f. Connect to a Network of Adolescent-Friendly Supportive Services

Adolescents have physical, social, and emotional needs that cut across multiple systems (school, healthcare, employment, etc.). Key to fostering better youth outcomes is removing the barriers that adolescents face in these systems. We expect recipients to identify, actively engage and collaborate with, and maintain a network of diverse, multi-sector partners in order to **increase awareness of, access to, and utilization of** adolescent-friendly services which address the needs of the population of focus. Adolescent-friendly services are those that are equitable, accessible, acceptable, appropriate, and effective [21]. Adolescent-friendly services are based on a comprehensive understanding of what young people want and need, rather than being based only on what providers believe youth need [22].

We expect recipients to assess resources available, identify gaps in resources (see Section A.2.a), and assess the extent to which the community and population are **aware of, able to access, and utilize** available resources. Recipients should specifically engage with youth and their families to understand what unique barriers prevent them from accessing services.

Recipients can offer support to youth and their families in navigating complex systems intended to serve them. Recipients can also play a key role in increasing access to and utilization of adolescent-friendly services in their communities through collaboration and coordination with partners across systems. Partnerships should reflect those that influence the underlying factors impacting unintended teen pregnancy. Such multi-sector partnerships can work to improve the underlying conditions that can set the stage for youth to flourish and thrive [23] by offering a continuum of supports to meet the physical, social, emotional, behavioral, and mental health needs of youth. We expect the partnerships to address the various needs of the community and population of focus while also complementing the implementation of EBPs. We expect this to include, but not be limited to, sexual and reproductive health services and mental health services. Partners should not be limited to members of a recipient's pre-existing network or limited geographically; rather we expect innovation in the approach and use of an efficient and objective process to establish partnerships most appropriate for addressing the needs of community(ies) and population(s).

In meeting this expectation, recipients should:

- Develop a robust network of diverse, multi-sector partners with specific processes and protocols for connecting youth and their families to supportive services;
- Implement strategies to build the capacity of youth and their families to independently navigate systems and be able to advocate for high quality, adolescent-friendly care; and
- Assist health providers and health care settings in offering adolescent-friendly healthcare services.

Funding for projects authorized under this Notice of Funding Opportunity (NOFO) is to replicate EBPs and not for service delivery. While ancillary supportive services provided to complement replication of EBP, as noted in this section, may be allowable, it is not the primary purpose of this NOFO.

g. Ensure Equitable, Safe, Supportive, and Inclusive Environments

We expect recipients to execute their overall project, including implementation of EBPs, in **equitable, safe, supportive, and inclusive environments, using trauma-informed and positive youth development approaches**.

Ensuring an **equitable environment** requires a recipient to address the root causes of disparities in communities, including recognizing and addressing systemic and structural barriers such as racism, discrimination, and power dynamics and privilege, to ensure youth from such communities have equal access to and rights to the same opportunities and resources as others [24, 25].

Inclusive environments celebrate and amplify perspectives, voices, and values of youth that have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. An inclusive environment creates equitable access to resources and opportunities for all. It helps individuals and groups feel safe, respected, engaged, and valued for who they are [22]. We expect recipients to be aware of and inclusive of the population(s) of focus and sensitive and responsive to their needs. Project materials, practices, and services should not discriminate, alienate, exclude, or stigmatize youth and their families.

A **trauma-informed approach** refers to how a program, agency, organization, or community thinks about and responds to those who have experienced or may be at risk for experiencing trauma. It provides youth-serving professionals with the tools to avoid re-traumatizing youth who have experienced trauma and recognize when youth may need additional support. We expect recipients to recognize the diverse backgrounds and experiences of youth and apply the core principles of a trauma-informed approach throughout the project. Principles include safety, transparency and trustworthiness, peer support, collaboration and mutuality, empowerment, voice and choice, and cultural and historical awareness [26].

Recipients should also strengthen the overall project by incorporating **positive youth development approaches**, which focuses on providing youth with experiences and opportunities for healthy and successful growth and development into adulthood [27].

We expect recipients to continuously monitor (Section A.2.h) and identify areas to improve

and/or enhance their project to ensure an equitable and inclusive environment and the application of trauma-informed principles and positive youth development approaches. We encourage recipients to be innovative in their approach to this expectation and engage new and existing partners, including implementation partners (if applicable) and youth, as part of this process.

h. Monitor and Improve the Overall Project

We expect recipients to monitor and improve the overall project, including EBPs, to ensure programs and services offered are equitable, accessible, and of the highest quality and best fit for the community(ies) and population(s) served.

We expect recipients to have a Monitoring and Improvement Plan (MIP) that reflects how they will use performance measures and other relevant data, including youth and stakeholder feedback, to monitor progress in meeting approved project goals and objectives. The MIP should also monitor the extent to which:

- EBPs are implemented to scale with quality and fidelity (including but not limited to observing 5% of all EBP sessions and 100% of all EBP facilitators for fidelity and quality on an annual basis);
- Youth, parents/caregivers, and the community are meaningfully engaged throughout the project;
- Components of the project, including programming, is implemented in an equitable, safe, supportive, and inclusive environment; and
- Project approach is increasing awareness of, access to, and utilization of adolescent-friendly supportive services.

The MIP should build in opportunities for the recipient to monitor progress throughout the course of the project. This includes identifying issues, assessing how well the project is reaching populations experiencing health inequities, and providing an opportunity to make adjustments that can support equitable outcomes [24]. The MIP should use data to inform professional development and capacity building of staff and partners, and to make continuous improvements to the project.

We expect recipients to foster collaboration and data-sharing between implementation staff, evaluation staff, and other partners (if applicable) to reflect a team approach. Such an approach is critical to the success of the overall project. Implementation and evaluation staff should work together to determine the data to collect, methods and process of collection, and translating data collected to improve the project and make data-informed decisions. Recipients must also collect all performance measures (OMB #0990-0438, Expiration August 31, 2023, pending renewal. See Section I.7) and report them on a semi-annual basis. We will provide final performance measures to recipients during the first six months of funding and may include measures on reach, dosage (i.e., “how much” of the program a participant received), implementation quality, sustainability, partnerships, trainings, and dissemination.

In collecting performance measures and other project data, recipients must adhere to all relevant state laws, organizational policies, and other administrative procedures prior to collection.

Recipients must obtain permission from all partner organizations to collect required data. To protect the rights and welfare of program participants, we expect those recipients that decide to ask survey questions such as those that assess knowledge, attitudes, and intentions on sex to consult with an IRB to determine whether the evaluation plan is (1) exempted or (2) requires a full IRB review. **Please note that OPA only requires that recipients meet the reporting requirements as stated in Section F.17.** Recipients **should not** collect any data as it relates to changes in sexual behaviors outside of a rigorous impact evaluation that includes a comparison group because this is not a research award. Any evaluation-type activities should focus on monitoring the quality and fit of project activities.

As a condition of the award, we may require selected recipients to participate in any OPA-directed Federal Evaluation, if funding for such an evaluation becomes available. The Federal Evaluation contractor will pay for any costs associated with evaluation data collection for the Federal Evaluation.

3. Federal Agency Substantial Involvement

Recipients will receive funding under a cooperative agreement. A cooperative agreement is a form of assistance that allows for substantial involvement by federal agency. Additional details of the substantial involvement for awards made under this NOFO are described in Section B.3.

B. Federal Award Information

1. Legal Authority

Division H, Title II of the Consolidated Appropriations Act, 2023 (Public Law No. 117-328)

2. Award Information

We intend to make funds available for competing CA (Cooperative Agreement) awards. The actual amount available will not be determined until enactment of the FY 2023 federal budget. This program announcement is subject to the appropriation of funds, and is a contingency action taken to ensure that, should funds become available for this purpose, applications can be processed, and funds can be awarded in a timely manner.

We intend to make funds available for competing CA (Cooperative Agreement) awards. The actual amount available will not be determined until enactment of the FY 2023 federal budget.

We intend to make funds available for competing CA (Cooperative Agreement) awards.

We will fund awards in annual increments and generally for a period of performance up to 5 year(s), although we may approve shorter periods of performance. Budget periods may also vary from the estimate indicated below due to timing of award issuance or other administrative factors.

Recipients will be required to submit a non-competing continuation application for each budget period after the first. Funding for all approved budget periods beyond the first is generally level

with the initial award amount and is contingent upon the availability of funds, satisfactory progress of the project, adequate stewardship of Federal funds, and the best interests of the Government.

Award Information

Estimated Federal Funds Available	\$68,625,000
Anticipated Number of Awards	70
Award Ceiling (Federal Funds including indirect costs)	\$2,000,000 per budget period
Award Floor (Federal Funds including indirect costs)	\$350,000 per budget period
Anticipated Start Date	07/01/2023
Estimated Period of Performance	Not to exceed 5 year(s)
Anticipated Initial Budget Period Length	12 months
Type of Award	Cooperative Agreement
Type of Application Accepted	Electronic via Grants.gov ONLY unless an exemption is granted.

3. Federal Agency Substantial Involvement

Awards made under this NOFO will be cooperative agreements. A cooperative agreement is a form of assistance that allows for substantial involvement by the program office. Substantial involvement is in addition to the usual monitoring and technical assistance provided under a grant (e.g., assistance from the assigned Federal project officer, monthly conference calls, occasional site visits, ongoing review of plans and progress, participation in relevant meetings, provision of training and technical assistance). Substantial programmatic involvement for cooperative agreements under this NOFO may include:

- Prior approval for change of time that Key Personnel are dedicated to the project and for replacement of Key Personnel. Key Personnel includes any position that is responsible for the day-to-day management and oversight of the project.
- Consulting with the recipient throughout the preparation and dissemination of materials related to the award.
- Review of recipient progress during the planning period and approval at significant milestones to move forward with full implementation.
- Review and approval of EBPs selected for replication, EBP implementation plans, and proposed adaptations to EBPs.
- Consulting with OPA on adaptations proposed to ensure fidelity to EBPs core components.

- Assisting the recipient in the review and revision of priorities for activities conducted under the cooperative agreement.
- Serving as a programmatic resource during the implementation of the project by participating in the design of the activities and contributing with subject matter expertise.
- Identification of other organizations with whom the recipient may be asked to develop cooperative and collaborative relationships and partnerships to enhance the effectiveness of the project.
- Reviewing and approving all program materials prior to use in the project to ensure the materials are age appropriate, medically accurate, culturally and linguistically appropriate, trauma-informed, and inclusive.

C. Eligibility Information

1. Eligible Applicants

Any public or private (profit or nonprofit) entity located in a State (which includes one of the 50 United States, District of Columbia, Commonwealth of Puerto Rico, U.S. Virgin Islands, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands) is eligible to apply for an award under this announcement.

Faith-based organizations and American Indian/Alaskan Native/Native American (AI/AN/NA) organizations that are public or private entities are eligible to apply. Public or private community-based organizations are eligible to apply.

Examples of eligible Organizations include:

- State governments
- County governments
- City or township governments
- Special district governments
- Independent school districts
- Public and State controlled institutions of higher education
- Native American tribal governments (Federally recognized)
- Public housing authorities/Indian housing authorities
- Native American tribal organizations (other than Federally recognized tribal governments)
- Nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher education
- Nonprofits without 501(c)(3) status with the IRS, other than institutions of higher education
- Private institutions of higher education
- For profit organizations other than small businesses

2. Cost Sharing or Matching

You are not required to provide cost sharing or matching in your proposed budget. If you voluntarily include cost sharing in your application, you must include in your budget narrative a non-federal sources justification as described in Section D.3.b.1.t or your application will be disqualified (Section C.4.k). Voluntary cost sharing is not expected for research applications. During the merit review of an application, cost sharing will only be considered in the overall review of the adequacy of the total proposed budget (Federal and non-Federal share) to support the project proposed.

Applications including cost sharing or matching, whether required or voluntary, that result in an award will include the cost sharing or matching commitment on the notice of award at the level proposed in the application. See Section D.3.b.1.s. Any change in the responsibility to provide cost sharing or matching at that level will require prior approval of the grants management officer.

Cost-Sharing or Matching may include any in-kind contributions necessary to the execution of the proposed project (45 C.F.R. § 75.306).

3. Other - Application Responsiveness Criteria

We will review your application to determine whether it meets the responsiveness criteria below. If your application does not meet the responsiveness criteria, we will disqualify it from the competition; we will not review it beyond the initial screening. The responsiveness criteria are as follows

There are no Other - Application Responsiveness Criteria.

4. Application Disqualification Criteria

If you successfully submit an application, the OASH Grants and Acquisitions Management (GAM) Division will determine whether your application is eligible according to section C.1 Eligible Applicants. If we determine your application fails to meet the criteria described below, we will disqualify it, that is, **we will not review it and will give it no further consideration.**

- a. You must submit your application electronically via <https://grants.gov/> (unless an exemption was granted by the grants management officer 2 business days prior to the deadline) by the date and time indicated in Section D.5 of this announcement.
- b. If you successfully submit multiple applications from the same organization for the same project, we will only review the last application received by the deadline.
- c. You must complete the required forms in the application package: SF-424, SF-424A, SF-LLL, and Project Abstract Summary (Section D.2.a).

- d. Your application must be submitted in the English language and must be in terms of U.S. dollars (45 C.F.R. § 75.111(a)).
- e. Your Project Narrative section of the application must be double-spaced, on the equivalent of 8 ½" x 11" page size, with 1" margins on all sides (top, bottom, left and right) and font size not less than 12 points (Section D.2.a).
- f. Your Project Narrative must not exceed 50 pages. The following items do not count toward the Project Narrative page limit: all required forms, including SF-424, SF-424A, SF-LLL, Project Abstract Summary, and Budget Narrative (including budget tables)(Section D.2.a).
- g. Your total application (i.e., the Project Narrative plus Appendices) must not exceed 100 pages. The following items do not count toward the Project Narrative page limit: all required forms, including SF-424, SF-424A, SF-LLL, Project Abstract Summary, and Budget Narrative (including budget tables)(Section D.2.a).
- h. Your Federal funds request including indirect costs must not be above the maximum indicated in Award Ceiling (Section B.2).
- i. Your Federal funds request including indirect costs must not be below the Minimum indicated in Award Floor, if any (Section B.2).
- j. Your application must meet the Other - Application Responsiveness Criteria outlined above (Section C.3).
- k. If your application includes cost sharing (voluntary or required, Section C.2), you must include in your budget narrative a non-federal sources justification.

D. APPLICATION AND SUBMISSION INFORMATION

1. Address to Request Application Package

You may obtain an application package electronically by accessing Grants.gov at <https://www.grants.gov/>. You can find it by searching on the Assistance Listing (formerly CFDA) number shown on page 1 of this funding opportunity announcement. If you have problems accessing the application or difficulty downloading, contact:

OASH Grants and Acquisitions Management Division

Phone: 240-453-8822

Email: OASH_Grants@hhs.gov

2. Content and Form of Application Submission

a. Application Format

Your application must be prepared using the forms and information provided in the online application package. This includes but is not limited to:

- SF-424 Application for Federal Assistance
- SF-424A Budget Information for Non-Construction Programs
- SF-LLL Disclosure of Lobbying Activities
- Project Abstract Summary

We encourage individuals to use their full name (first, middle, last) on the Standard Forms and other documents such as résumés/curricula vitae/biographical sketches to distinguish them for verification in the System for Award Management exclusion records. Delays may result in award processing if full names are not provided.

Only one Project Director/Principal Investigator (PD/PI) will be named on any resulting award. You should clearly identify the individual in that role in your application. This individual should be the person who will be responsible for the programmatic aspects of the project if an award is made. A placeholder PD/PI is strongly discouraged because this may not present a clear picture for the review. Furthermore, once an award is issued a request for a change in PD/PI requires prior approval of the grants management officer (45 C.F.R. § 75.308(c)(1)(ii-iii)).

The Project Narrative, and total application including appendices, must adhere to the page limit indicated in Application Disqualification Criteria listed in Section C.4. The page limit does not include the Budget Narrative (including budget tables), required forms, assurances, and certifications as described in the Application Disqualification Criteria.

You must double-space the Project Narrative pages.

Your application must be submitted in the English language and must be in the terms of U.S. dollars (45 C.F.R. § 75.111(a))

You should use an easily readable typeface, such as Times New Roman or Arial. You must use 12-point font. You may single-space tables or use alternate fonts but you must ensure the tables are easy to read.

Please do not number pages or include a table of contents. Our grants management system will generate page numbers once your application is complete. If your application exceeds the specified page limits for the Project Narrative or Project Narrative plus Appendices (Section C.4(f)-(g)) when printed on 8.5" X 11" paper as determined by OASH/GAM, the application will not be reviewed further. We recommend you print out your application before submitting electronically to ensure that it is within the page limits and is easy to read.

b. Appendices Format

Your appendices should include any specific documents outlined in Section D.3.c, under the heading "Appendices" in the Application Content section of this announcement. Your documents should be easy to read. You should use the same formatting specified for the Project Narrative. However, documents such as résumés/curricula vitae, organizational charts, tables, or letters of commitment may use formatting common to those documents, but the pages must be easy to read. All of your appendices must be uploaded as a single, consolidated file in the Attachments section of your Grants.gov application.

c. Project Abstract Summary Format

You must complete the Project Abstract Summary form provided in the application package. The abstract will be used to provide reviewers with an overview of the application and will form the basis for the application summary in grants management and program summary documents. Furthermore, if your project is funded, HHS will publish the abstract from your form on TAGGS.hhs.gov and USASpending.gov. The abstract may also appear on the program office website or other government website. Therefore, do not include sensitive or proprietary information in your abstract.

d. Budget Narrative Format

The Budget Narrative should use the formatting required of the Project Narrative for the explanatory text. Budget tables may be single-spaced but should be laid out in an easily-readable format and within the printable margins of the page.

3. Application Content

Successful applications will contain the following information:

a. Project Narrative Content

The Project Narrative is the most important part of the application, because it will be used as the primary basis to determine whether your project meets the minimum requirements for an award under this announcement. The Project Narrative should provide a clear and concise description of your project. HHS/OASH recommends that your project narrative include the following components: 1) Focus on Areas of Greatest Need and Disparities; 2) Selection and Implementation of Evidence-Based Teen Pregnancy Prevention Programs; 3) Project Approach; 4) Organizational Capability and Experience; 5) Collaboration and Partnerships; and 6) Project Management.

1. Focus on Areas of Greatest Need and Disparities

Provide current data on the community and population of focus within the defined geographic area(s) through various means that will clearly demonstrate your understanding of where the greatest need is, what the specific needs and resources are, who the key stakeholders are, and the relationship between all these components that may be driving disparities within the community(ies). At a minimum, you should:

- Describe the community or communities and population(s) of focus including the geographic boundaries used to define each.
- In your description provide proof of urban or rural designation. The U.S. Census Bureau provides information on areas designated as Urban: <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html>. The Health Resources and Services Administration (HRSA) provides the definition for rural as well as accompanying resources for determining whether your community classifies as "rural": <https://www.hrsa.gov/rural-health/about-us/what-is-rural>. If you do not meet the definition for urban or rural, identify your community as "suburban."

- Demonstrate the need of the population related to sexual and reproductive health and positive youth development. Include any community context and/or historical factors and illustrate gaps in services that may help understand existing disparities. Also include data that supports the rationale for focusing on this community(ies) and population(s), specifically documenting a teen birth rate that is at least above the current national average (15.4 births for every 1,000 adolescent females ages 15-19 and 0.2 births for every 1,000 adolescent females ages 10-14, 2020) **and** at least one STI rate above the current national average (see [CDC Sexually Transmitted Disease Surveillance 2019](#) and table below) for the population(s) served within the community.

Table 1: National Sexually Transmitted Disease Surveillance, 2019

Ages (years)	Group	Chlamydia (per 100,00)	Gonorrhea (per 100,000)	Primary and Secondary (P&S) Syphilis (per 1000,000)
10-14	Total	55.4	12.7	0.1
10-14	Females	98.8	20.7	0.1
10-14	Males	13.4	4.9	0.1
15-19	Total	2,151.6	442.6	8.1
15-19	Females	3,333.8	559.5	4.9
15-19	Males	1,009.0	328.6	11.2

- Describe resources available in the community(ies), including other teen pregnancy, HIV, and STI prevention programs; youth development programs; availability of adolescent-friendly services; availability of youth serving organizations; resources for parents; and other relevant programs and services.
- Describe the process for identifying the community or communities and population(s) at highest risk for disparities, how you identified the needs of the community(ies) and population(s) and the resources available in the community(ies), and to what extent key stakeholders in the community and/or population were involved in this process.
- Describe how the proposed project will meet unmet need in the community of focus and not duplicate already existing resources.

2. Selection and Implementation of Evidence-Based Teen Pregnancy Prevention Programs

Propose an EBP selection process and implementation plan that is realistic and feasible based on the needs, capacity, and readiness of the community and population of focus. Your proposed estimate of number of participants to receive EBP implementation over the duration of the project should clearly align and be adequately supported by the budget narrative submitted (Section D.3.d). The historical annual reach of prior successful TPP awards is presented in the table with a typical funding range. However, costs may differ based on various factors such as geographic region, specific focus population of participants, available resources, etc. The information also does not reflect inflation or cost-of-living adjustments that have been made over time. The table is provided only as background information. We do not use the information in the Table as the basis for determining funding levels.

Annual Budget	Annual EBP Participant Reach
\$350,000 - \$749,999	At least 500 per year
\$750,000 - \$999,999	At least 1,500 per year
\$1,000,000 - \$1,249,999	At least 3,000 per year
\$1,250,000 - \$1,499,999	At least 6,000 per year
\$1,500,000 - \$1,749,000	At least 10,000 per year
\$1,750,000 - \$2,000,000	At least 15,000 per year

- Describe the following:
 - Anticipated number of youths you will reach each year specifically through implementation of EBPs.
 - Anticipated number of parent/caregivers and/or other individuals (e.g., youth-serving professionals) that will receive EBPs each year specifically through the implementation.
 - Specific details on how you obtained the estimates for youth, parent/caregivers and other individuals receiving EBPs.
 - How those that will receive EBPs aligns with the needs identified in the community.
- Describe the process that you will use to identify and select evidence-based programs (EBPs) that are a good fit for the needs of the community and population of focus you will serve; including the extent to which implementing organizations, implementation sites, and the population of focus will be involved in the process. **You are not** required to have finalized selection of EBPs in your application.
- Describe plans to implement in three or more settings, including specifying where you will implement EBPs, clearly demonstrating implementing **in at least 3 unique settings**. Demonstrate how the settings clearly align with the need of the focus population and the various physical and social environments where youth live, learn, work, play, and worship.
 - For each setting, describe the total number of youth available in the setting and the percentage of them that will participate (e.g., the number and breakdown of

schools and enrollment in each; number of youth in residential group homes, number of youth in juvenile detention center; etc.).

- Describe strategies to implement EBPs to scale in the community, including partnership and collaboration with existing and established systems for serving youth in the community. Describe how you designed these strategies to have the greatest impact on reducing disparities in unintended teen pregnancy sexual and reproductive health outcomes and promoting positive youth development in the community. Include the approvals received to implement at the highest-level system-wide while also obtaining buy-in at the grassroots level (e.g., approval from child welfare agency and buy-in from case managers at residential homes).
- Describe specific strategies that you will use to recruit and retain participants (youth, parents/caregivers, other individuals) in EBPs and the rationale for why you expect these strategies to be successful.

3. Project Approach

Provide a clear and concise description of the approach you are proposing to use to address the need identified in the community and population of focus. You should explain the rationale for your approach and present a clear connection between identified needs and your proposed activities. Your proposal should detail the nature of the activities to be undertaken, how they address identified issues, and how they will assist in achieving the overall project goals and objectives. You should clarify why these specific activities were selected. Also note any major barriers you anticipate encountering and how your project will be able to overcome those barriers. Refer to your logic model, as needed. At a minimum, you should:

- Clearly identify and describe the activities that will take place during the planning period that may not exceed 6 months. Describe how you will ensure successful completion of identified activities, include what challenges you anticipate and how you will mitigate those challenges. Also demonstrate how the planning period activities align with the key milestones in Section A.2.b and how it will result in EBP implementation in all identified settings by the end of the planning period.
- Describe how you will execute the project in an equitable, safe, supportive, and inclusive environment, using trauma-informed and positive youth development approaches.
- Describe the process for ensuring all materials used and information disseminated within the funded project is age appropriate, medically accurate, culturally and linguistically appropriate, trauma-informed, and inclusive of all youth.
- Describe how youth will be engaged in a meaningful way in the design, implementation, and monitoring of the overall project so that the project team will view them as equal partners in the decision-making process.
- Describe how parents/caregivers and other trusted adults will be engaged and supported in respecting the developing agency of adolescents, developing and maintaining positive relationships with adolescents, and reinforcing positive and healthy decision-making of adolescents.
- Describe strategies that you will utilize to effectively engage key stakeholders, community organizations, and leaders in the design, implementation, and monitoring of

the project in an equitable manner. Include how you will ensure engaged stakeholders are reflective of the community and population you will serve, especially youth and parents/caregivers.

- Describe how the project will create and maintain a robust network of partners to ensure a continuum of supports to meet the physical, social, emotional, behavioral, and mental health needs of youth.
- Describe how the project will increase awareness of, access to, and utilization of adolescent-friendly services.
- Describe the Monitoring and Improvement Plan which includes:
 - How you will use data, including youth and stakeholder feedback, to monitor progress in meeting goals and objectives, including the bulleted items under Section A.2.h Monitor and Improve the Overall Project.
 - How you will use data to inform professional development and capacity building of staff and partners and make continuous improvements to the project.
- Describe your capacity to collect and report all required performance measures on a semi-annual basis and to use performance measure data for continuous quality improvement. Identify any barriers you anticipate in collecting performance measures and address how you will overcome such barriers.

You should **not** allocate more than **ten percent** of requested federal funds to the collection and analysis of data related to the project. In addition, you **may not use funds for a rigorous impact evaluation**. If your project includes asking survey questions (e.g., questions about knowledge, attitudes, and intentions on sex) provide the status of the Institutional Review Board's (IRB) determination of whether the evaluation plan is (1) exempted or (2) requires a full IRB review. Please include the IRB's Federalwide Assurance (FWA) number of the IRB registration number. You **are not required** to collect such data as it relates to knowledge, attitudes, and intentions on sex.

4. Organizational Capability and Experience

Describe your organizations specific capabilities, experience, and expertise that will make your proposed project successful in meeting its goals, objectives, and outcomes. In doing so, you should:

- Describe the organization's history with the community and demonstrate how the organization's history and experience has resulted in positive impacts to the community. Demonstrate the extent to which the organization is committed to advancing health equity and addressing the needs of adolescents.
- Demonstrate how the proposed project aligns with the organization's vision and mission and demonstrate commitment from organizational leadership to the goals of the proposed project.
- Describe and demonstrate that the organization has the following experience, transferable experience, or expertise related to:
 - Working at a systems level (e.g., school boards, child welfare agencies, etc.) to implement youth-serving programs.

- Assessing community needs and available resources and adapting to continue to meet the changing needs of the community.
 - Identifying EBPs to ensure they are a good fit for the community and population, implementing EBPs, and monitoring EBPs for fidelity and quality.
 - Ensuring quality program delivery among partner organizations, including the provision of training, technical assistance, coaching, and support for partners.
 - Equitably and inclusively engaging youth, especially those with lived experience, as key decision-makers in projects.
 - Establishing partnerships and/or networks with diverse sectors (e.g., education, housing, healthcare, etc.) to address the needs of adolescents. Provide examples of the types of partners that have been engaged in the past and the outcomes of those partnerships.
- Describe commitment to and experience with utilizing trauma-informed and positive youth development approaches in programs and services, including policies that the organization has in place to deliver programs and services in an equitable, safe, supportive, and inclusive manner.
 - Demonstrate your ability, through experience or training, to meet the legal requirements for collecting data related to your proposed project, including required data (i.e., performance measures).
 - Describe the existing organizational infrastructure's ability to support and manage a program of this size and scope and to overcome challenges associated with growth and scale. Include examples of the organization's experience and ability to lead and manage in these areas.
 - Describe how you will hold staff accountable for achieving project outcomes, how you will actively engage staff in the project, and how you will mitigate staff turnover.

5. Collaboration and Partnerships

Describe your organization's relationships and partnerships that will make your proposed project successful in meeting its goals, objectives, and outcomes. In doing so, you should:

- Provide a detailed description of the relationships and partnerships that already exist and those that you will need to establish to support this project. You should describe at what level the partnership exists (e.g., district-level vs. school-level vs. classroom-level; network of clinics vs. individual clinic) and how the partnership will enable implementation of the program to scale in the community.
- Describe your approach for identifying, actively engaging through collaboration, and maintaining a network of diverse, multi-sector partners. Describe the diversity of partners who will be engaged in this project, the various sectors of the community that the partners represent, and how it aligns with the needs of the community and population(s) of focus. Include what formal and informal strategies you will use to ensure effective communication with partner organizations and how you will measure effectiveness of the partnership.
- Describe how the project will work with partners to increase awareness of, access to, and utilization of adolescent-friendly services.

- Describe the roles and responsibilities for all partners who will be responsible for implementing EBPs in the community. For each partner responsible for implementation of EBPs, describe:
 - The partner's experience implementing TPP programs in the community.
 - The partner's experience working with the specific population of focus.
 - The partner's commitment and motivation for the proposed program.
 - How the program aligns with the partner organization's mission and vision.
 - How the partner will hold itself and its staff accountable for achieving project outcomes.

6. Project Management

Describe your approach to project management that will make your proposed project successful in meeting its goals, objectives, and outcomes. You should refer to the Work Plan you provide in your appendices. In doing so, you should:

- Describe the plan for managing the overall program, including managing all partners and sub-recipients. The plan should describe the approach that you will use to monitor and track progress, completion, and quality of all program objectives and activities. It should also demonstrate an understanding of the complexity of the overall program and potential challenges.
- Describe the process for ensuring all staff responsible for executing the project, including partner staff, are actively engaged, well-trained, and prepared to successfully fulfill their roles and responsibilities.
- Describe the composition of the project team, to include the roles and responsibilities of all staff and how they will contribute to achieving the project's objectives and activities. Describe who will have day-to-day responsibility for key tasks including, but not limited to, leadership of the overall program and of specific tasks, monitoring the program's progress, monitoring implementation partners, collection of performance measures, and preparation of reports.
- Describe the experience and expertise of key proposed staff as it relates to:
 - Advancing health equity,
 - Implementing evidence-based programs,
 - Coordinating large scale implementation efforts,
 - Establishing and fostering a network of partners,
 - Engaging key stakeholders, and
 - Collecting and using performance measures data for continuous quality improvement.
- Describe the process and timeline for recruiting and hiring staff and how the process will ensure a team of diverse staff who are reflective of and understand the community/population.
- Describe any potential challenges or risks to the project and the plans for addressing them.

b. Budget Narrative Content

You must complete the required budget forms and submit a budget narrative with detailed justification as part of your application. You must enter the project budget on the Budget Information Non-construction Programs standard form (SF-424A) according to the directions provided with this standard form. The budget narrative consists of a detailed line-item budget that includes calculations for all costs and activities by "object class categories" identified on the SF-424A and justification of the costs.

Project budget calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient to verify the calculations. If matching or cost sharing is required, you must include a detailed listing of any funding sources identified in box 18 of the SF-424 (Application for Federal Assistance). You must state the method you are selecting for your indirect cost rate. See Indirect Costs (Section D.3.b.1.o)) for further information. If you are providing in-kind contributions of any type or value, including costs otherwise covered by your indirect cost rate, you must identify those costs, and you should, as appropriate, include the value of the in-kind contribution as proposed cost-sharing (voluntary or required) (45 C.F.R. § 75.306).

Please be sure to carefully review Section D.7 Funding Restrictions for specific information regarding allowable, unallowable, and restricted costs.

You must provide an object class category budget using Section B, box 6 of the SF-424A for the first year of the proposed project. For awards with an anticipated period of performance of one year or less, this will be the budget request for the entire project. Provide a budget justification, which includes explanatory text and line-item detail, for the entire first year of the proposed project. The budget narrative should describe how the categorical costs are derived. Discuss the necessity, reasonableness, and allocation of the proposed costs.

For subsequent budget years in an anticipated multi-year project, provide a summary narrative and line-item budget for each year beyond the first. For categories or items that differ significantly from the first budget year, provide a detailed justification explaining these changes.

Do not include costs beyond the first budget period in the object class budget in box 6 of the SF-424A or box 18 of the SF-424; the amounts entered in these sections should only reflect the first budget period.

Your budget narrative should justify the overall cost of the project as well as the proposed cost per activity, service delivered, and/or product. For example, the budget narrative should define the amount of work you have planned and expect to perform, what it will cost, and an explanation of how the result is cost effective. If you are proposing to provide services to clients, you should describe how many clients you expect to serve, the unit cost of serving each client, and how this is cost effective.

Use the following guidelines for preparing the detailed object class budget required by box 6 of the SF-424A. The object class budget organizes your proposed costs into a set of defined categories outlined below. Both federal and non-federal resources (if applicable) must be detailed and justified in the budget narrative. "Federal resources" refers only to the HHS/OASH funds for which you are applying under this NOFO. "Non-federal resources" are all other non-HHS/OASH federal and non-federal resources. We recommend you present budget amounts and

computations in a columnar format: first column, object class categories; second column, federal funds requested; third column, non-federal resources; and last column, total budget.

Object Class	Federal Funds Requested	Non-federal Resources	Total Budget
Personnel	\$100,000	\$25,000	\$125,000

Subrecipient/contract and consultant detailed costs should all be included in those specific line items, not in the overall project object class line items. For example, subrecipient travel should be included in the Contractual line item not in Travel. **Subrecipient/contract and consultant activities must be described in sufficient detail to describe accurately the project activities that each will conduct.**

1. Object Class Descriptions and Required Justifications

a. Personnel Description

Costs of staff salaries and wages, excluding benefits.

b. Personnel Justification

Clearly identify the PD/PI, if known at the time of application. Provide a separate table for personnel costs detailing for each proposed staff person: the title; full name (if known at time of application), time commitment to the project as a percentage or full-time equivalent; annual salary and/or annual wage rate; federally funded award salary; non-federal award salary, if applicable; and total salary. No salary rate may exceed the statutory limitation in effect at the time you submit your application (see D.7.2) Funding Restrictions, *Salary Rate Limitation* for details). Do not include the costs of consultants, personnel costs of delegate agencies, or of specific project(s) and/or businesses to be financed by the applicant. **Contractors and consultants should not be placed under this category.**

Position Title and Full Name	Percent Time	Annual Salary	Federally-funded Salary	Non-federal Salary	Total Project Salary
Project Director, John K. Doe	50%	\$100,000	\$50,000	\$0	\$50,000
Data Assistant, Susan R. Smith	10%	\$30,000		\$3,000	\$3,000

c. Fringe Benefits Description

Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

d. Fringe Benefits Justification

Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, Federal Insurance Contributions Act (FICA) taxes, retirement insurance, and taxes.

e. Travel Description

Costs of travel by staff of the applicant organization only. **Do not** include travel costs for subrecipients or contractors under this object class.

f. Travel Justification

For each trip proposed for applicant organization staff only, show the date of the proposed travel, total number of traveler(s); travel destination; duration of trip; per diem; mileage allowances, if privately owned vehicles will be used; and other transportation costs and subsistence allowances. **Do not** include travel costs for subrecipients or contractors under this object class.

g. Equipment Description

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. (Acquisition cost means the cost of the asset including the cost to ready the asset for its intended use.

Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-Federal entity's regular accounting practices.) See 45 C.F.R. § 75.2 for additional information.

h. Equipment Justification

For each type of equipment requested you must provide a description of the equipment; the cost per unit; the number of units; the total cost; and a plan for use of the equipment in the project; as well as a plan for the use, and/or disposal of, the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy, or section of its policy, that includes the equipment definition; include this with your Budget Narrative file. Reference the policy in this justification and include the policy copy in your Budget Narrative file (not your appendices).

i. Supplies Description

Costs of all tangible personal property other than those included under the Equipment category. This includes office and other consumable supplies with a per-unit cost of less than \$5,000.

j. Supplies Justification

Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

k. Contractual Description

Costs of all contracts or subawards for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third-party evaluation contracts, if applicable, and contracts or subawards with subrecipient organizations (with budget detail), including delegate agencies and specific project(s) and/or businesses to be financed by the applicant. **This line item is not for individual consultants.**

l. Contractual Justification

Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open, and free competition. Recipients and subrecipients are required to use 45 C.F.R. § 75.329 procedures and must justify any anticipated procurement action that is expected to be awarded without competition and exceeds the simplified acquisition threshold fixed by 41 U.S.C. § 134 and currently set at \$250,000. Recipients may be required to make pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., available to HHS/OASH.

Whenever you intend to transfer a substantive part of the project effort to another entity (including non-employee individuals), you must provide a detailed budget and budget narrative for each subrecipient/contractor, by title/name, along with the same supporting information referred to in these instructions. If you plan to select the subrecipients/contractors post-award and a detailed budget is not available at the time of application, you must provide information on the nature of the work to be transferred, the estimated costs, and the process for selecting the subrecipient/contractor.

m. Other Description

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to: consultants; insurance; professional services (including audit charges); space and equipment rent; printing and publication; training, such as tuition and stipends; participant support costs including incentives, staff development costs; and any other costs not addressed elsewhere in the budget.

n. Other Justification

Provide computations, a narrative description, and a justification for each cost under this category.

o. Indirect Costs Description

Total amount of indirect costs. This category has one of two methods that you may select. You may only select one and must clearly identify that selection in your submitted budget.

- Your organization currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant federal agency. You should enclose a copy of the current approved rate agreement in your Budget Narrative file. If you request a rate that is less than allowed, your authorized representative must submit a signed acknowledgement that the organization is accepting a lower rate than allowed.
- Per 45 C.F.R. § 75.414 (f) Indirect (F&A) costs, “any non-Federal entity [i.e., applicant] that has never received a negotiated indirect cost rate, ... may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 75.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.”

The de minimis rate method only applies if you have never received an approved negotiated indirect cost rate from HHS or another cognizant federal agency. If you are waiting for approval of an indirect cost rate, you may request the 10% de minimis rate. If you choose this method, costs included in the indirect cost pool must not be charged as direct costs to the award.

Indirect costs on Federal awards for training are limited to a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of \$25,000 (45 C.F.R. § 75.414 (c)(1)(i)).

p. Indirect Costs Justification

Provide the calculation for your indirect costs total, i.e., show each line item included in the base, the total of these lines, and the application of the indirect rate. If you have multiple approved rates, indicate which rate as described in your approved agreement is being applied and why that rate is being used. For example, if you have both on-campus and off-campus rates, identify which is being used and why.

q. Program Income Description

Program income means gross income earned by your organization that is directly generated by this project if funded except as provided in 45 C.F.R. § 75.307(f). Program income includes but is not limited to income from fees for services performed or the use or rental of real or personal property acquired under the award. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and

interest earned on any of them. See also 45 C.F.R. § 75.307 and 35 U.S.C. §§ 200-212 (applies to inventions made under Federal awards).

r. Program Income Justification

Describe and estimate the sources and amounts of program income that this project may generate, if funded. All program income generated as a result of awarded funds must be used within the scope of the approved project-related activities. Any program income earned by the recipient must be used under the addition/additive method unless otherwise specified in Section C.2. These funds should not be added to your budget, unless you are using the funds as cost sharing or matching, if applicable. This amount should be reflected in box 7 of the SF-424A.

s. Non-Federal Resources Description

Amounts of non-federal resources that will be used to support the project as identified in box 18 of the SF-424. For all federal awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the criteria listed in 45 C.F.R. § 75.306.

For awards that require matching by statute, you will be held accountable for projected commitments of non-federal resources in your application budgets and budget justifications by budget period or by period of performance for fully-funded awards, even if the justification by budget period, or by period of performance for fully-funded awards, exceeds the amount required. Your failure to provide the required matching amount may result in the disallowance of federal funds. If you are funded, you will be required to report these funds on your Federal Financial Reports.

For awards that do not require matching or cost sharing by statute or regulation, where "cost sharing" refers to costs of a project in addition to Federal funds requested that you voluntarily propose in your budget, if your application is successful, we will include this non-federal cost sharing in the approved project budget and you will be held accountable for the non-federal cost-sharing funds as shown in the Notice of Award (NOA). Failure to meet a cost sharing or matching obligation that is part of the approved project budget on the NOA may result in the disallowance of federal funds.

If you are funded, you will be required to report cost sharing or matching funds on your quarterly Federal Financial Reports. You will not receive any preference, priority, or special consideration in the funding process for voluntarily including non-Federal cost sharing in your proposed budget.

t. Non-Federal Resources Justification

You must provide detailed budget information for every funding source identified in box 18. "Estimated Funding (\$)" on the SF-424. Provide this documentation as part of your Budget Narrative file, not your Appendices.

You must fully identify and document in your application the specific costs or contributions you propose in order to meet a matching requirement. You must

provide documentation in your application on the sources of funding or contribution(s). In-kind contributions must be accompanied by a justification of how the stated valuation was determined. Matching or cost sharing must be documented by budget period (or by period of performance for fully-funded awards).

Unrecovered indirect costs may be included as part of your cost sharing or matching only with prior approval of the grants management officer. Your budget narrative must clearly state that it is your intent to include unrecovered indirect costs as part of your cost sharing or matching. You should include a copy of your negotiated cost rate to support the justification. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under your approved negotiated indirect cost rate. (See 45 C.F.R. § 75.306(c)).

If your application does not include the required supporting documentation for required or voluntary cost-sharing or matching, it will be disqualified from competitive review (Section C.4(k)).

2. Plan for Recipient Oversight of Federal Award Funds

You must include a plan for oversight of federal award funds which describes:

- how your organization will provide oversight of federal funds and how award activities and partner(s) will adhere to applicable federal award and programmatic regulations. Include identification of risks specific to your project as proposed and how your oversight plan addresses these risks.
- the organizational systems that demonstrate effective control over and accountability for federal funds and program income, compare outlays with budget amounts, and provide accounting records supported by source documentation.
- for any program incentives proposed, the specific internal controls that will be used to ensure only qualified participants will receive them and how they will be tracked.
- organizational controls that will ensure timely and accurate submission of Federal Financial Reports to the OASH Grants and Acquisitions Management Division via the Payment Management System as well as timely and appropriate withdrawal of cash from the Payment Management System.

If your internal controls are available online, it is recommended that you provide the link as part of your plan in the budget narrative. We have also included supplementary information in Section I.1, which contains questions applicants may find useful in considering their Recipient Plans for Oversight of Federal Funds.

c. Appendices

All items described in this section will count toward the total page limit of your application. You must submit them as **a single electronic file** uploaded to the Attachments section of your Grants.gov application.

1. Work Plan

Include a detailed work plan that reflects, and is consistent with, the Project Narrative and Budget Narrative, and covers all years of the period of performance. Your work plan should include a statement of the project's overall goal, anticipated outcome(s), key SMARTIE objectives (specific, measurable, achievable, relevant, time-bound, inclusive, and equitable), how the objectives align with the expectations of this opportunity, and the major tasks, action steps, or activities to achieve the goal and outcome(s). For each major task of each year, action step, or activity, the work plan should identify the person(s) responsible, timeline for completing activities (including start- and end-dates), and measures of success.

2. Logic Model

You may submit a detailed logic model that describes the inputs, objectives, activities, outputs, and short- and long-term outcomes of the proposed project. See the resource section for help on developing a logic model.

3. Map of the Communities to be Served by the Project

Include a map of your defined geographic area(s) that you will serve, to include location of the proposed settings where EBP implementation will occur.

4. Memoranda of Agreement (MOAs) and/or Letters of Commitment (LOCs)

If available at the time of submission, you should submit signed MOAs or signed Letters of Commitment (LOCs) for each partner (or one signed MOA with all partners) and include specific roles, responsibilities, resources, and contributions of partner(s) to the project. If you are unable to submit signed MOAs, you should submit an unsigned MOA(s). The signed LOCs must detail the specific role and resources that the partner will provide, or activities that the partner will assume, in support of the project. The LOC should describe the organization's expertise, experience, and access to the targeted population(s). Fully executed MOAs **will be required within 30 days** following the issuance of any award made under this announcement.

Letters of commitment are not the same as letters of support. Letters of support are letters that are general in nature that speak to the writer's belief in the capability of an applicant to accomplish a goal/task. Letters of support also may indicate an intent or interest to work together in the future, but they lack specificity. You should NOT provide letters of support; letters of support will not be considered during the review.

5. Organizational Chart

Include an organizational chart that demonstrates where the project resides within the greater organization, the management structure for the project, and what formal partners are involved in the project.

6. Curriculum Vitae/Résumés/Biosketches for Key Project Personnel

You must submit with your application curriculum vitae/résumés/biosketches of the Project Director/Principal Investigator and all other Key Personnel. All Key Personnel should be identified by project role and organizational title. Also include position descriptions for all open positions that you will need to fill if funds are awarded. Key Personnel includes those individuals who will oversee the technical, professional, managerial, and support functions and/or assume responsibility for assuring the validity and quality of your organization's program. This includes at a minimum Program Director and Program Manager/Program Coordinator (if applicable). You should use full names (first, middle, last) on these documents to distinguish individuals for verification in the System for Award Management exclusion records. Omission of a middle name or initial may delay the award of an approved application. You should use the formatting common to those documents. (See <https://grants.nih.gov/grants/forms/biosketch.htm> for templates and sample biographical sketches.)

7. References Cited

You should include your references cited in your project narrative as an appendix. You may use any standard format that you choose as long as it will clearly lead the reader to your source of the information or data.

4. Unique Entity Identifier and System for Award Management (SAM)

Your organization must register online in the System for Award Management (SAM). Grants.gov will reject submissions from applicants with nonexistent or expired SAM Registrations. You will find instructions on the Grants.Gov web site as part of the organization registration process at <https://www.grants.gov/web/grants/applicants/organization-registration.html>.

To register your organization, you will need a unique entity identifier (UEI). On April 4, 2022, the federal government completed its transition to the twelve-digit UEI(SAM) number as the required UEI for registration in SAM.gov.

You may begin the registration process, including receiving your UEI(SAM) at <https://sam.gov/content/entity-registration>. An Entity Registration Checklist is available at https://www.fsd.gov/gsafsd_sp/sys_attachment.do?sys_id=d6d6b5f31b120dd0cc45ea04bc4bcb81. You may register in SAM as either an entity applying for Federal Assistance Awards Only (e.g., grants and cooperative agreements) or All Awards (including procurement awards).

The Entity Registration Checklist contains a list of representations and certifications that must be certified by the organization as part of the SAM registration process annually. This list is reproduced in Section I.4. In accordance with the federal government's efforts to reduce reporting burden for recipients, we have transitioned to the common certification and representation requirements within SAM and no longer require SF-424B. By submitting your application to this NOFO, your authorized representative also certifies to these representations and certifications by signing Box 21 of SF-424A

Whether you are registering a new entity or renewing your registration, you must submit a notarized letter formally appointing an Entity Administrator to SAM.gov. For detailed instructions on the content of the letter and process for domestic entities see: https://www.fsd.gov/gsafsd_sp?id=kb_article_view&sysparm_article=KB0016652&sys_kb_id=f228607a1b2e8d54937fa64ce54bcbdb&spa=1.

You should allow a minimum of five days to complete an initial SAM registration. Allow up to 10 business days after you submit your registration for it to be active in SAM. This timeframe may be longer if SAM flags the information you provide for manual validation. You will receive an email alerting you when your registration is active.

You must renew your SAM registration each year. Organizations registered to apply for Federal awards through <http://www.grants.gov> will need to renew their registration in SAM. If you are successful and receive an award, you must maintain an active SAM registration with current information at all times during which your organization has an active award or an application or plan under consideration by an HHS agency.

You should make sure your SAM registration information is accurate, especially your organization's legal name and physical address including your ZIP+4. Should you successfully compete and receive an award, your organization's legal name and physical address must be included on a Notice of Award as it appears in SAM registration.

For instructions on updating information in your SAM registration see https://www.fsd.gov/sys_attachment.do?sys_id=d08b64ab1b4434109ac5ddb6bc4bcbbc.

It may take 24 hours or more for SAM updates to take effect in Grants.gov, so if you plan to apply for this funding opportunity or think you might apply, you should ensure your organization's registration is active in SAM well before the application deadline and will be active through the competitive review period.

HHS/OASH cannot make an award until you have complied with these requirements. In accordance with 2 C.F.R. § 25.205, at the time an award is ready to be made, if you have not complied with these requirements, HHS/OASH:

- May determine that you are not qualified to receive an award; and
- May use that determination as a basis for making an award to another applicant.

Should you successfully compete and receive an award, all first-tier sub-award recipients must have a UEI number at the time you, the recipient, make a sub-award to them.

5. Submission Dates and Times

You must submit your application for this funding opportunity by **the date and time indicated below**. Your submission time will be determined by the date and time stamp provided by Grants.gov when you **complete** your submission.

If you fail to submit your application by the due date and time, we will not review it, and it will receive no further consideration. You are strongly encouraged to submit your application a minimum of 3-5 days prior to the application closing date. Do not wait until the last day in the event you encounter technical difficulties, either on your end or with <https://grants.gov>.

Grants.gov can take up to 48 hours to notify you of a successful or rejected submission. You are better off having a less-than-perfect application successfully submitted and under consideration than no application.

If your submission fails due to a system problem with Grants.gov, we may consider your application if you provide verification from Grants.gov indicating system problems existed at the time of your submission **and that time was before the submission deadline**. A “system problem” does not include known issues for which Grants.gov has posted instructions regarding how to successfully submit an application such as compatible Adobe versions or file naming conventions. **As the applicant, it is your responsibility to review all instructions available on Grants.gov regarding successfully submitting an application.**

a. Application Deadline

April 18, 2023

Your application is due by 6:00 PM Eastern Time

You must submit electronically via Grants.gov unless you obtain a written exemption from this requirement 2 business days in advance of the deadline from the Director, Grants and Acquisitions Management (GAM) Division, Office of the Assistant Secretary for Health (OASH), Department of Health and Human Services (HHS). To obtain an exemption, you must request one via email from GAM, and provide details as to why you are technologically unable to submit electronically through Grants.gov. Your request should be submitted at least 4 business days prior to the application deadline to ensure your request can be considered prior to 2 business days in advance of the deadline.

If you request an exemption, include the following in your e-mail request: the HHS/OASH announcement number; your organization's UEI number; your organization's name, address and telephone number; the name and telephone number of your Authorizing Official; the Grants.gov Tracking Number (e.g., GRANT####) assigned to your submission; and a copy of the "Rejected with Errors" notification from Grants.gov. Send the request with supporting documentation to OASH_Grants@hhs.gov.

Failure to have an active System for Account Management (SAM) registration prior to the application due date will not be grounds for receiving an exemption to the electronic submission requirement. Failure to follow Grants.gov instructions to ensure software compatibility will not be grounds for receiving an exemption to the electronic submission requirement.

GAM will only accept applications via alternate methods (hardcopy paper via U.S. mail or other provider or PDF via email) from applicants obtaining prior written approval. If you receive an exemption, you must still submit your application by the deadline. Only applications submitted through the Grants.gov portal or alternate format (hardcopy paper via U.S. mail or other service or PDF via email) with an approved written exemption will be accepted. *See* Section D.8 (“Other Submission Requirements”) for information on application submission mechanisms.

To ensure adequate time to submit your application successfully, OASH recommends that you register as early as possible in Grants.gov because the registration process can take up to one month. You must register an authorizing official for your organization. OASH does not determine your organization's authorizing official; your organization makes that designation. For information on registering for Grants.gov, refer to <https://grants.gov> or contact the Grants.gov Contact Center 24 hours a day, 7 days a week (excluding Federal holidays) at 1-800-518-4726 or support@grants.gov.

Your organization is strongly encouraged to register multiple authorized organization representatives in Grants.gov to ensure someone is available to submit your application.

b. Technical Assistance

We will provide a technical assistance webinar for potential applicants on February 21, 2023 at 2:00pm Eastern. The webinar will be **repeated** live at 6:00pm Eastern to accommodate additional times zones. Questions gathered at both webinars will be posted on <https://www.grants.gov/>. Login details will be posted at <https://opa.hhs.gov/>.

We recommend you review the entire announcement promptly so you can have any questions answered well in advance of the application due date. We also recommend you subscribe to this announcement in Grants.gov so that you receive notice of any amendments, question and answer documents, or other updates.

6. Intergovernmental Review

This program is not subject to the Intergovernmental Review requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," as implemented by 45 C.F.R. part 100.

7. Funding Restrictions

Direct and Indirect Costs proposed and, if successful, charged to the HHS/OASH award must meet the cost requirements of 45 C.F.R. part 75 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards," Subpart E—Cost Principles. These requirements apply to you, the applicant, and any subrecipients. You should thoroughly review these regulations before developing your proposed budget.

Indirect costs may be included per 45 C.F.R. § 75.414. See Section D.3.b Budget Narrative for more information. To obtain a negotiated indirect cost rate with the Federal Government you may contact the U.S. Department of Health and Human Services Cost Allocation Services (CAS) regional office that is applicable to your State. CAS regional contact information is available at <https://rates.psc.gov/fms/dca/map1.html>.

a. Pre-Award Costs

Pre-award costs are NOT allowed.

Pre-award costs (per 45 C.F.R. § 75.458) are those incurred prior to the effective date of the

Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work.

b. Salary Rate Limitation

Each year's appropriations act limits the salary rate that we may award and you may charge to HHS/OASH grants and cooperative agreements. You should not budget award funds to pay the salary of an individual at a rate in excess of Federal Executive Pay Scale Executive Level II. As of January 2023, the Executive Level II salary is \$212,100. This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual working on the award project may be permitted to earn outside of the duties to the applicant organization. This salary rate limitation also applies to subawards/subcontracts under an HHS/OASH award. An example of the application of this limitation for an individual devoting 50% of their time to this award is broken down below:

Individual's <i>actual</i> base full-time salary: \$350,000 50% of time devoted to project, i.e., 0.5 FTE	
Direct salary (\$350,000 x 0.5)	\$175,000
Fringe (25% of salary)	\$43,750
Total	\$218,750
Amount that may be claimed on the application budget due to the legislative salary rate limitation: Individual's base full-time salary <i>adjusted</i> to Executive Level II: \$212,100 with 50% of time devoted to the project	
Direct salary (\$212,100 x 0.5)	\$106,050
Fringe (25% of salary)	\$26,512.50
Total amount allowed	\$132,562.50

Appropriate salary rate limits will apply as required by law.

8. Other Submission Requirements

a. Electronic Submission

HHS/OASH requires that all applications be submitted electronically via the Grants.gov portal unless an exemption has been granted. If you submit an application via any other means of electronic communication, including facsimile or electronic mail, it *will not* be accepted for

review unless you receive an exemption as described in the DATES section of this announcement.

You may access the Grants.gov website portal at <https://grants.gov>.

Applications, excluding required standard forms, must be submitted as three (3) files (see acceptable file types below). One file must contain the entire Project Narrative, another the entire Budget Narrative including supporting documentation described in the Budget Narrative content section; and the third file must contain all documents in the Appendices. Any additional files submitted as part of the Grants.gov application will not be accepted for processing and will be excluded from the application during the review process.

Any files uploaded or attached to the Grants.gov application must be Adobe PDF, Microsoft Word, or image formats (JPG, GIF, TIFF, or BMP only) and must contain a valid file format extension in the filename. **We will not accept Microsoft Excel files.**

In addition, the use of compressed file formats such as ZIP, RAR, or Adobe Portfolio will not be accepted. We will not contact you for resubmission of uncompressed versions of files. Compressed files in the application will not be forwarded to the independent merit review panel for consideration.

We strongly recommend that electronic applications be uploaded as Adobe PDF. If you convert to PDF prior to submission, you may prevent any unintentional formatting that might occur with submission of an editable document. Although Grants.gov allows you to attach any file format as part of your application, we restrict this practice and only accept the file formats identified above for compatibility with our other systems. Any file submitted as part of the Grants.gov application that is not in a file format listed above will not be accepted for processing and will be excluded from the application during the review process.

Any file submitted as part of the Grants.gov application that contains password protection will not be accepted for processing and will be excluded from the application during the review process. We will not contact you for passwords or resubmission of unprotected files.

Unprotected information in the application will be forwarded for consideration but password protected portions will not. You should avoid submitting personally identifiable information such as personal contact information on résumés.

You must submit your application in a format that can easily be copied and read by reviewers. We do not recommend that you submit scanned copies through Grants.gov unless you confirm the clarity of the documents. Pages cannot be reduced resulting in multiple pages on a single sheet to avoid exceeding the page limitation. If you submit documents that do not conform to these instructions, we will exclude them from your application during the review process.

b. Important grants.gov Information

You may access the electronic application for this program on <https://grants.gov>. You must search the downloadable application page by the Opportunity Number or Assistance Listing (formerly CFDA) number, both of which can be found on page 1 of this funding opportunity announcement.

To ensure successful submission of your application, you should carefully follow the step-by-step instructions provided at <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

These instructions are kept up-to-date and also provide links to Frequently Asked Questions and other troubleshooting information. **You are responsible for reviewing all Grants.gov submission requirements on the Grants.gov site.**

You should contact Grants.gov with any questions or concerns regarding the electronic application process conducted through Grants.gov. See Section G.3 for contact information.

See Section D.4 for requirements related to UEI numbers and SAM registration.

c. Program-Specific Requirements

There are no program specific requirements.

E. APPLICATION REVIEW INFORMATION

1. Criteria

Federal staff and an independent review panel will assess all eligible applications according to the following criteria. Disqualified applications will not be reviewed against these criteria.

a. Focus on Areas of Greatest Need and Disparities (20 points)

- Extent to which applicant clearly defines the geographic boundaries and describes the community or communities and population(s) of focus.
- Extent to which the applicant clearly demonstrates
 - An understanding of the current need of the community(ies) and population(s) of focus that places them at the highest risk for disparities related to teen pregnancy and STIs within the community(ies).
 - A clear understanding of what is impacting sexual and reproductive health outcomes and positive youth development in the community(ies) and population(s), and what resources are already available in the community to address the needs.
 - The proposed project will fill gaps in TPP services for the community and population of focus and will not duplicate existing programs and activities.

b. Selection and Implementation of Evidence-Based Teen Pregnancy Prevention Programs to Scale (15 points)

- Extent to which the applicant clearly and separately describes the number of youth, parent/caregivers, and/or other individuals that they will reach each year with evidence-based programs in each of the 3 (or more) settings. The applicant includes specific details on how they obtained the estimates. The demographics of the community(ies) selected supports the estimates. Estimates also appear accurate and reasonable to achieve.
- Extent to which the proposed 3 (or more) settings clearly align with:
 - The need(s) of the population of focus; and
 - The various physical and social environments where youth live, learn, work, play, and worship.

- Extent to which the strategies for implementing EBPs to scale in the community maximize access to EBPs, seem feasible, and are likely to result in reaching as many youth as possible in each of the 3 (or more) settings. The strategies include implementation at the highest-level system-wide and getting buy-in at the grassroots level (e.g., implementation throughout child welfare agency and buy-in from case managers at residential homes).
- Extent to which the process described for identifying EBPs is likely to result in selecting EBPs that are a good fit for the needs of the community and population of focus.

c. Proposed Approach (20 points)

- Extent to which the proposed approach aligns with the diverse needs of the community and population and is likely to have the greatest impact on reducing disparities in unintended teen pregnancy, sexual and reproductive health outcomes, and promoting positive youth development among those who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.
- Extent to which the proposed project is executed in an equitable, safe, supportive, and inclusive environment, using trauma-informed and positive youth development approaches. Policies and practices will integrate inclusive, equitable, trauma-informed, and positive youth development approaches.
- Extent to which there is a clear and feasible process that will ensure all materials used and information disseminated within the project is age appropriate, medically accurate, culturally and linguistically appropriate, trauma-informed, and inclusive of all youth.
- Extent to which the applicant proposes an effective community-driven approach that includes a clear and equitable community engagement strategy. This includes the extent to which the community engagement strategy ensures key stakeholders (especially youth), reflective of the community and population of focus, are meaningfully engaged in the design, implementation, and monitoring of the overall project.
- Extent to which the approach for creating a robust network of partners that will lead to increasing awareness of, access to, and utilization of adolescent-friendly services by the population of focus.
- Extent to which the applicant has a clear plan for monitoring: 1) implementation of EBPs with fidelity and quality; 2) meaningful engagement of youth, parents/caregivers, and the community in the project; 3) opportunities for and integration of inclusive, equitable, trauma-informed, and positive youth development approaches; 4) increase in awareness of, access to, and utilization of adolescent-friendly supportive services.

d. Organizational Capability and Experience (15 points)

- Extent to which the organization has demonstrated a positive working relationship and commitment to advance equity in adolescent health and reduce disparities in unintended teen pregnancy and STIs in the focus community.
- Extent to which the organization demonstrates capacity, experience, and expertise to execute their proposed project.

- Extent to which the organization demonstrated the capacity to meet the demands of the project with strong relationships and buy-in from key stakeholders, organizations, and leaders in the community.
- Extent to which the organization has policies in place to execute the proposed project in an equitable, safe, supportive, and inclusive manner and is committed to utilizing trauma-informed and positive youth development approaches in their programs and services.
- Extent to which the organization has the experience and expertise to engage, in an equitable and inclusive manner, youth as key decision-makers in the project.

1.

e. Collaboration and Partnerships (15 points)

- Extent to which the applicant describes the diversity of partners who will be engaged, the extent to which those partners are reflective of the various sectors of the community, and the process for fostering and maintaining such partnerships to meet project goals, objectives, and outcomes.
- Extent to which the descriptions of the partnerships that already exist and those that they will need to establish to support this project support the project goals, objectives, and outcomes. To include at what level the partnership exists/will exist (e.g., district-level vs. school-level vs. classroom-level; network of clinics vs. individual clinic), and the likelihood that the partnership will enable implementation of the EBP to scale in the community.

f. Project Management (10 points)

- Extent to which the applicant describes clear and feasible strategies to oversee funding and a project of this scope and size to include judiciously and efficiently managing financial resources; monitoring and tracking progress, completion, and quality of all program objectives and activities; monitoring and managing partners/subrecipients, as well as effectively managing and supporting staff performance.
- Extent to which the applicant identifies potential challenges and barriers to project success and has clear and feasible strategies to adapt and overcome such challenges and barriers.
- Extent to which the applicant describes clear and feasible strategies to ensure all staff responsible for implementing the project, including partner staff, are actively engaged, well-trained, and prepared to successfully fulfill their roles and responsibilities.
- Extent to which applicants process for recruiting and hiring staff will ensure a team of diverse staff who are reflective of and understand the community and population that the applicant will serve.

g. Work Plan and Budget (5 points)

- Extent to which the work plan has clear goals, SMARTIE (specific, measurable, achievable, relevant, time-bound, inclusive, and equitable) objectives, and specific activities that reflects, and is consistent with, the proposed approach.

- Extent to which the applicant proposes a work plan that is reasonable, realistic, and that they can complete in the proposed time period.
- Extent to which the budget and budget narrative clearly aligns with the proposed work plan, especially to the degree it clearly aligns with the target reach (i.e., number of participants estimated to receive EBPs).

2. Review and Selection Process

An independent review panel will evaluate applications that are not disqualified and meet the responsiveness criteria (Section C.3). These reviewers are experts in their fields, and are drawn from academic institutions, non-profit organizations, state and local government, and Federal government agencies. Based on the Application Review Criteria as outlined under Section E.1, the reviewers will comment on and rate the applications, focusing their comments and ratings on the identified criteria. In addition to the independent review panel, Federal staff will review each application for programmatic, budgetary, and grants management compliance.

The Deputy Assistant Secretary for Population Affairs will provide recommendations for funding to the Grants Management Officer to conduct risk analysis. No award decision is final until a Notice of Award is issued by the Grants Management Officer.

In providing these recommendations the Deputy Assistant Secretary for Population Affairs will take into consideration the following additional factors(s):

- Equitable geographic distribution.
- Equitable distribution of project sites among rural, suburban, and urban communities.
- Maximize benefit in historically underserved communities and populations of focus.
- Diversity of implementation settings (e.g., school, clinic, houses of worship, etc.)

3. Review of Risk Posed by Applicant

GAM will evaluate, in accordance with 45 C.F.R. § 75.205, each application recommended for funding by the program official indicated in Review and Selection Process for risks before issuing an award. This evaluation may incorporate results of the evaluation of eligibility or the quality of an application. If we determine that a Federal award will be made, special conditions that correspond to the degree of risk assessed will be applied to the Federal award. Such conditions may include additional programmatic or financial reporting or releasing funds on a reimbursable rather than cash advance basis. We will use a risk-based approach and may consider any items such as the following:

- a. Your financial stability;
- b. Quality of management systems and ability to meet the management standards prescribed in 45 C.F.R. part 75;
- c. History of performance. Your record in managing Federal awards, if you are a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and

conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;

- d. Reports and findings from audits performed; and
- e. Your ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities.

Prior to making a Federal award with a total Federal share greater than the simplified acquisition threshold (currently \$250,000), we are required to review and consider any information about you that is in the designated integrity and performance system accessible through the System for Award Management (SAM) (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). You may, at your option, review information in SAM and comment on any information about yourself that a Federal awarding agency previously entered and is currently available through SAM. We will consider any comments by you, in addition to the other information in the designated system, in making a judgment about your integrity, business ethics, and record of performance under Federal awards when completing the review of risk.

If we do not make an award to you because we determine your organization does not meet either or both of the minimum qualification standards as described in 45 C.F.R. § 75.205(a)(2), we must report that determination to FAPIIS, if certain conditions apply. At a minimum, the information in the system if you are a prior Federal award recipient must “demonstrate a satisfactory record of executing programs or activities under Federal grants, cooperative agreements, or procurement awards; and integrity and business ethics.” 45 C.F.R. § 75.205(a)(2); see also 45 C.F.R. §75.212 for additional information.

4. Final Award Decisions, Anticipated Announcement, and Federal Award Dates

Upon completion of risk analysis and concurrence of the Grants Management Officer, OASH will issue Notices of Award. No award decision is final until a Notice of Award is issued. All award decisions, including the level of funding if an award is made, are final and you may not appeal.

OASH seeks to award funds as much in advance of the anticipated project start date shown in Section B “Federal Award Information,” as practicable, with a goal of 10-15 days. Note this is an estimated start date and award announcements may be made at a later date and with a later period of performance start date.

F. FEDERAL AWARD ADMINISTRATION INFORMATION

1. Federal Award Notices

We do not release information about individual applications during the review process. If you would like to track your application, please see instructions at <https://www.grants.gov/web/grants/applicants/track-my-application.html>.

The official document notifying you that an application has been approved for funding is the Notice of Award (NOA), approved by a Grants Management Officer within GAM. If you are successful, you will receive this document via a system notification from our grants management system (Grant Solutions) and/or via e-mail. This document notifies the successful recipient of the amount awarded, the purposes of the award, the anticipated length of the period of performance, terms and conditions of the award, and the amount of funding to be contributed by the recipient to project costs, if applicable.

If you receive an NOA, we strongly encourage you to read the entire document to ensure your organization's information is correct and that you understand all terms and conditions. You should pay specific attention to the terms and conditions, as some may require a time-limited response. The NOA will also identify the Grants Management Specialist and Program Project Officer assigned to the award for assistance and monitoring.

If you are unsuccessful or deemed ineligible according to the disqualification criteria, you will be notified by OASH by email and/or letter. If your application was reviewed by the independent review panel, you may receive summary comments pertaining to the application resulting from the review process. We do not customarily release application scores.

You may receive a letter indicating that your application was "approved but unfunded." This does not mean you will receive an award or funding. Applications designated "approved but unfunded" are typically kept active for up to one year. During that time, the program office may consider an application with this status for award under this NOFO should funds become available. The status "approved but unfunded" does not guarantee that we will fund your project. We will not transfer an "approved but unfunded" application for consideration under a new NOFO. You would need to resubmit your application, with any updated material, for consideration under that new NOFO.

2. Administrative and National Policy Requirements

If you are successful and receive a Notice of Award, in accepting the award, you agree that the award and any activities thereunder are subject to all provisions of 45 C.F.R. part 75, currently in effect or implemented during the period of the award, other Department regulations and policies in effect at the time of the award, and applicable statutory provisions.

In addition, your organization must comply with all terms and conditions outlined in the Notice of Award, the U.S. Department of Health and Human Services (HHS) Grants Policy Statement

(GPS), requirements imposed by program statutes and regulations and HHS grant administration regulations, as applicable, as well as any requirements or limitations in any applicable appropriations acts. The current HHS GPS is available at <https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>. Please note HHS plans to revise the HHS GPS to reflect changes to the regulations; 45 C.F.R. parts 74 and 92 which have been superseded by 45 C.F.R. part 75.

You may only use award funds to support activities outlined in the approved project plan. If your application is funded, your organization will be responsible for the overall management of activities within the scope of the approved project plan. Please consult the HHS GPS Section II and 45 C.F.R. § 75.308 for aspects of your funded project that will require prior approval from the Grants Management Officer for any changes. Modifications to your approved project that will require prior approval include, but are not limited to: a change in the scope or the objective(s) of the project or program (even if there is no associated budget revision, such as reduction in services, closing of service or program site(s)); significant budget revisions, including changes in the approved cost-sharing or matching; a change in a key person specified in your application; reduction in time devoted to the project by the approved project director or principal investigator, either as percentage of full-time equivalent of 25% or more or absence for 3 months or more; or the subawarding, transferring or contracting out of any work that was not described in the approved proposal.

The termination provisions in 2 CFR §§ 200.340(a)(1)-(4) are the termination provisions that are applicable to awards issued under this NOFO. No additional termination provisions apply unless otherwise noted under Section F.3 Program Specific Terms and Conditions.

3. Program Specific Terms and Conditions

a. Paperwork Reduction Act Clearance Packages

Any collection of information you conduct as defined in 5 C.F.R. § 1320.3(c) may require OMB clearance under the Paperwork Reduction Act if it is a requirement of your award to collect that information. You would be responsible for preparing the clearance package necessary to obtain Paperwork Reduction Act clearance and submitting it to the project officer. The project officer will assist in the submission of the package to OMB and notify you when the approval has been received or request additional information.

4. Closeout of Award

Upon expiration of your period of performance, you must submit within 120 days all necessary documentation to closeout your award. If we do not receive acceptable final performance, financial, and/or property reports in a timely fashion within the closeout period, and we determine that closeout cannot be completed with your cooperation or that of the PD/PI, we must complete a unilateral closeout with the information available to us. (See F.16 Reporting below for closeout reporting requirements.)

If you do not submit all reports within one year of the period of performance end date, we must report your material failure to comply with the terms and conditions of the award with the OMB-designated integrity and performance system (currently FAPIIS). As a result, we may also determine that enforcement actions are necessary, including on another existing or future award, such as withholding support or a high-risk designation.

5. Lobbying Prohibitions

You shall not use any funds from an award made under this announcement for other than normal and recognized executive legislative relationships. You shall not use funds for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

You shall not use any funds from an award made under this announcement to pay the salary or expenses of any employee or subrecipient, or agent acting for you, 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, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

The above prohibitions include any activity to advocate or promote any proposed, pending, or future Federal, State, or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

6. Non-Discrimination Requirements

Should you successfully compete for an award, as a recipient of federal financial assistance (FFA) from HHS you will be required to complete an HHS Assurance of Compliance form (HHS 690) in which you agree, as a condition of receiving the grant, to administer your programs in compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, age, sex and disability, and agreeing to comply with federal conscience laws, where applicable. This includes ensuring that entities take meaningful steps to provide meaningful access to persons with limited English proficiency; and ensuring effective communication with persons with disabilities. Where applicable, Title XI and Section 1557 prohibit discrimination on the basis of sexual orientation, and gender identity. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. See

<https://www.hhs.gov/civil-rights/forproviders/provider-obligations/index.html> and <https://www.hhs.gov/civil-rights/forindividuals/nondiscrimination/index.html>.

- For guidance on meeting the legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficient individuals. See <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html> and <https://www.lep.gov>.
- For information on the specific legal obligations for serving qualified individuals with disabilities, including reasonable modifications and making services accessible to them, see <http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html>.
- HHS-funded health and education programs must be administered in an environment free of sexual harassment, see <https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html>.
- For guidance on administering your program in compliance with applicable federal religious nondiscrimination laws and applicable federal conscience protection and associated anti-discrimination laws, see <https://www.hhs.gov/conscience/conscience-protections/index.html> and <https://www.hhs.gov/conscience/religious-freedom/index.html>.

Contact the HHS Office for Civil Rights for more information about obligations and prohibitions under federal civil rights laws at <https://www.hhs.gov/ocr/about-us/contact-us/index.html> or call 1-800-368-1019 or TDD 1-800-537-7697.

The *National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care* (National CLAS Standards), 78 Fed. Reg. 58539, 58543 (HHS Office of Minority Health, 2013), <https://www.gpo.gov/fdsys/pkg/FR-2013-09-24/pdf/2013-23164.pdf>, provides a practical framework for applicants to provide quality health care and services to culturally and linguistically diverse communities, including persons with limited English proficiency. For further guidance on providing culturally and linguistically appropriate services, you should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>.

7. Smoke- and Tobacco-free Workplace

The HHS/OASH strongly encourages all award recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. This is consistent with the HHS/OASH mission to protect and advance the physical and mental health of the American people.

8. Acknowledgement of Funding

Each year's annual appropriation requires that 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 organizations receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state— (1) the percentage of 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.

You must also acknowledge Federal support in any publication you develop using funds awarded under this program, with language such as:

This [project/publication/program/website, etc.] was supported by [Award Number] issued by the Office of the Assistant Secretary for Health of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with 100 percent funded by [PROGRAM OFFICE].

Recipients must also include a disclaimer stating the following

The contents are solely the responsibility of the author(s) and do not necessarily represent the official views of, nor an endorsement by, [PROGRAM OFFICE], OASH, HHS, or the U.S. Government. For more information, please visit [PROGRAM OFFICE website, if available].

9. HHS Rights to Materials and Data

All publications you develop or purchase with funds awarded under this announcement must be consistent with the requirements of the program. You own the copyright for materials that you develop under this award, and pursuant to 45 C.F.R. § 75.322(b), HHS reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use those materials for Federal purposes, and to authorize others to do so. In addition, pursuant to 45 C.F.R. § 75.322(d), the Federal government has the right to obtain, reproduce, publish, or otherwise use data produced under this award and has the right to authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

10. Trafficking in Persons

Awards issued under this NOFO are subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) (See <https://www.govinfo.gov/content/pkg/USCODE-2010-title22/html/USCODE-2010-title22-chap78-sec7104.htm>).

11. Efficient Spending

This award may also be subject to the HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meetings, Food, Promotional Items, and Printing and Publications available at <https://www.hhs.gov/grants/contracts/contract-policies-regulations/efficient-spending/>.

12. Whistleblower Protection

If you receive an award, you will be subject to a term and condition that applies the terms of 48 C.F.R. § 3.908 to the award, and requires that you inform your employees in writing of employee whistleblower rights and protections under 41 U.S.C. § 4712 in the predominant native language of the workforce.

13. Health Information Technology (IT) Interoperability

Health information technology is defined in Section 3000 of the Public Health Service Act (42 U.S.C. § 300jj). HHS has substantially adopted and codified that definition at 45 C.F.R. § 170.102. The regulation defines health information technology as hardware, software, integrated technologies or related licenses, IP, upgrades, or packaged solutions sold as services that are designed for or support the use by health care entities or patients for the electronic creation, maintenance, access, or exchange of health information.

If you receive an award under this NOFO that involves:

- a. implementing, acquiring, or upgrading health IT for activities, you are required to utilize health IT that meets standards and implementation specifications adopted in 45 CFR Part 170, Subpart B, if such standards and implementation specifications can support the activity.
- b. implementing, acquiring, or upgrading health IT for activities by eligible clinicians in ambulatory settings, or hospitals, eligible under [Section 4101, 4102, and 4201 of the HITECH Act](#), you are required to utilize health IT certified under the Office of the HHS Office of the National Coordinator for Health Information technology (ONC) Health IT Certification Program, if certified technology can support the activity. See <https://www.healthit.gov/topic/certification-ehrs/certification-health-it>.

If standards and implementation specifications adopted in 45 CFR Part 170, Subpart B cannot support the activity, recipients and subrecipients are encouraged to utilize health IT that meets non-proprietary standards and implementation specifications developed by consensus-based standards development organizations. This may include standards identified in the ONC Interoperability Standards Advisory, available at <https://www.healthit.gov/isa/>.

14. Prohibition on certain telecommunications and video surveillance services or equipment.

As described in 2 C.F.R. 200.216, recipients and subrecipients are prohibited from obligating or spending grant funds (to include direct and indirect expenditures as well as cost share and program) to:

- a. Procure or obtain;
- b. Extend or renew a contract to procure or obtain; or

- c. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

15. Human Subjects Protection

Federal regulations (45 C.F.R. part 46) require that applications and proposals involving human subjects must be evaluated with reference to the risks to the subjects, the adequacy of protection against these risks, the potential benefits of the research to the subjects and others, and the importance of the knowledge gained or to be gained. If research involving human subjects is anticipated, you must meet the requirements of the HHS regulations to protect human subjects from research risks as specified in 45 C.F.R. part 46. Additional information is available at <https://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html>.

Recipients that plan to engage in research involving human subjects are encouraged to provide information regarding participation in research in their recruitment efforts and provide a link to <https://www.hhs.gov/about-research-participation>.

OASH may require, as part of any award, the submission of all IRB approvals within 5 days of the IRB granting the approval and before any work requiring IRB approval begins.

16. Research Integrity

An applicant for or recipient of PHS support for biomedical or behavioral research, research training or activities related to that research or research training must comply with 42 C.F.R. part 93, including have written policies and procedures for addressing allegations of research misconduct that meet the requirements of part 93, file an Assurance of Compliance with the Office of Research Integrity (ORI), and take all reasonable and practical steps to foster research

integrity consistent with 42 C.F.R. § 93.300. The assurance must state that the recipient (1) has written policies and procedures in compliance with this part for inquiring into and investigating allegations of research misconduct; and (2) complies with its own policies and procedures and the requirements of part 93. More information is available at <https://ori.hhs.gov/assurance-program>.

17. Reporting

a. Performance Project Reports (PPR)

You must submit periodic performance project reports on a semi-annual basis. Your performance reports must address content required by 45 C.F.R. § 75.342(b)(2). The awarding program office may provide additional guidance on the content of the progress report. You must submit your performance reports by the due date indicated in the terms and conditions of your award via upload to our grants management system (GrantSolutions.gov).

You will also be required to submit a final performance report covering the entire period of performance 120 after the end of the period of performance. The awarding program office may provide additional guidance on the content of the progress report. You must submit the final report by upload to our grants management system (GrantSolutions.gov).

b. Performance Measures

OPA requires the recipient to submit performance measures each year on a semi-annual basis. Performance measures from the TPP2020 Tier 1 cohort are available in the Supplemental Materials (Section I.7) These have been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0990-0438 (Expires 8/31/2023, pending renewal). Final performance measures will be provided to recipients during the first six months of funding.

c. Financial Reports

You will be required to submit quarterly Federal Financial Reports (FFR) (SF-425). Your specific reporting schedule will be issued as a condition of award. You will also be required to submit a final FFR covering the entire period of performance 120 days after the end of the period of performance. You must submit FFRs via HHS Payment Management System (PMS) (<https://pms.psc.gov>).

Once submitted and accepted, your financial reports will be available in GrantSolutions, which is our grant management system.

d. Audits

If your organization expends \$750,000 or greater in federal funds, it must undergo an independent audit in accordance with 45 C.F.R. 75, subpart F.

e. Non-competing Continuation Applications and Awards

Each year of the approved period of performance, you will be required to submit a noncompeting application which includes a progress report for the current budget year, and work plan, budget and budget justification for the upcoming year. Specific guidance will be provided via Grant Solutions well in advance of the application due date. OASH will award continuation funding based on availability of funds, satisfactory progress of the project, grants management compliance, including timely reporting, and continued best interests of the government. Progress is assessed relative to meeting the goals, objectives, and outcomes in the approved, funded project as described in the approved work plan and other supporting documents.

For the optional competitive additional year of funding for transition to sustainability, application guidance and review criteria will be provided during the third year of the project.

Failure to provide final progress or financial reports on other awards from HHS may affect continuation funding.

f. FFATA and FSRS Reporting

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System (<https://www.FSRS.gov>) for all sub-awards and sub-contracts issued for \$30,000 or more as well as addressing executive compensation for both recipient and sub-award organizations.

g. Reporting of Matters Relating to Recipient Integrity and Performance

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 must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph A.2 of Appendix XII to 45 C.F.R. part 75—Award Term and Condition for Recipient Integrity and Performance Matters. This is a statutory requirement (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. For more information about this reporting requirement related to recipient integrity and performance matters, see Appendix XII to 45 C.F.R. part 75.

h. Other Required Notifications

Before you enter into a covered transaction at the primary tier, in accordance with 2 C.F.R. § 180.335, you as the [participant](#) must notify OASH, if you know that you or any of the principals for that covered transaction:

- Are presently excluded or disqualified;
- Have been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. § [180.800\(a\)](#) or had a [civil judgment](#) rendered against you for one of those offenses within that time period;
- Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, [State](#) or local) with commission of any of the offenses listed in 2 C.F.R. § [180.800\(a\)](#); or
- Have had one or more public transactions (Federal, [State](#), or local) terminated within the preceding three years for cause or default.

At any time after you enter into a covered transaction, in accordance with 2 C.F.R. § 180.350, you must give immediate written [notice](#) to OASH if you learn either that—

- You failed to disclose information earlier, as required by 2 C.F.R. § [180.335](#); or
- Due to changed circumstances, you or any of the principals for the transaction now meet any of the criteria in 2 C.F.R. § [180.335](#).

G. CONTACTS

1. Administrative and Budgetary Requirements

For information related to administrative and budgetary requirements, contact the HHS/OASH grants management specialist listed below.

Duane Barlow
OASH Grants and Acquisitions Management
1101 Wootton Parkway, Plaza Level
Rockville, MD 20852
Phone: 240-453-8822
Email: duane.barlow@hhs.gov

2. Program Requirements

For information on program requirements, please contact the program office representative listed below.

Jaclyn Ruiz
1101 Wootton Parkway, Suite 200
Rockville, MD 20852
Phone: 240-453-2846
Email: Jaclyn.Ruiz@hhs.gov

3. Electronic Submission Requirements

For information or assistance on submitting your application electronically via Grants.gov, please contact Grants.gov directly. Assistance is available 24 hours a day, 7 days per week.

GRANTS.GOV Applicant Support

Website: <https://www.grants.gov>

Phone: 1-800-518-4726

Email: support@grants.gov

H. OTHER INFORMATION

1. Awards under this Announcement

We are not obligated to make any Federal award as a result of this announcement. If awards are made, they may be issued for periods shorter than indicated. Only the grants officer can bind the Federal government to the expenditure of funds.

If you receive communications to negotiate an award or request additional or clarifying information, this does not mean you will receive an award; it only means that your application is still under consideration.

2. Application Elements

The below is a summary listing of all the application elements required for this funding opportunity.

- Application for Federal Assistance (SF-424)
- Budget Information for Non-construction Programs (SF-424A)
- Disclosure of Lobbying Activities (SF-LLL)
- Project Abstract Summary
- Project Narrative – Submit all Project Narrative content as a single acceptable file, specified above.
- Budget Narrative – Submit all Budget Narrative content as a single acceptable file, specified above.
- Appendices – Submit all appendix content as a single acceptable file, specified above **in the Attachments section of your Grants.gov application.**
 - Work Plan
 - Logic Model
 - Map of the Communities to be Served by the Project
 - Memoranda of Agreement and/or Letters of Commitment
 - Organizational Chart
 - Curriculum Vitae/Résumé/Biosketches and Position Descriptions for Key Project Personnel
 - References Cited

I. SUPPLEMENTARY MATERIALS

1. Acronyms

AI/AN	American Indian/Alaskan Native
EBP	Evidence-based programs
FAPIIS	Federal Awardee Performance and Integrity Information System
FFATA	Federal Financial Accountability and Transparency Act
FFR	Federal Financial Report (SF-425)
FSRS	FFATA Subaward Reporting System
GAM	Grants and Acquisitions Management Division
GMO	Grants Management Officer
GMS	Grants Management Specialist
GPS	Grants Policy Statement
HHS	Department of Health and Human Services
LGBTQI+	Lesbian, gay, bisexual, transgender, queer and intersex
MIP	Monitoring and Improvement Plan
MOA	Memorandum of Agreement
NOA	Notice of Award
NOFO	Notice of Funding Opportunity
OASH	Office of the Assistant Secretary for Health
OMB	Office of Management and Budget
OPA	Office of Population Affairs
PD/PI	Project Director/Principal Investigator
PHS	Public Health Service
PPR	Performance Project Report
SPOC	State Single Point of Contact
STD	Sexually transmitted disease
STI	Sexually transmitted infection
TPP	Teen Pregnancy Prevention
TPPER	Teen Pregnancy Prevention Evidence Review

2. Considerations in Recipient Plans for Oversight of Federal Funds

(See also Section D.3.b.2)

To the maximum extent possible, a recipient organization should segregate responsibilities for receipt and custody of cash and other assets; maintaining accounting records on the assets; and

authorizing transactions. In the case of payroll activities, the organization, where possible, should segregate the timekeeping, payroll preparation, payroll approval, and payment functions.

Questions for consideration in developing your plan may include:

- Do the written internal controls provide for the segregation of responsibilities to provide an adequate system of checks and balances?
- Are specific officials designated to approve payrolls and other major transactions
- Does the time and accounting system track effort by cost objective?
- Are time distribution records maintained for all employees when his/her effort cannot be specifically identified to a particular program cost objective?
- Do the procedures for cash receipts and disbursements include:
 - Receipts are promptly logged in, restrictively endorsed, and deposited in an insured bank account?
 - Bank statements are promptly reconciled to the accounting records, and are reconciled by someone other than the individuals handling cash, disbursements and maintaining accounting records?
 - All disbursements (except petty cash or EFT disbursements) are made by pre-numbered checks?
 - Supporting documents (e.g., purchase orders, Invoices, etc.) accompany checks submitted for signature and are marked "paid" or otherwise prominently noted after payments are made?

3. Financial Assistance General Certifications and Representations

When your organization completes its registration (new or renewal) in SAM.gov, your organization has attested to the accuracy of the below. Note that HHS awards are currently subject to 45 C.F.R. part 75. Where applicable the parallel citation to 45 C.F.R. part 75 is supplied in brackets following the 2 C.F.R. part 200 citation.

- a. Has the legal authority to apply for federal assistance and the institutional, managerial and financial capability to ensure proper planning, management, and completion of any financial assistance project covered by this Certifications and Representations document (See 2 C.F.R. § 200.113 Mandatory disclosures [45 C.F.R. § 75.113], 2 C.F.R. § 200.214 Suspension and debarment [45 C.F.R. § 75.213], OMB Guidance A- 129, "Policies for Federal Credit Programs and Non-Tax Receivables");
- b. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives (See 2 C.F.R. § 200.302 Financial Management [45 C.F.R. § 75.302] and 2 C.F.R. § 200.303 Internal controls [45 C.F.R. § 75.303]);

- c. Will disclose in writing any potential conflict of interest to the federal awarding agency or pass through entity in accordance with applicable federal awarding agency policy (See 2 C.F.R. § 200.112 Conflict of interest [45 C.F.R. § 75.112]);
- d. Will comply with all limitations imposed by annual appropriation acts;
- e. Will comply with the U.S. Constitution, all federal laws, and relevant Executive guidance in promoting the freedom of speech and religious liberty in the administration of federally-funded programs (See 2 C.F.R. § 200.300 Statutory and national policy requirements [45 C.F.R. § 75.300] and 2 C.F.R. § 200.303 Internal controls [45 C.F.R. § 75.303]);
- f. Will comply with all applicable requirements of all other federal laws, executive orders, regulations, and public policies governing financial assistance awards and any federal financial assistance project covered by this certification document, including but not limited to:
 - 1. Trafficking Victims Protection Act (TVPA) of 2000, as amended, 22 U.S.C. § 7104(g);
 - 2. Drug Free Workplace, 41 U.S.C. § 8103;
 - 3. Protection from Reprisal of Disclosure of Certain Information, 41 U.S.C. § 4712;
 - 4. National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4321 et seq;
 - 5. Universal Identifier and System for Award Management, 2 C.F.R. part 2;
 - 6. Reporting Subaward and Executive Compensation Information, 2 C.F.R. part 170;
 - 7. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. part 180;
 - 8. Civil Actions for False Claims Act, 31 U.S.C. § 3730;
 - 9. False Claims Act, 31 U.S.C. § 3729, 18 U.S.C. §§ 287 and 1001;
 - 10. Program Fraud and Civil Remedies Act, 31 U.S.C. § 3801 et seq;
 - 11. Lobbying Disclosure Act of 1995, 2 U.S.C. § 1601 et seq;
 - 12. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq;
 - 13. Title VIII of the Civil Rights Act of 1968, 42 U.S.C. § 3601 et seq;
 - 14. Title IX of the Education Amendments of 1972, as amended; 20 U.S.C. § 1681 et seq

15. Section 504 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. § 794; and
16. Age Discrimination Act of 1975, as amended, 42 U. S.C. § 6101 et seq.

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5. Glossary

Adaptation - Changes made to the program content, program delivery, or other core components of an EBP.

Adolescent-friendly services - Services for youth that are equitable, accessible, acceptable, appropriate, and effective [21].

Age appropriateness - Ensures that topics, messages, and teaching methods are suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group [28]. An age-appropriate program addresses students' needs, interests, concerns, developmental and emotional maturity levels, experiences, and current knowledge and skill levels. Learning is relevant and applicable to students' daily lives and concepts and skills are covered in a logical sequence [29].

Agency - Adolescents' ability to set goals aligned with values, perceive oneself as able to act on the goal, and then act towards achieving the goal [18].

Community – An area defined by clear geographic boundaries in order to ensure that the number of youths served can be identified.

Core Components - The parts of the evidence-based program or its implementation that is determined by the developer to be the key ingredients related to achieving the outcomes associated with the program.

Culturally and linguistically appropriate - Assures that materials and language used are respectful of and responsive to the cultural and linguistic needs of the population being served. This includes being respectful and responsive to individual cultural health beliefs and practices, preferred languages, health literacy levels, and communication needs [30].

Evidence-based programs - Programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors.

Equitable environment - Ensures youth have equal access to and rights to the same opportunities and resources as others.

Expectant and/or Parenting Teen - For purposes of this NOFO, the term expectant teen refers to any adolescent expecting a child, regardless of gender.

Fidelity - Degree to which an implementer adheres to the core components of an evidence-based program.

Fit - how well a program matches, or is appropriate for, the community, organization, stakeholders, and potential participants (i.e., youth, parents/caregivers).

Health equity - The attainment of the highest level of health for all people. Achieving health equity requires valuing everyone equally with focused and ongoing societal efforts to address avoidable inequalities, historical and contemporary injustices, and the elimination of health and health care disparities [12].

Inclusivity - When all people, especially youth, are fully included, supported, and can actively participate in and benefit from the information they need to make healthy choices. This includes ensuring that program materials and practices do not alienate, exclude, or stigmatize individuals of diverse lived experiences and backgrounds, which includes but is not limited to, individuals who belong to underserved communities, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise historically marginalized and adversely affected by persistent poverty or inequality.

Meaningful youth engagement - An inclusive, intentional, mutually respectful partnership between youth and adults whereby power is shared, respective contributions are valued, and young people's ideas, perspectives, skills and strengths are integrated into the design and delivery of programs, strategies, policies, funding mechanisms and organizations that affect their lives and their communities.

Medical accuracy - Verified or supported by the weight of research conducted in compliance with accepted scientific methods; and published in peer-reviewed journals, where applicable or comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete [32].

Parents/Caregivers – This may include but is not limited to biological, adoptive, and single parents; siblings; extended family; foster parents; “chosen” family members such as mentors or trusted adults.

Positive Youth Development- An intentional, pro-social approach that engages youth within their communities, schools, organizations, peer groups, and families in a manner that is productive and constructive; recognizes, utilizes, and enhances youths' strengths; and promotes

positive outcomes for young people by providing opportunities, fostering positive relationships, and furnishing the support needed to build on their leadership strengths.

Scale - Expanding the reach of programs with the aim of increasing impact [13].

Trauma-informed approach - Refers to how a program, agency, organization, or community thinks about and responds to those who have experienced or may be at risk for experiencing trauma. It is an approach that: (1) realizes the widespread impact of trauma and potential paths for recovery; (2) recognizes the signs and symptoms of trauma in youth, families, staff, and others; (3) responds by fully integrating knowledge about trauma into policies, procedures, and practices; and (4) seeks to actively resist re-traumatization.

6. Relevant Resources for Applicants

Note that this is a list of some, but not all, of the relevant resources available to applicants. OPA does not endorse any of the resources listed other than those developed by OPA.

Adaptations

- Reproductive Health National Training Center. Introduction to Adaptations eLearning <https://rhntc.org/sites/default/files/elearning/adaptations/index.html#/lessons/Psp3gZMwPysGgufkWuHNYICYyZhSKPZe>

Community Needs Assessment

- Agency for Healthcare Research and Quality. Tool 1B: Stakeholder Analysis. <https://www.ahrq.gov/professionals/systems/hospital/fallpxtoolkit/fallpxtk-tool1b.html>
- Center for Community Health and Development at the University of Kansas. Section 8. Identifying and Analyzing Stakeholders and Their Interests. <https://ctb.ku.edu/en/table-of-contents/participation/encouraging-involvement/identify-stakeholders/main>
- Centers for Disease Control and Prevention. GIS and Public Health at CDC. <https://www.cdc.gov/gis/index.htm>
- University of Wisconsin Population Health Institute. County Health Rankings & Roadmaps. <https://www.countyhealthrankings.org/explore-health-rankings/rankings-data-documentation>

Culturally and Linguistically Appropriate

- Office of Minority Health. The National CLAS Standards. <https://thinkculturalhealth.hhs.gov/clas/standards>

Evidence-based Programs

- Office of the Assistant Secretary for Planning and Evaluation (ASPE). TPP Evidence Review. <https://tppevidencereview.youth.gov/>

Health Equity

- Centers for Disease Control and Prevention. Practitioner’s Guide for Advancing Health Equity: Community Strategies for Preventing Chronic Disease.
<https://www.cdc.gov/nccdphp/dnpao/health-equity/health-equity-guide/pdf/HealthEquityGuide.pdf>
- Communities in Schools. Diversity, Equity, Inclusion Resource Guide.
<https://www.communitiesinschools.org/articles/article/dei-resource-guide/>

Implementing EBPs to Scale

- Office of Population Affairs. Implementation Study, Briefs, and Case Studies.
<https://opa.hhs.gov/research-evaluation/teen-pregnancy-prevention-tpp-program-evaluations/fy-2015-2019-opa-tpp-grant#Tier1B>

Logic Models

- Centers for Disease Control and Prevention. Framework for Program Evaluation. <https://www.cdc.gov/evaluation/steps/step2/index.htm>

Center for Community Health and Development at the University of Kansas. Community Tool Box. Developing a Logic Model or Theory of Change. <https://ctb.ku.edu/en/table-of-contents/overview/models-for-community-health-and-development/logic-model-development/main>

Meaningful Youth Engagement

- Office of Population Affairs. Listen Up! Youth Listening Session Toolkit.
https://opa.hhs.gov/sites/default/files/2021-01/OPA_Youth_Toolkit_Final_508.pdf

Positive Youth Development

- Office of Adolescent Health. A Checklist for Putting Positive Youth Development into Action in TPP Programs.
https://rhntc.org/sites/default/files/resources/oah_pyd_checklist_2015-04-10.pdf

SMARTIE Work Plan

- Centers for Disease Control and Prevention. National Breast and Cervical Cancer Early Detection Program. Writing Effective Objectives.
<https://www.cdc.gov/cancer/nbccedp/pdf/smartie-objectives-508.pdf>

Trauma-Informed Approaches

- Office of Adolescent Health. A Checklist for Integrating a Trauma-Informed Approach into TPP Programs.
https://rhntc.org/sites/default/files/resources/oah_trauma_informed_2015-05-11.pdf
- Reproductive Health National Training Center. Trauma-informed Approaches.
<https://rhntc.org/sites/default/files/elearning/understanding-trauma/index.html>
- Reproductive Health National Training Center. Introduction to Adaptations eLearning
<https://rhntc.org/sites/default/files/elearning/adaptations/index.html#/lessons/Psp3gZMwPysGgufkWuHNYICYyZhSKPZe>

7. TPP20 Tier 1 Performance Measures

Dissemination

How many manuscripts have you had accepted for publication in the past year (including both articles that were published and those that have been accepted but not yet published)? Do not include manuscripts previously reported as published. _____

Please list the references for any published manuscripts published in the past year.

During the reporting period, indicate the number of times each approach was used uniquely to communicate information to youth, caregivers, and the community about the TPP-funded grant project services and interventions available.

_____ Blogs/Online articles

_____ Social Media posts (such as Facebook, Twitter, Instagram, YouTube, etc.)

_____ # reactions

_____ # reshares

_____ # comments

_____ Peer Reviewed Publication (include box to require grantee to enter citation)

During the reporting period, indicate the number of times each approach was used uniquely to raise awareness within the community about optimal health and the issue of teen pregnancy prevention, sexually transmitted infections (STIs).

_____ Blogs/Online articles

_____ Social Media posts (such as Facebook, Twitter, YouTube, Instagram, etc.)

_____ # reactions

_____ # reshares

_____ # comments

_____ Peer Reviewed Publication (include box to require grantee to enter citation)

During the reporting period, where was information about the project presented? Write the number of times each presentation occurred.

_____ National Conference/Event (include box to require grantee to enter citation)

_____ Statewide Conference/Event (include box to require grantee to enter citation)

_____ Local Meeting/Event

How many social media accounts (such as Facebook Twitter, Instagram, YouTube) does your organization use to share information about the TPP grant project? _____

Of these accounts, how many are specific to the TPP grant project? _____

How many followers does your TPP grant project specific social media account(s) have as of the

end of the reporting period {DATE}? _____

Partners

Indicate the number of formal partners involved in implementing the grant-funded project during the reporting period. Formal partners are external organizations/agencies with whom the grantee has a written agreement (such as signed MOU, contract, or Letter of Commitment), and who are integral to the implementation and evaluation of the grant-funded project. Examples of partners may include program/intervention implementers (such as those organizations that provide sites, staffing, or both for TPP programming), partners who provide the supportive services to Tier 1 program participants, organizations that recruit TPP program participants, and/or organizations that provide ongoing strategic support to the project.

Total Number of Formal Partners (unduplicated, report as of the end of the 6 month reporting period) _____

Partner retention:

How many formal partners were involved with the project at the start of the grant year (Date)?

Of all the project's formal partners that were involved at the start of the grant year, how many were still involved in the project at the end of the reporting period? _____

Sustainability

During this reporting period, how much additional funding (that is, funding in addition to the TPP grant) have you secured to assist with project activities (i.e. program implementation, evaluation, communication, etc.)? _____

How many partners have firm plans in place to continue the project activities (program implementation, training, research, etc.) after the end of OPA grant funding? _____

How many different sources of funding do you have in place to support the grant project?

Training

Trainings would include professional development activities or technical assistance relevant to the implementation of project activities and provided to anyone responsible for implementing any aspect of the TPP grant project. Trainings may be for staff (from grantee and partner agencies) or community members (for example, youth trained as peer educators, community members serving on advisory groups.) Stakeholders who receive the TPP intervention as the end user or target population of the TPP intervention/program proven effective should be included under the reach section and not under training.

In the reporting period, how many trainings (professional development or technical assistance activities relevant to the project) have been provided through the TPP grant project to anyone affiliated with implementing the project? _____

In the reporting period, how many individuals affiliated with the TPP grant project (such as partner agencies, community members, stakeholders, project staff, youth who work with the project) have you or one of your partners trained via the grant funding (training includes any professional development or technical assistance relevant to the implementation of the project)?

Name of the TPP Program (Tier 1) being delivered:

Tier 1 grantees would report the name of the effective program (i.e. program proven effective).

State/Territory where implemented:

Setting of Implementation: *select one or more of the following that best describes where the majority of sessions in the section took place*

In-school (Programs that take place primarily or exclusively during a school day on a school campus. This category may include public or private schools, traditional or alternative schools, of any grade level).

Clinic-based

Faith-based

Runaway and homeless youth (such as drop in shelter/centers, other)

Out-of-home (such as the child welfare system/foster care, group homes, residential centers.

Juvenile justice should be counted separately below)

Juvenile justice (such as detention centers, residential centers –serving uniquely juvenile justice youth, camps)

other out-of-school time/community (programs that primarily take place outside of school hours, and may be located within a community organization not listed above or on a school campus before or after the school day)

Technology-based (includes programs that do not take place in a physical location, such as virtual programs, text messaging, apps, internet-based programs, etc.)

Urbanicity of Implementation Site: urban, rural, suburban

Reach and Demographics of TPP Participants

For each section (class or group) of TPP effective programs implemented with youth, how many youth participated in your program for at least one activity in the reporting period? Report total numbers per section and numbers by each demographic category below:

Gender – Male, Female, Transgender, Does not identify, Not reported

Age – 10 or younger, 11, 12, 13, 14, 15, 16, 17, 18, 19, >19, Not reported

Grade – 6 or less, 7, 8, 9, 10, 11, 12, GED program, Technical/vocational training/college,

Ungraded, Not currently in school, Not reported

Ethnicity – Hispanic or Latinx, Not Hispanic or Latinx, Not reported

Race – American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White, More than one race, Not reported

Total

For each section (class or group) of the effective program (Tier 1) with non-youth participants, how many non-youth participants attended at least one activity of your effective program (Tier 1)

in the reporting period? Indicate the unduplicated total number in each category.

Caregivers (such as parents, legal guardians, siblings, extended family; foster parents; “chosen” family members of adolescents): _____

Youth-serving professionals (such as social workers, health care providers, teachers, juvenile justice staff, court staff): _____

For each section (class or group) of the TPP effective program, how many non-youth participants attended at least 1 supplemental activity (that is, an activity other than the effective program/promising intervention) during the reporting period? Indicate the unduplicated total number in each category.

Caregivers (parents or legal guardians of adolescents): _____

Youth-serving professionals (social workers, health care providers, teachers, juvenile justice staff, court staff): _____

Dosage of TPP effective programs

What is the average (mean) attendance for program participants in each section? (determined by the percentage of sessions attended by each participant in the section) _____

How many participant in each section received at least 75% of the programming? _____

Observational Fidelity and Quality

Session Information:

Note: these must be reported as whole numbers

Number of sessions (lessons) planned _____

Number of sessions (lessons) completed _____

Number of sessions (lessons) observed _____

Observer reported fidelity

Using the fidelity monitoring tool from the program/intervention developer, report the adherence (%) for observed sessions within each section.

For each effective program (meeting or lesson) that was observed during the section, what is the percent adherence to the number of activities planned? (Grantees who observe more than one session per section report the average (mean) adherence percentage for the session)

Adherence = number of activities completed/number of activities planned

Observer reported quality (Based on the TPP observation form).

Rate the overall quality of the session observed on scale of 1 (poor) – 5 (excellent).

Fidelity Process Form (see the TPP Fidelity Process form)

What is the overall total score on the TPP fidelity process form (Scale of 0 – 26).

Stakeholder Engagement Measures

Project stakeholder engagement: How many stakeholders (such as youth, youth-serving

professionals, caregivers, potential end-users or other community members) were engaged within the grant project during the reporting period? Report the number for each category below.

Youth _____

Caregivers _____ (such as parents, guardians, foster parents of youth)

Community members _____ (such as teachers, educators, social workers, health workers, juvenile justice officers, other Youth-serving professionals, faith leaders, business leaders)

FY2020 Tier 1 Referrals and Linkages to Supportive Services

In the reporting period, how many TPP program participants were referred by grant project staff to supportive services providers of the following services (Collect # of each):

Reproductive Health Care -----

Mental Health Services _____

Substance Abuse Prevention/Treatment Services _-----

Primary Health Care -----

Educational Services -----

Vocational Education/Workforce Development -----

Violence Prevention _____

EXHIBIT C

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PLANNED PARENTHOOD OF	)	
GREATER NEW YORK, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	Civil Action No. 25-cv-2453
v.	)	
	)	
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	
	)	

**DECLARATION OF WENDY STARK ON BEHALF OF
PLANNED PARENTHOOD OF GREATER NEW YORK IN SUPPORT OF
PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

I, Wendy Stark, hereby declare the following under the penalty of perjury:

1. I am the President and Chief Executive Officer (CEO) at Planned Parenthood of Greater New York (“PPGNY”), a not-for-profit corporation that provides high-quality, affordable sexual and reproductive health care through eighteen health centers in greater New York. Because sex education is an important component of healthy sexuality, PPGNY also serves this mission by conducting workshops and trainings in schools and community organizations across New York. I have worked at PPGNY since October of 2022.

2. As President and CEO, my role is to strengthen PPGNY’s position as a leading sexual and reproductive health care provider, educator, and advocate for all New Yorkers and people across the country who turn to PPGNY for information and care. I provide oversight, leadership, and guidance to Chiefs and/or Vice Presidents within PPGNY, including for its Department of Education and Training. I meet regularly with the Vice President of Education and Training,

Giokazta Molina-Schneider, who oversees all Education and Training programs and services, including the OPA award in her role as Project Director.

3. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

PLANNED PARENTHOOD OF GREATER NEW YORK'S MISSION

4. PPGNY's mission statement reads: "PPGNY is a leading provider of sexual and reproductive health services and information, a fierce advocate, and a committed partner to advance equity and improve health outcomes for all."

5. PPGNY advances its mission by providing clinical care to almost 90,000 patients per year, providing abortion, gender-affirming care, birth control, HIV and sexually transmitted infection testing, cervical and breast cancer screening, PrEP and PEP, urinary tract infection testing and treatment, and more across New York State.

6. PPGNY also has a Research & Evaluation Department that is separate and distinct from its other programming. PPGNY has a long history of using research and rigorous evaluation methods to advance its educational services. With respect to education and training, PPGNY is committed to using medically accurate, evidence-based and evidence-informed programs and practices to provide the most optimal sexual and reproductive health education possible.

7. PPGNY's Research & Evaluation Department conducts Continuous Quality Improvement assessments with the aim of maintaining the highest level of fidelity and educator effectiveness. The Research and Evaluation Department maintains a database of program metrics to track the efficacy of meeting the program objectives as initially established.

8. PPGNY also has a Department of Education and Training that provides sexual and reproductive health programming across New York State. As discussed further below, PPGNY's

TPP project is situated within this department and focuses exclusively on programming in New York City.

9. In addition to the work of our Research and Evaluation department, supervisors in the Education and Training department conduct educator observations for fidelity.

TPP PROGRAM GRANTS

10. Since 2010, PPGNY has received multiple awards from the United States Department of Health and Human Services (“HHS”) Office of Adolescent Health under the Teen Pregnancy Prevention program as a grantee. Our TPP funding history starting from the most recent cooperative agreement award is below:

- a. TPP Tier 1 Replication award: Supporting Teens’ Access and Rights (Project STAR) - \$1,091,185/year for the period 7/1/2023–6/30/2028;
- b. TPP Tier 1 Replication award: Supporting Teens in Queens to Support Sexual Health (Project STIQ) - \$1,169,723/year for the period 7/1/2020–6/30/2023;
- c. TPP Tier 2 Innovation award: Project SHINE (Sexual Health Innovation Network for Equitable Education with Youth with Intellectual Disabilities) \$930,000/year for the period of 7/1/2020–6/30/2023 and a six-month no-cost extension of 7/1/2023–12/31/2023;
- d. TPP Tier 1 Replication supplement award: Queens Youth - Making Proud Choices! - \$262,541 for the period of 9/1/2013–8/31/2014;
- e. TPP Tier 1 Replication award: Making Proud Choices - \$611,823/year for the period 9/1/2010–8/31/2015.

SELECTION AND IMPLEMENTATION OF PPGNY’S TPP PROJECT: PROJECT STAR

11. On February 14, 2023, HHS’s Office of Population Affairs (“OPA”) solicited applications for its funding opportunity titled Advancing Equity in Adolescent Health through Evidence-Based Teen Pregnancy Prevention Programs and Services. The notice of funding opportunity (“NOFO”) solicited applications for projects to serve communities and populations with the greatest needs

and facing significant disparities to advance equity in adolescent health through the replication of evidence-based teen pregnancy prevention programs (“EBPs”) and services.

12. In response, PPGNY submitted an application for a project called Supporting Teens’ Access and Rights (hereinafter “Project STAR”). The Notice of Award provided for a five-year project period, from July 1, 2023 to June 30, 2028 for Tier 1 grantees. Specifically, OPA awarded PPGNY a five-year Tier 1 TPP Program grant for \$1,091,185.00 annually for a project to improve the sexual and reproductive health outcomes of youth in New York City.

13. In devising a 5 year plan, OPA required that applicants focus on areas of greatest need and facing significant disparities; engage in a planning period; replicate to scale evidence-based Teen Pregnancy Prevention programs with fidelity and quality; review materials prior to implementation; engage youth, caregivers, and the community throughout the project; connect to a network of adolescent-friendly supportive services; ensure equitable, safe, supportive, and inclusive environments; and monitor and improve the overall project.

14. In accordance with OPA’s directive, Project STAR recognizes the unique needs of: youth aged 10–24; youth who identify as LGBTQ+; immigrant and/or English language learners (“ELL”); and youth with intellectual and developmental disabilities (“IDD”). We selected these populations based on clear evidence demonstrating that these groups face significant disparities in access to high-quality, fact-based sexual and reproductive health education. These disparities place them at increased risk for adverse health outcomes. By focusing on these populations, we seek to advance positive health outcomes by ensuring that historically underserved youth receive the education, resources, and support necessary to make informed, healthy decisions, in alignment with the goals set forth in our application.

15. Project STAR has funded all or part of staff salaries for approximately 25% of PPGNY's Education and Training employees and 75% of Research and Evaluation staff (15 Education and training employees, and 2 Research and Evaluation staff), in addition to supplies, travel and conferences.

16. Project STAR has been taught in schools, community-based organizations, and residential settings, and has most recently used the following evidence-based programs ("EBP's"): Making Proud Choices! ("MPC") and Be Proud! Be Responsible! ("BPBR"). In addition, with permission from its OPA Project Officer, PPGNY piloted a program called Positive Prevention Plus for Special Populations in Schools or Community Settings.

17. New York City's Department of Education has an HIV education requirement and MPC and BPBR are considered HIV prevention programs that satisfy this HIV education requirement.

18. Through Project STAR, PPGNY developed a Youth Advisory Board ("YAB") and Community Advisory Board ("CAB") to create the infrastructure for PPGNY to solicit feedback from community stakeholders. The YAB includes 5–8 young people who have met monthly and who have been paid a stipend for participation. The CAB includes 2–5 members who have met monthly and who have also been paid a stipend for participation. The YAB and CAB have provided feedback on selected curricula, insights on adaptations, and recommendations for the types of supportive services to include on resource lists.

19. On June 25, 2024, PPGNY received a Notice of Award for FY24 to cover the period from July 1, 2024 to June 30, 2025.

20. The TPP Program operates through reimbursement. Prior to July 1, PPGNY had been drawing down these funds on a monthly basis. PPGNY has not drawn down any funds since July 1, 2025.

2025 NON-COMPETE CONTINUATION NOTICE AND AWARD

21. On January 8, 2025, PPGNY received information for preparing a non-competing continuation award application for year three of the five-year program grant cycle. On March 31, 2025, via email, PPGNY received an additional notice from HHS (“NCC Notice”) which substantially changed the requirements.

22. The new notice directed, among other requirements, that Tier 1 TPP grantees review and be aware of current Presidential Executive Orders (“EOs”) and revise our project scope and work plan, as necessary, to demonstrate that our program is “aligned with” all current EOs.

23. On April 9, 2025, PPGNY had a virtual meeting with PPGNY’s TPP Project Officer, where PPGNY was advised to be mindful of DEI language and “gender ideology” but no further information or guidance was provided.

24. PPGNY made minor edits to the Program Narrative, Work Plan, Logic Model, Needs Assessment, and Budget Narrative language to note site types, site names, and site locations and on April 15, 2025, PPGNY uploaded its non-competing continuation award application for year three of the current grant cycle and included language indicating that it was making such modifications under protest as to the new EO “alignment” requirement, and without certifying compliance with the new EO “alignment” requirement.

25. On July 2, 2025, PPGNY received an email informing it that it was approved for Year 3 of its project. Attached to this email was the OASH Teen Pregnancy Program Policy Notice (“Policy Notice”).

26. On July 8, 2025, PPGNY received its Notice of Award indicating that it was approved for year three funding from July 1, 2025 to June 30, 2026 of \$1,091,185. This Notice of Award incorporated the Policy Notice into its terms.

27. On July 8, 2025, PPGNY staff met with the HHS/OPA TPP Project Office. At this meeting, a Technical Review document was reviewed. The “contract management” section of that document indicated that PPGNY “meets expectations,” and further included the comment that “Grantee submitted all application materials. Project Officer (PO) will continue to work with the grantee to support them in meeting the expectations of this grant under the priorities of the current administration while remaining within scope of the project. If a change in scope is needed, the grantee will work with the PO and Grants Management.”

28. Following that meeting, OPA informed PPGNY that we were required to provide a revised workplan with modified objectives and submit the curriculum for Positive Prevention Plus For Schools and Community Settings by July 31, 2025. On July 31, 2025, PPGNY submitted our revised Work Plan attached within a Grant Message in GrantSolutions. As we were advised to submit our revised Work Plan only, this document did not include any response to the new TPP Policy Notice that accompanied our NCC Award. Within the Work Plan, the only changes were revisions to our goals and objectives to better meet SMART criteria, as directed by our Project Officer. We also accompanied the revised Work Plan with a letter addressed to our Project Officer, signed by me and dated July 31, 2025, which stated the following: “On July 29, 2025, Planned Parenthood of Greater New York, Inc. (PPGNY) filed a lawsuit challenging the [*OASH Teen Pregnancy Prevention Program Policy Notice*](#) that HHS issued on July 2, 2025, as violative of the U.S. Constitution, the Administrative Procedure Act and as *ultra vires*, Case 1:25-cv-02453. As set forth in our lawsuit, PPGNY maintains it is entitled to proceed going forward, including during the current program cycle, without being subject to the unlawful Policy Notice. Accordingly, we are submitting the material due today – our revised Work Plan - in accordance with our regular program deadlines. In pulling together this material, we have not made any additional changes to

account for the OASH Program Policy Notice. As reflected in the lawsuit filed on June 29, 2025, we are challenging the *OASH Teen Pregnancy Prevention Program Policy Notice* that HHS issued on July 2, 2025 as violative of the U.S. Constitution, the Administrative Procedure Act and as *ultra vires*, and maintain that PPGNY’s project cannot lawfully be subject to its requirements. We are submitting these materials without certifying compliance with the *OASH Teen Pregnancy Prevention Program Policy Notice*.”

29. Also on July 31, 2025, a PPGNY TPP staff person emailed lesson plans for Positive Prevention Plus, an EBP that would be included in our Year 3 EBP offerings, as PDF attachments in an email directly to our Project Officer. Since there were too many documents to attach within a GrantSolutions Grant Message, we had been advised to submit the documents as an email.

30. PPGNY cannot access the funds awarded to it in the July 8, 2025 NOA without agreeing to comply with the Policy Notice.

THE POLICY NOTICE AND ITS CONSEQUENCES

31. The Policy Notice purports to “clarify OASH policy” but instead imposes additional harmful requirements on TPP Program funding. The Policy Notice threatens to revoke and terminate TPP Program grantees’ funding if they fail to meet these requirements.

32. The Policy Notice also prohibits programming from including “discriminatory equity ideology,” and “diversity, equity, or inclusion-related discrimination.” The Policy Notice includes a prohibition on certain LGBTQ+ content, including what it refers to as “gender ideology.” And the Policy Notice also broadly forbids programs from promoting ideologies the administration deems “harmful.”

33. The Policy Notice imposes a prohibition on content that “encourages, normalizes, or promotes sexual activity for minors” but does not define those terms or describe what it means to

“promote” sexual activity (“Anti-Normalizing Sex Mandate”). This appears to favor abstinence-only content.

34. The Policy Notice states that “age appropriate” programs for minors do not depict, describe, expose or present “obscene, indecent, or sexually explicit content.”

35. The Policy Notice also redefines medically accurate. It states that “‘Medically accurate’ materials or instructions with pharmaceutical or health-related recommendations are expected to include information on a full range of health risks, so that minors and their parents or guardians can make fully informed decisions.” Additionally, the Policy Notice asserts that “Content that is not ‘medically accurate’ may include inaccurate information about methods of contraception, including associated health risks, or information that denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females, such as for the purpose of body literacy.”

36. It is PPGNY’s understanding that by drawing down funds and accepting the terms of the new award, PPGNY will be subject to the terms of the Policy Notice, even though its “curricula and other program materials” . . . “were previously approved by OASH.”

37. Further, the Policy Notice states that “OASH may re-evaluate the effectiveness of programs consistent with the statutory text and this PPN.”

38. It is my understanding that if HHS determines that PPGNY is not in compliance with the terms and conditions of the award, PPGNY could be subject to HHS’s administrative procedures governing noncompliance, including terminations and clawback of funding.

39. It is my understanding that a termination from a federal grant program could have a negative impact on other grant programs or funding opportunities.

IMPACT OF POLICY NOTICE ON ON PPGNY’S TPP PROJECT OPERATIONS

40. Because of the Policy Notice, PPGNY has been forced to choose between (1) continuing the previously approved program at risk of investigation and termination of funding for violating the terms of the Policy Notice, (2) substantially modifying its program and incorporating changes that run contrary to PPGNY's mission, which would make the program less effective, and even then still facing risk that PPGNY could be accused of noncompliance due to the risk of arbitrary and discriminatory enforcement stemming from the Policy Notice, or (3) ending its TPP funded education programming entirely. As detailed below, this lose-lose-lose set of circumstances has now forced PPGNY to start the process of shutting down its TPP project.

41. PPGNY determined that its only viable course was to shut down its TPP project at this time because of the Policy Notice's vague and ambiguous language on the one hand, and also because of its improper and limiting definitions on the other.

42. For example, PPGNY is concerned about the Policy Notice's prohibition against content and material that "promotes" gender ideology and other ideologies the administration deems harmful. PPGNY's already approved programming includes content related to inclusivity, equity, trauma-informed practices, or youth identities. PPGNY was previously approved by OPA to adopt modifications to its EBPs that were intended to ensure that its programming addressed gaps in existing curricula that failed to account for unique needs of many communities including LGBTQ+ youth. For example, these changes or adaptations it made included incorporating inclusive language; using gender-neutral language ("student" or "young person" rather than "boy" or "girl"), using gender-neutral pronouns throughout the curriculum and names in role-plays; and not making assumptions about sexual orientation.

43. These adaptations help ensure that all youth receive education that is accurate, affirming, and accessible. Furthermore, these approaches are consistent with the Tier 1 NOFO released by

OPA on February 14, 2023, which is titled ‘Advancing Equity in Adolescent Health through Evidence-Based Teen Pregnancy Prevention Programs and Services,’ and which includes instructions to address equity within TPP programs. This programming is critical for the integrity of the project, because it is designed to carry out the goals and purpose of the Project STAR project, and the Teen Pregnancy Prevention Program as a whole.

44. PPGNY is also concerned by the Policy Notice’s prohibition on content that “encourages, normalizes, or promotes sexual activity for minors, including anal and oral sex.” In particular, PPGNY is concerned that it could be accused of providing prohibited content if it fails to remove lesson plans from its HHS-approved programming. For example, PPGNY received approval to continue implementing certain EBPs which include lessons that discuss methods of preventing HIV, AIDS, and other STIs, and which acknowledge high risk sexual behaviors that may result in exposure and transmission. These lessons acknowledge the risk of STI exposure during anal and oral sex. In some lessons, the use of barriers such as condoms or dental dams are addressed as methods of risk reduction. PPGNY cannot remove these lessons without violating the program requirement that EBPs are replicated with fidelity.

45. Removal of these lessons would also render Project STAR’s programming ineligible as a curriculum that fulfills the HIV prevention requirement under New York City’s Department of Education’s health education requirements. The New York City Department of Education requires under New York State Law that students take lessons on HIV and AIDS prevention as a part of Health Education. Thus, if PPGNY removed units that discuss HIV and AIDS prevention out of abundance of caution, Project STAR’s programming would no longer satisfy this requirement for schools across the city.

46. Removing content that could be deemed covered by the Policy Notice would fundamentally undermine the purpose of the TPP program and would meaningfully diminish our program goals. Removing such elements from Project STAR would significantly and materially impact the program's scope and delivery—because it would no longer comprehensively address the needs of LGBTQ+ youth, youth with intellectual and developmental disabilities (IDD), immigrant and English Language Learner (ELL) youth, and other historically underserved populations. Project STAR's goal is to improve the sexual and reproductive health outcomes (lower rates of teen pregnancy, births, and STIs), promote positive youth development, and advance health equity for LGBTQ+ youth, youth with intellectual and developmental disabilities (“IDD”), immigrant/English Language Learner (“ELL”) youth, and other youth through partnerships across 15 New York City Community Districts with health disparities across the Bronx, Brooklyn, Queens, and Upper Manhattan through age-appropriate, medically accurate evidence-based teen pregnancy prevention programs and connection to supportive services provided across young people's physical and social environments.

47. These changes would also directly impact our community partners, including schools, residential sites, community-based organizations, parents, and service providers, who rely on us to deliver medically accurate, current, and high-quality sexual and reproductive health education. Our partners depend on the integrity and inclusiveness of our programming to ensure that their students, participants, and communities receive education that meets the highest professional and public health standards. Undermining the quality and scope of the curricula would weaken these partnerships, reduce community trust in the quality of programming offered by PPGNY, and limit youth and families' access to critical health information and supportive services.

48. PPGNY's TPPP programs are evidence-based. PPGNY is concerned about the Policy Notice's "Anti-Normalization Sex Mandate." PPGNY cannot and does not provide programming that promotes abstinence as the only appropriate behavior for youth as it is not an approach rooted in evidence and reflective of the real world decisions that our participants are contemplating. In order for Project STAR's programming to be effective in reducing unintended teen pregnancy and STI rates, our programs must be reflective of and address the lives and experiences of participants.

49. If PPGNY were to continue with its TPP programming under the Policy Notice, including its "Anti-Sex Normalization Mandate," then PPGNY fears that it could be randomly targeted and accused of normalizing sexual activity because its already approved curriculum acknowledges that some young people may choose to engage in sexual activity and provide information about sexual activity in a manner that is not shaming. As just one example, one of the EBPs used in Project STAR has as its project objective to "increase knowledge about prevention of HIV, STDs and pregnancy, reinforce positive attitudes/beliefs about condom use, and increase confidence in participants' ability to negotiate safer sex and use condoms correctly." PPGNY shares the same concerns about enforcement for its Adult Role Models parent peer education program, which is designed to teach parents to normalize and assist with conversations with their children about sexuality.

50. Additionally, PPGNY's educators are trained to answer student questions in an accurate and non-judgmental way. To overcomply and censor the speech of educators or require that educators decline to answer student questions would harm students by shaming them and making them less likely to ask questions in the future, undercut PPGNY's mission of providing sexual education, and diminish PPGNY's reputation in the community as a source of accurate, inclusive, and non-judgmental information.

51. PPGNY is also concerned about the Policy Notice’s definition of medical accuracy, which states that “‘Medically accurate’ materials or instructions with pharmaceutical or health related recommendations are expected to include information on a full range of health risk.” PPGNY is concerned that this requirement would force PPGNY to provide young people with information about risks of birth control or contraception that are not scientifically proven or backed by the mainstream medical community. But it would go against PPGNY’s values to provide information that is not based in reliable science. And it would undermine the efficacy of the program and PPGNY’s efforts to reduce teen pregnancy and PPGNY’s reputation in the community if PPGNY’s educators were required to inundate young people with information about all possible risks of birth control, however remote or unproven.

52. PPGNY is known as a trusted provider of evidence-based and medically accurate information and services. If we compromise this stance to provide sex education with potentially inaccurate or politically motivated information, or provide a watered-down version of our programming that is not rooted in science, that trust dissolves and we expect that our partners will no longer want to work with us.

MODIFYING PPGNY’S PROGRAMS WOULD BE IMPRACTICABLE AND HARM PPGNY’S MISSION

53. If PPGNY were to modify its programs and practices to remove materials and attempt to reduce its risk of arbitrary enforcement, this would take staff time and energy away from PPGNY’s important work providing sex education to the community.

54. PPGNY expects that it would take approximately seven staff members seven to ten work days to review all of the programming and to propose additional changes. It took approximately five PPGNY staff five working days to review the programming in order to respond to the 2025

Notice of Continuing Application, and we expect that this would take even longer because there are more requirements.

55. PPGNY would have to delay other work on other projects or work overtime to accommodate the need to review and modify the TPPP Programs in response to the Policy Notice.

56. Additionally, reviewing the content and removing significant pieces of it in order to take a very conservative approach to mitigate against overzealous enforcement of these terms would make it impossible for PPGNY to replicate the approved evidence-based programs with any fidelity.

HARMS FROM RISK OF INVESTIGATIONS AND ENFORCEMENT

57. PPGNY understands HHS noncompliance proceedings to include consequences such as investigations, and temporary and permanent suspension of funds. PPGNY understands that in certain circumstances after the close of an investigation, OPA may request that a grantee return funds that were previously distributed to it.

58. The suspension of TPP funds should the agency accuse PPGNY of not complying with the Policy Notice's requirements would be harmful because it would disrupt the program at large. It is clear that PPGNY cannot afford to lose access to TPP funding for an indeterminate amount of time and continue offering Project STAR programming.

59. If an investigation resulted in a clawback of funds that are already spent in reliance on the expectation of reimbursement under the TPP grant, this would be untenable for PPGNY because PPGNY is a non-profit that does not have other funds available to cover those costs.

CURRENT STATUS OF PPGNY'S TPP OPERATIONS

60. The year 3 NCC grant was intended to continue PPGNY's TPP program as of July 1, 2025. However, since the Policy Notice issued, PPGNY has remained in a lose-lose situation with respect

to whether we can or should draw down funds. As a result, PPGNY has been unable to draw down funds as a result of the Policy Notice's unlawful requirements.

61. Over the past years of Project STAR, TPP funding has supported, in full or in part, staff salaries for approximately 25% of PPGNY's Education and Training employees and 75% of Research and Evaluation staff, in addition to supplies, travel and conferences. PPGNY does not have financial resources with which it can continue to operate its TPP program and pay TPP staff and other expenses without guarantee of reimbursement from TPP funding. Because of other financial constraints as a nonprofit organization, PPGNY cannot continue to incur these expenses if it will not be able to seek reimbursement and it cannot continue to participate in the TPP Program without diverting its very limited financial resources from equally important work within our organization such as the provision of basic and important health care services to communities that are uninsured or underinsured and other critical community based work and programming.

62. Accordingly, and as a result of the Policy Notice, PPGNY has now had to take the difficult step of shutting down Project STAR, including initiating staff layoffs.

63. As explained in my prior declaration in support of Plaintiffs' motion for a TRO in this case, PPGNY had to make this decision by July 31 because of existing financial challenges, the necessary timeline/runway to discontinue Project STAR and notify partners, and the timeline/runway needed to enact staff layoffs. On August 12, PPGNY issued a 30-day notice of layoffs to staff as required by our Collective Bargaining Agreement. Staff are not expected to report to work during the 30 day notice period. During the notice period, PPGNY continues to fund staff salaries and benefits.

64. PPGNY also had to provide notice to its school year partners no later than the beginning of August as to whether it would be able to provide school year programming in advance of the

2025-2026 school year, as these partners had expected our programs to continue. PPGNY's reputation is on the line with other local and state entities and stakeholders, and PPGNY had to give its partners advance notice that it would be unable to assist in order to ensure the longevity and continued goodwill within these partnerships in other areas.

65. PPGNY has also needed to forgo signing agreements for the provision of education services with partners that would otherwise be required to carry out Project Star before it was too late.

66. Although PPGNY is not currently drawing down TPP funds and now is not able to offer Project STAR education services at this time because of the Policy Notice, PPGNY is still a TPP funding recipient for the current grant cycle and it is my understanding that its funding should remain available even if unused for the time being during this grant cycle. In the event relief from the Policy Notice is obtained, PPGNY would attempt to rebuild Project Star to the greatest extent possible at that time. While that would be extremely difficult for various reasons, including but not limited to having lost our talented and highly-trained staff in the meantime, our commitment to this program and the communities we serve would be worth the effort.

OTHER HARMS RESULTING FROM THE POLICY NOTICE

67. In addition to the direct impact on its education services, PPGNY currently has a negotiated indirect cost rate agreement ("NICRA") which has been included in the TPPP budget. The NICRA has been critical for the infrastructure required to support the TPP program, as it allows us to partially fund staff that indirectly support Project STAR such as grant writers, finance team members who manage grant budgeting, managers, and other team members instrumental to our ability to carry out the TPP funding program. A loss of these funds, in addition to the direct funds

that are in jeopardy, will further erode PPGNY's infrastructure which is needed to deliver its Education and Training programming more broadly.

68. The abrupt shuttering of PPGNY's Project Star program is also harming PPGNY's reputation. Partners that we have worked with for the past two years have expected that PPGNY will return to provide programming for youth, parents, and professionals for the 2025–2026 school years. These partners include schools, community-based organizations, and residential sites. Now that we are forced to abruptly shut down Project STAR, we will lose the trust of the community because it appears that we are not keeping our word and commitment to provide programming. This will result in diminished opportunities to deliver other programming in the future within these spaces. The inevitable result will be unwillingness to work with us or enter into contracts with PPGNY on other current projects or future projects, and a decline in PPGNY's reputation as a trusted provider of comprehensive sex education in New York City.

69. Finally, the loss of Project STAR will be devastating for the communities that PPGNY serves. PPGNY traditionally works with communities and populations that do not have access to comprehensive, evidence-based sex education because of disparities in resources. Without access to TPP funding, PPGNY cannot sustain the planned and full delivery of high-quality sexual and reproductive health education for youth, serve as a reliable resource for the community, connect young people and families to essential care services, or provide critical support to schools, community-based organizations, and residential sites that rely on these services.

70. Additionally, through Project STAR, PPGNY had run a robust training institute that allowed PPGNY to reach youth, parents, and professionals that can support this learning and education. Project STAR also worked to equip these communities with the training and resources needed to continue educating collectively. Without TPP funding, 200 parents and caregivers and

50 youth-serving professionals, annually, will not have access to medically accurate information to engage with the young people with whom they work.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

Date: August 22, 2025

A handwritten signature in black ink, consisting of a stylized 'W' followed by a horizontal line extending to the right.

Wendy Stark

EXHIBIT D

PLANNED PARENTHOOD OF
GREATER NEW YORK *et al.*,

Case No. 25-cv-2453

**DECLARATION OF JENNA TOSH ON BEHALF OF PLAINTIFF PLANNED
PARENTHOOD CALIFORNIA CENTRAL COAST IN SUPPORT OF PLAINTIFFS’
MOTION FOR SUMMARY JUDGMENT**

I, Jenna Tosh, PhD, hereby declare and state as follows:

1. I am the President & CEO for Planned Parenthood California Central Coast (“PPCCC”), a position I have held since 2015. Before joining PPCCC, I was the President & CEO of Planned Parenthood of Greater Orlando, where I had previously served as Director of Education and Advocacy since approximately 2005. I have a PhD in Public Affairs, on the Government and Policy Research Track, and both my Masters thesis and PhD dissertation were on sex education and teen pregnancy.

2. Through these various roles, as well as my educational background, I am very familiar with the particulars of operating sexual education programs that are comprehensive and effective in impacting young people's attitudes and approaches towards sex, consent, and topics that allow them to make healthy and informed decisions.

3. This declaration is based on my personal knowledge, my educational background, my review of PPCCC's business records, and the knowledge I have acquired in the course of my twenty years of service and duties at Planned Parenthood. If called and sworn as a witness, I could and would testify competently to the information in this declaration.

4. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

5. PPCCC faces an impossible decision: (1) agree to comply with a program policy so standardless that it can be subjectively and arbitrarily enforced against our Teen Pregnancy Prevention program on a whim; or (2) end our education program, which will have significant consequences for our organization, our education staff, and the communities that we serve. The former option requires choosing between continuing the program as approved under the threat of investigation and claw-back of funding or being forced to make further changes that render the program less effective, run contrary to PPCCC's mission and still may not be deemed fully compliant with some unknown directive.

EDUCATION AND EMPLOYMENT BACKGROUND

6. I received my BA in Political Science from the University of Florida, magna cum laude, in 2004. I then earned my Masters in Political Science from the University of Florida in 2008. I did my thesis on "Sex Education Policy in Florida: Strategies for Change," which earned an award for Outstanding Political Science Master's Theses. In 2015, I earned my PhD in Public Affairs, on the Government and Policy Research Track, from the University of Central Florida. My dissertation was titled: "State Adolescent Health Policies and their Impact on Teen Pregnancy Outcomes."

7. Following graduation, I began my career as a Family Case Manager for Kids Hope United then moved to Planned Parenthood of Greater Orlando, where I served as the Director of Education and Advocacy from 2006 to 2009. In 2012, I was appointed President & CEO of Planned Parenthood of Greater Orlando. I served in that capacity until becoming President & CEO of PPCCC in February 2015.

PPCCC AND THE COMMUNITY IT SERVES

8. PPCCC operates health centers in Santa Barbara, Ventura and San Luis Obispo counties in California. It also provides sexual and reproductive health educational programs aimed at the communities we serve. The Central Coast of California is a largely rural and agricultural area. It includes several HRSA-defined medically underserved areas in primary care and mental health. PPCCC is the only safety-net comprehensive reproductive healthcare provider in the region. Sixty percent (60%) of the patients we serve fall below 100% of the federal poverty line (FPL); 86% are below 200% of the FPL. A large portion of the Central Coast population is Latinx, as is our patient base. As a result, we offer health care services and educational programs in Spanish as well as English and other indigenous languages.

9. PPCCC's mission is to improve our communities' sexual and reproductive health outcomes through health care, education, and advocacy. Our vision is for a future where all people have equitable opportunity to experience health and wellness including high-quality sexual and reproductive health care provided with respect and without judgment.

10. PPCCC provides various forms of preventative, sexual and reproductive health care services to approximately 28,000 patients annually to individuals from diverse backgrounds and

identities, many of whom face structural barriers to accessing health care. PPCCC strives to ensure that our educational programming incorporates and reflects the best available evidence to improve health outcomes.

11. PPCCC also engages in public education activities that work with bilingual community health educators to deliver sex education and information to adults, teens, and families in areas that we serve. Our programs welcome all that are interested and statutorily eligible to receive services in accordance with all applicable laws.

12. In 2024, our sexual health education programs reached more than 1,800 youth per year. Through our programs, we aim to ensure that young people, and the trusted adults in their lives—including parents, caregivers, and other adults, are well informed to equip them with the tools to make the healthiest decisions for their future.

PPCCC PARTICIPATION IN TPP PROGRAM

13. The Teen Pregnancy Prevention Program (“TPPP”) is a federal grant program administered by the Office of Population Affairs (“OPA”) at the United States Department of Health and Human Services (“HHS”). It uses evidence-based teen pregnancy prevention programs to help youth make healthy decisions. Its stated purpose is to reduce sexual risk behavior and decrease sexually transmitted infections (“STIs”) and unintended teen pregnancy.

14. There is strong, scientifically-based evidence that pregnancy prevention programs reduce sexual activity, reduce STIs, increase use of contraceptives, including condom use, and reduce teen pregnancy. Decreasing the rate of unintended pregnancies over the long-term results in a corresponding decrease in the risk of maternal mortality, adverse child health outcomes,

behavioral problems in children and negative psychological outcomes associated with unintended pregnancies for both mothers and children. Avoiding unintended pregnancies also helps women delay childbearing and pursue additional education, spend additional time in their careers and have increased earning power over the long term.¹

15. Within California, reducing unintended pregnancy and STI rates is important to advance numerous social, economic, and other public interests as well as ensuring positive health outcomes in a person's life for those who do not wish to have children.

16. Statistical data collected within California demonstrates that for every 1000 unintended pregnancies, 42% will result in live births, 13% in miscarriages, and 45% in abortion.² Thus, reducing unintended pregnancies also reduces expenses due to fewer delivery, miscarriage or abortion costs. This has great significance for the expenditure of public funds.

17. Another critical focus of the TPPP program is on decreasing sexually transmitted infections ("STIs"). In 2023, over 2.4 million cases of syphilis, gonorrhea and chlamydia were diagnosed and reported. This includes over 209,000 cases of syphilis, over 600,000 cases of gonorrhea, and over 1.6 million cases of chlamydia.³ California, where PPCCC offers Teen Pregnancy Prevention programming, has experienced unprecedented epidemic levels of STIs, which have largely been increasing year over year for the past 5 years.⁴

¹ Cal. Health Benefits Rev. Program, *Analysis of California Senate Bill (SB) 999 Contraceptives: Annual Supply* 1 (2016).

² *Id.* at 10, 30.

³ Ctrs. for Disease Control & Prevention, *National Overview of STIs in 2023* (Nov. 12, 2024), <https://www.cdc.gov/sti-statistics/annual/summary.html>.

⁴ Cal. Dep't of Pub. Health, *Sexually Transmitted Diseases in California: 2021 Executive Summary*, <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/>

18. Public health data continues to find disparities in STI rates, with the highest rates occurring among young people (aged 15–24), people who are Black and people who identify as LGBTQ+ individuals. In 2023, almost half (48.2%) of reported cases of chlamydia, gonorrhea and syphilis were among adolescents and young adults aged 15–24 years.⁵ Additionally, gay, bisexual and other men who have sex with men are disproportionately impacted by STIs, and co-infection with HIV is common.⁶ The CDC has noted that these disparities are unlikely to be fully explained by differences in sexual behavior and may reflect differential access to quality health care.⁷

19. Studies also demonstrate that people with bacterial STIs (gonorrhea, syphilis and chlamydia) are at higher risk for related adverse health outcomes, which can include pregnancy complications, infertility, cancer, increased risk of acquiring or transmitting HIV and multi-drug resistant gonorrhea.⁸

20. Screening and treatment of STIs is the most cost-effective strategy for decreasing transmission and mitigating the long-term negative health impacts, such as Pelvic Inflammatory Disease, which can lead to scarring, chronic pelvic pain and infertility.

21. In 2023, OPA solicited applications for its 2023 Tier 1 Teen Pregnancy Prevention Program, Advancing Equity in Adolescent Health through Evidence-Based Teen Pregnancy

2021-STD-Surveillance-Executive-Summary.pdf; Mayo Clinic, *Sexually Transmitted Diseases (STDs)* (Sept. 8, 2023), <https://www.mayoclinic.org/diseases-conditions/sexually-transmitted-diseases-stds/symptoms-causes/syc-20351240>.

⁵ Ctrs. for Disease Control & Prevention, *supra* note 3.

⁶ Ctrs. for Disease Control & Prevention, *supra* note 3; Ctrs. for Disease Control & Prevention, *Fast Facts: HIV and Gay and Bisexual Men* (Oct. 7, 2024), <https://www.cdc.gov/hiv/data-research/facts-stats/gay-bisexual-men.html>.

⁷ *Id.*

⁸ Cal. Dep’t of Pub. Health, *supra* note 4; Mayo Clinic, *supra* note 4.

Prevention Programs and Services. In particular, it sought applications for projects to serve communities and populations with the greatest needs and facing significant disparities to advance equity in adolescent health through the replication of evidence-based teen pregnancy prevention programs and services that were pre-approved by the HHS TPP Evidence Review Protocol (“TPPER”).

22. Public health data demonstrated a critical need for such programming within some of the communities that we serve: namely, among Latinx and LGBTQ+ youth.

23. For this reason, PPCCC responded to this Notice of Funding Opportunity (“NOFO”). It submitted an application to develop the Central Coast Comprehensive Sex Education Collaborative (“CSEC”), a systems-based teen pregnancy prevention initiative whose overarching goals were to (1) improve sexual and reproductive health outcomes; (2) promote positive youth development and empowerment; and (3) advance health equity and inclusivity for adolescents, their families and communities through replication of medically accurate and age-appropriate evidence-based teen pregnancy prevention programs.

24. CSEC is focused on the under-reached areas of the Central Coast region in Ventura, Santa Barbara and San Luis Obispo counties, including the many migrant farmworker families in the area. It aims to provide the marginalized communities on the Central Coast with inclusive, culturally relevant, and medically accurate sex education. This continues to be consistent with public health data reflecting the highest needs for these services within these communities.

25. In developing its program, PPCCC identified Evidence-Based Programs (“EBPs”) HHS TPPER had determined were effective in accomplishing program goals with Latinx and

LGBTQIA+ youth, the populations in the areas we serve with the greatest needs and disproportionately higher rates of unintended teen pregnancy and STIs.

26. In 2023, OPA awarded PPCCC a five-year Tier 1 TPP Program grant, \$798,635.98 per year to carry out the CSEC program from July 1, 2023, to June 30, 2024, and with non-competing continuation applications to be submitted for funding each year thereafter.

27. On June 24, 2024, PPCCC was approved for year two funding from July 1, 2024, to June 30, 2025, for \$898,781, which included \$100,145.50 from our Year 1 Carry Over Request.

28. At present, CSEC is taught in after-school programs, clinics, faith-based settings, and community organization settings. The EBPs we currently use are: LiFT and Plan A. We were recently approved to use Love Notes and Relationship Smarts Plus.

29. Currently, TPP grants fund four full-time and two part-time staff members, as well as numerous partnerships with community-based organizations. We also subcontract with other entities to carry out specific responsibilities associated with this project, such as developing a monitoring and improvement plan to improve the quality of the project, measuring and reporting performance metrics, contributing to TPP progress reports, and preparing quarterly status reports, as required by the TPPP grant. Annually, we also enter into Memoranda of Understanding with numerous community partners who work with us to effectively implement programming in the communities they serve. Our community partners rely on the services we provide their audiences to maximize the amount of supportive resources and education that is available, particularly in under-resourced regions.

2025 NON-COMPETE AWARD NOTICE

30. On January 8, 2025, we received information about preparing a non-competing continuation award application for the third year of the five-year program grant cycle.

31. On March 31, 2025, via email, we received a Notice from HHS related to our annual Non-Compete Continuation Application (“NCC Notice”) that was substantially different from prior information, but did not change the due date: April 15, 2025, at 6:00 PM EST.

32. Our Education Director attended an optional NCC Notice Office Hours on April 9, where all attendees were told to make their best attempt to “align” their programs with the Trump Administration’s Executive Orders.

33. This Notice imposed new and burdensome requirements and asked that grantees certify compliance with these requirements. It also required grantees to summarize changes made to programs to “align” with the Executive Orders.

34. At that point in time, staff discussed the language of this new Notice and the confusion related to what was being asked of grantees. The Notice itself, and particularly the requirement that we “align” our project with all current Presidential Executive Orders (EOs), was indiscernible.

35. Through the news, and updates received from HHS, program staff were aware that many of the EOs explicitly listed in the guidance were subject to litigation and some to court restraining orders barring their enforcement. As a result, there was a great deal of uncertainty and confusion about which ones remained in effect and how to align with the various EOs. Given that executive orders had been issued frequently and on a continuous basis since January 20, 2025, it

was unclear which orders HHS believed were relevant to PPCCC's application and program and how so, particularly in light of the requirements of the TPP Program.

36. PPCCC staff carefully reviewed the new Notice and the references cited in an effort to try to discern what HHS would determine was compliant and noncompliant based on the terms of the new Notice. This process required a significant number of staff hours to carefully review the materials and content used by CSEC in an effort to identify how best to respond.

37. Despite the confusion and uncertainty about what to do, PPCCC's Education Director made some changes in an attempt to respond to the Notice, as she best understood it.

38. On April 15, PPCCC submitted the Non-compete Continuation Application for year three of the current grant cycle and included language indicating that it was making such modifications under protest as to the new EO "alignment" requirement, and without certifying compliance with the new EO "alignment" requirement.

JULY 2, 2025, APPROVAL

39. On July 2, 2025, PPCCC received an email informing it that it was approved for Year 3 of its project. However, attached to this email was a July 1, 2025, OASH Teen Pregnancy Prevention Program Policy Notice ("Policy Notice"), which imposed several drastic changes and requirements for the TPP Program.

40. PPCCC did not receive its Notice of Award until July 8, 2025, which indicated that PPCCC was approved for year three funding from July 1, 2025, to June 30, 2026, for the amount of \$798,636.00. This Notice of Award contained numerous Special Terms and Conditions, which had not previously been included, and incorporated the Policy Notice into its terms.

41. On July 8, 2025, PPCCC received a workplan assessment as part of their TPP23 Tier 1 Continuation Application Technical Review. This assessment stated that “Grantee clearly demonstrated that substantial work was put into their NCC application to align their project with current administrative priorities. Project Officer (PO) will continue to work with the grantee to support them in meeting the expectations of this grant under the priorities of the current administration while remaining within scope of the project.”

42. PPCCC cannot access the funds awarded to it in the July 8, 2025 NOA without agreeing to comply with the Policy Notice.

43. On July 17, 2025, PPCCC was told by its PO to resubmit its implementation plan by August 15, 2025. This implementation plan includes an internal materials review for medical accuracy by its Chief Medical Officer for the approved EBPs. The PO told PPCCC orally that by checking the boxes on the implementation plan that the materials were medically accurate and age-appropriate, PPCCC would be certifying that it was compliant with all Executive Orders issued by the Trump Administration as well as the newly imposed requirements of the Policy Notice.

44. On August 12, 2025, PPCCC asked for and received a two week extension for the resubmission of its implementation plan, until August 29, 2025. For the resubmission, PPCCC’s Chief Medical Office must conduct a materials review for medical accuracy and age appropriateness for the approved EBPs, including Love Notes, and Relationship Smarts Plus, and amend certain statistics the Program Officer had requested.

THE POLICY NOTICE AND ITS CONSEQUENCES

45. The Policy Notice received by PPCCC purports to “clarify OASH policy” but instead imposes additional vague, ambiguous, and harmful requirements on the TPP Program funding. If TPP Program grantees fail to meet these requirements, the Policy Notice threatens to revoke and terminate their funding.

46. The Policy Notice prohibits programming from including “discriminatory equity ideology” and “diversity, equity, or inclusion-related discrimination.” It includes a prohibition on LGBTQ+ content, including what it refers to as “gender ideology.” It also broadly forbids programs from promoting ideologies the administration deems “harmful,” though it fails to define what those ideologies are.

47. The Policy Notice imposes a prohibition on content that “encourages, normalizes, or promotes sexual activity for minors” but does not define those terms or describe what it means to “promote” sexual activity.

48. The Policy Notice re-defines “medically accurate,” stating that “‘medically accurate’ materials or instructions with pharmaceutical or health-related recommendations are expected to include information on a full range of health risks, so that minors and their parents or guardians can make fully informed decisions.” It asserts that content that is not “‘medically accurate’ may include inaccurate information about methods of contraception, including associated health risks, or information that denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females, such as for the purpose of body literacy.”

49. The Policy Notice asserts that the programs cannot include content that is “not related to, or counter to the aim of, reducing teen pregnancy,” which it defines as “content that

encourages, normalizes, or promotes sexual activity for minors, including anal and oral sex, or masturbation, including through sexual themed roleplay.”

50. The Policy Notice codifies the NCC Notices’ requirement that TPP participants must “align” their programs with “*all* current Presidential Executive Orders.”

51. It is PPCCC’s understanding that by drawing down funds and accepting the terms of the new award, PPCCC will be subject to the terms of the Policy Notice, even though its “curricula and other program materials” . . . “were previously approved by OASH.”

52. Further, the Policy Notice states that “OASH may re-evaluate the effectiveness of programs consistent with the statutory text and this PPN.”

53. It is PPCCC’s understanding that if HHS determines that PPCCC is not in compliance with the terms and conditions of the award, PPCCC could be subject to HHS’s administrative procedures governing noncompliance, including terminations and clawback of funding.

54. It is my understanding that a termination from a federal grant program could have a negative impact on other grant programs or funding opportunities.

THE POLICY NOTICE IS AMBIGUOUS AND UNCLEAR

55. PPCCC finds the Policy Notice’s requirements to be ambiguous and unclear, and thus ripe for arbitrary and discriminatory enforcement. PPCCC’s programs acknowledge that young people may choose to engage in sexual activity because such an acknowledgement is essential to the provision of effective sexual education and pregnancy prevention. For instance, one of the programs that PPCCC has been approved to use, Love Notes, has the objective of preventing unplanned pregnancy by providing teens with information to make wise relationship

choices, and relies on “[a]n appeal to aspirations that helps youth to cultivate a personal vision for love, intimacy, and success.”⁹ It asks participants to “develop goals, boundaries, and a context and pace for sexual intimacy that is responsible, protective of their own aspirations in life, and personally meaningful.”¹⁰ PPCCC fears that this and its other programs could be construed as “promoting” or “normalizing” sexual activity, and thus PPCCC could be at risk for arbitrary and discriminatory enforcement.

56. Alternatively, the prohibition against “normalizing” sexual activity could be construed as only discussing abstinence. PPCCC does not and cannot provide programming that promotes abstinence as the only appropriate behavior for youth. This is not an evidence-based approach, nor is it reflective of the lives and experience of the young people who participate in CSEC.

57. None of the educational materials that PPCCC uses depict sexual activity or anatomy in an erotic or explicit manner. Nonetheless, PPCCC cannot tell how HHS intends to enforce whatever interpretation it adopts of materials that “encourage[], normalize[], and promote[]” sexual activity for young people or present “indecent” or “sexually explicit content.”

58. PPCCC’s educators are trained to answer any questions posed in a truthful, non-judgmental, and age-appropriate manner. PPCCC is unsure whether HHS will interpret the Policy Notice to prohibit educators from answering questions in a straight-forward, honest way to avoid

⁹ *Love Notes (For Ages 14–24)*, Youth.gov, <https://web.archive.org/web/20241130221313/https://youth.gov/evidence-innovation/tpper/programs/love-notes-ages-14-24#section-program-components> (last visited July 24, 2025).

¹⁰ *Id.*

“promoting” or “normalizing” sexual activity or discussing topics that the Policy Notice now asserts are out of the scope. Forcing PPCCC’s educators to avoid certain subjects could shame students for asking questions, undermine the educational process, deny medical accuracy, and cause harm to the very people PPCCC has set out to serve. Further, censoring of sex education would deny the existence of unintended teen pregnancies and STI transmission rates that we believe the TPP program is designed to reduce.

THE POLICY NOTICE’S IMPROPER AND LIMITING DEFINITIONS

59. The Policy Notice’s changes to the definitions of “age appropriate” and “medical accuracy” and the scope of the program restrict PPCCC’s ability to be transparent about the risks of sexual behavior and the safety measures needed to help prevent teen pregnancies and STIs by limiting content that PPCCC can provide to reduce the risk of arbitrary and discriminatory enforcement. For instance, the EBP Love Notes has educators ask students to respond to the following statement: “You can’t get STDs from Oral Sex. Besides, it’s not really sex” and includes the following response “False. Oral sex is sex. You can get any STD from any form of sex (oral, vaginal-penis, anal).”¹¹ If PPCCC were to remove this, its goal of improving sexual and reproductive health outcomes would be undermined. PPCCC’s educators would be deprived of the opportunity to promote safety measures and required to self-censure their responses to legitimate questions. The fear of arbitrary enforcement risks chilling PPCCC’s and its staff’s speech.

¹¹ Marline E. Pearson, *Love Notes: Relationship Skills for Love, Life, and Work* (2023).

60. To the extent that HHS interprets the Policy Notice’s definition of “medical accuracy” to require PPCCC’s programs to emphasize the full range of health risks of contraception, it would be inappropriate to do this in a TPP program setting. PPCCC’s educators are not medical professionals. Nor are they prescribing contraceptives. Instead, they provide generalized information young people need to protect themselves. They encourage young people who may be sexually active to talk to a health care provider about their options. At that time, when a particular contraceptive is prescribed, a health care provider would set forth the risks, as well as the benefits and alternatives, as part of the informed consent process.

61. Separately, the “full range” of health risks Notice poses additional problems. One concern, for example, is whether HHS could allege that we failed to provide the “full range” of associated health risks for contraception if we refused to provide information about side effects that have not been scientifically proven or backed by a consensus in the medical community. We have seen a rise in misinformation and disinformation about birth control, for example warning individuals of potential side effects that are unsubstantiated by credible sources of research or platforms. As a result, individuals are increasingly relying on unreliable sources to make decisions about their health. This poses long-term public health consequences and undermines efforts made over decades to tackle numerous public health problems. We saw the irreparable damage that misinformation caused with the HIV/AIDS crisis and most recently the COVID-19 epidemic. PPCCC remains committed to providing information that is medically accurate and necessary to empower an individual to make the best choices for themselves.

62. The Policy Notice’s requirement that accurate materials must “distinguish appropriately between males and females” denies the fact, well-documented in the scientific literature, that some individuals identify on a spectrum of gender identity. Individuals who identify as intersex may have a range of complex reproductive health needs and risks that is often met with inadequate treatment, limited knowledge, and judgement from health professionals.¹² By contrast, sexual minority youth who received sexual minority-sensitive health education had fewer sexual partners, less recent sex, and less substance use than sexual minority youth who did not receive inclusive sexual health education.¹³ Transgender and gender diverse youth who completed the IN·cluded program, one of the previously-approved EBPs which focused on LGBTQ+ youth,, showed a significant decrease in sexual risk behavior.¹⁴ We also know that acknowledging the spectrum of gender identity reduces death by suicide in LGBTQ+ young people who have access to affirming homes, schools, community events, and online spaces.¹⁵

63. The Policy Notice and referenced Executive Orders also impose limits on PPCCC’s ability to collect data on the efficacy of sex education programs for people who are non-binary, or who do not identify as either male or female. This is catastrophic for understanding what programs, and resources, work best to educate different populations, and promotes the erasure of

¹² Laetitia Zeeman & Kay Aranda, *A Systematic Review of the Health and Healthcare Inequalities for People with Intersex Variance*, 17 Int’l J. Env’t Rsch. & Pub. Health 1 (2020).

¹³ Paula Jayne et al., *“I Wouldn’t Have Felt So Alone”: The Sexual Health Education Experiences of Transgender and Gender Diverse Youth Living in the Southeastern United States*, 56 Persps. Sexual & Reprod. Health 158 (2024).

¹⁴ *Id.*

¹⁵ The Trevor Project, *2023 U.S. National Survey on the Mental Health of LGBTQ Young People*, https://www.thetrevorproject.org/survey-2023/assets/static/05_TREVOR05_2023survey.pdf (last visited July 24, 2025).

communities living on California's Central Coast with specific health and education needs. PPCCC uses contract evaluators to aggregate data to fulfill the TPP evaluation requirements. The new requirements cause established practices to shift, subjects data to be inconsistent, forces information collected to be falsified, and leads to a breach of fidelity. If we cannot track data on certain populations, we will contribute to the harm already inflicted on this community and limit our ability to make informed decisions about the resources they need.

64. Finally, if HHS interprets the Policy Notice to restrict PPCCC's ability to acknowledge the experiences and questions that may be unique to Latinx and LGBTQ+ youth, it would chill our educators' ability to provide valuable public health information. It would also undercut the purpose of the program, which is to provide sex education in a culturally effective and meaningful way. It is imperative that all youth receive acknowledgement of their identity in the education and health care they receive to mitigate the rise of mental health disorders, substance abuse, and self-harm. We have seen disproportionately higher attempted suicide rates in Black and Hispanic adolescents compared to white, non Hispanic peers, which have increased from 1991–2017.¹⁶ Moreover, children identifying as a sexual minority have higher odds of attempted suicide as well as higher rates of anxiety, depression, and suicidal ideation compared to heterosexual peers.¹⁷ Inadequacies in access to mental and behavioral health services, racism, and misgendering are major contributions to the increasing rates.¹⁸

¹⁶ Jennifer A Hoffmann et al., *Disparities in Pediatric Mental and Behavioral Health Conditions: A State-of-the-Art Review*, 150 *Pediatrics* 1 (2022).

¹⁷ *Id.*

¹⁸ *Id.*

IMPACT OF THE POLICY NOTICE ON PPCCC OPERATIONS

65. Because of the Policy Notice, PPCCC is forced to choose between (1) continuing the program as approved under the threat of investigation and claw-back of funding, (2) being forced to incorporate further changes that render the program less effective, run contrary to PPCCC's mission and even then still could be deemed non-compliant with some unknown directive, or (3) foregoing funding, which already has been awarded and some expenses incurred, shutting down the project and laying off program staff.

MODIFYING PPCCC'S PROGRAMS WOULD BE IMPRACTICABLE AND HARM PPCCC'S MISSION

66. If PPCCC were to review and further modify programs and practices to remove materials and attempt to reduce its risk of arbitrary enforcement, this would take staff time and energy away from PPCCC's work and mission, as well as the goals and objectives of CSEC.

67. PPCCC's staff would have to delay other work on other projects to review and modify the TPPP Programs in response to the Policy Notice. This staff time is not in the TPPP budget, and PPCCC does not have other funds to cover this expense. The changes and limitations set forth above also contradict the purpose of the TPP Program: to provide evidence-based programming to the communities with the highest unmet needs. PPCCC's CSEC project was designed to respond to this request HHS made in the 2023 Tier 1 NOFO. Making further changes would defeat the very purpose of our program: to ensure that sex education and information is effective, medically accurate, and appropriate to the individualized circumstances of the participants to allow them to make healthy decisions. This could lead to an increase in unsafe behaviors among the youth we serve and irreparable damage to our relationships with community

partners. Finally, it could inhibit our ability to share supportive services unique to each participant's needs.

68. The harm to our reputation cannot be overestimated. Were we forced to make further changes, we could lose the trust built over years of collaboration with schools, community organizations, and stakeholders and diminish the quality and accessibility of education and support on which our partners depend. For some of our existing partners, removing content and material that acknowledges their community's unique needs will be perceived as betraying our commitment to ensuring that they too have access to *effective* and inclusive sex education programming and resources. Particularly for partners who serve communities in remote regions and have significantly less resources, our high-quality programming is made available to avoid participants having to travel long distances for critical education they otherwise would not receive.

69. PPCCC serves as a beacon for its community. We rely on community input to drive the priorities that are specific to the Central Coast and its residents and serve as a source of comfort in the most vulnerable of moments. Seemingly diverting from our mission would send a devastating message to the community that our commitment to serve their individual needs is a facade and would cause further irreparable harm.

HARMS FROM INVESTIGATION AND ENFORCEMENT

70. Risk of arbitrary investigation and potential termination of funding for failure to comply with the Policy Notice would be enormously harmful to PPCCC, its employees, and the communities that we serve. Should an investigation and enforcement finding result in us having to

leave the program, lay off staff, and break program commitments, it would send a dangerous signal that PPCCC is not a safe and trusted organization.

71. Additionally, if an investigation resulted in a clawback of funds that already have been spent, this could jeopardize PPCCC's financial viability. PPCCC has no other funds to cover the costs of its program longterm. It cannot continue to employ the staff needed to run this program and educate the target populations without a guarantee of funding.

CONSEQUENCES OF LEAVING THE PROGRAM

72. Voluntarily leaving the program because of the uncertainty and risks of complying with the vague and ambiguous Policy Notice would also have devastating results. Because PPCCC's TPP project is fully funded by the federal appropriations we receive through the 2023 NOFO, leaving would shut down the program entirely. While the TPP Program is invaluable to our mission and work, as a nonprofit, PPCCC is unable to independently subsidize the remaining three years of this program.

73. PPCCC would have to lay off four full-time program staff fully funded by the TPP Program and reduce the hours worked by one employee, whose salary is partially covered, as well as stop providing these vital educational programs. If PPCCC were forced to do this, there is no guarantee that the staff would be willing or able to return at a later date. PPCCC has invested significant resources to train our program staff to implement the EBPs we selected and curriculum at large. As such, staff have developed specialized skills necessary to ensure the program's success. PPCCC cannot simply lay off staff members and fill those positions at a later time and expect programming to resume immediately.

74. The TPP Program also pays a portion of the salaries for the Director of Education, who serves as the project's Program Director and Principal Investigator, and Chief Financial Officer. Both are required by the federal program to devote a portion of their time to overseeing it. PPCCC will have to find alternative sources of funding to cover these expenses. Because we have built our budget and hired staff relying on the stability of this funding, the consequences of losing TPP Program funds extend far beyond program staff and will require PPCCC to make difficult decisions as to its limited funding capacities. For PPCCC, it is not easy to decide between which aspect of its mission it should divert resources from to fill unexpected gaps caused by abrupt loss of funding.

75. As part of its TPP award, PPCCC is required to enter into a contractual relationship with another entity to carry out certain responsibilities. Currently, we cannot sign the contract without a guarantee of TPP funding because we are only exempted from our payment obligation if HHS formally terminates our grant. We do not have the funds to pay for that contract from our reserves. Because we have been unable to execute that contract, that entity has been unable to initiate its work for Year 3 of the Program.

76. In addition, losing the TPP Program would limit PPCCC's capacity to serve the community through our partners and their ability to offer their constituents more cost-effective resources. These partnerships enable PPCCC to connect with many community-based organizations and populations. Preserving these partnerships is important to PPCCC's mission of improving communities' sexual and reproductive health outcomes through health care, education,

and advocacy. Ultimately, losing TPP funding would limit the programs PPCCC can offer our community partners based on their organizational models and their own respective constraints.

77. Most significantly, PPCCC is concerned about the effects of terminating this programming on the populations, and young people, that benefit from them. We estimate that 80–85% of the projected participants will not receive this important education, most of whom reside in under-resourced areas where PPCCC staff can travel to make this work accessible in English and Spanish. PPCCC also connects the participants to important health care and social services in their communities, which they otherwise might not receive.

78. We know from feedback we have received from the participants in the program that the greater access they have to resources and information, the more likely they are to include protection in their sexual activity plan and the more likely they are to increase open communication with their caregiver. This in turn results in safer practices and lower rates of unintended pregnancy and STIs.

79. The PPCCC education team strives to provide programming in areas that are under-resourced and may not have access to a comprehensive health care center or comprehensive sexual and reproductive health education. The education team provides micro access points in rural areas where the community can receive medically-accurate, inclusive, and non-judgmental education. Because of challenges associated with transportation and other barriers, these rural and agricultural communities often have unique needs related to programming that are features of their geographic isolation, such as limited access to public transportation with extended schedules, limited access to affordable health care, limited access to after school programs, child care, and more. As a result,

these communities often are unable to effectively benefit from existing public health programming who may not offer similar education and resources. From our experience, PPCCC's educators are often the first touchstone that these communities have to inform them about the decisions they can make about their bodily autonomy and empower them to seek the resources they need to support their decisions. If we are unable to provide this program, many may not receive this vital information until after an unintended pregnancy or contracting an STI.

80. Through this program, PPCCC's education team has developed a growing repertoire of other programs that we have determined are beneficial to youth, LGBTQIA+ youth and individuals, Latinx youth and individuals, parents and caregivers, and health care and social services staff. We offer sex education to many marginalized communities that rely on us for this programming. Many of these communities have historically been, and often continue to face, numerous systemic challenges in accessing health care information and services. Due to challenges, such as language and transportation barriers, members of these communities are often unable to benefit from other sex education programs. At the request of HHS in the 2023 FY NOFO, PPCCC designed a project to meet these gaps in services. Because of their historic exclusion from programming, or lack of programming tailored to their unique needs, these communities have some distrust and skepticism about efforts to offer services that disregard unique needs such as language barriers. It required PPCCC significant investment, which cannot be quantified beyond the humanity and dedication of our program staff, to earn and establish trust within these communities.

81. Moreover, we would lose the momentum of the past two years in building this program, developing our relationships with communities, and making inroads into rural and coastal communities where no other or very limited sex education services are offered.

82. Finally, leaving the TPPP program will significantly impact PPCCC's reputation. If it loses funding, PPCCC will be unable to fulfill the obligations it has with other organizations and community stakeholders. Some of these relationships have taken years and much work to create. Partners would be reluctant to work with us in the future if we were to abruptly end teen pregnancy programs that we have been offering for years and that they have anticipated being made available for at least three more years.

CURRENT STATUS OF PPCCC'S TPP OPERATIONS

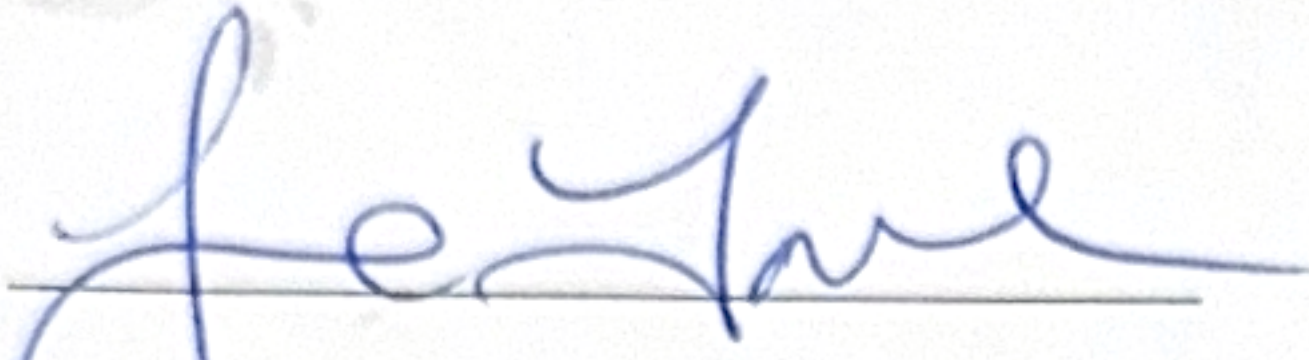
83. The year 3 NCC grant was intended to continue PPCCC's TPP program as of July 1, 2025. Before July 1, PPCCC had been drawing down its TPP funds quarterly. As discussed above, since the Policy Notice issued, PPCCC has remained in a lose-lose situation with respect to whether we can or should draw down funds. As a result of the Policy Notice's unlawful requirements, PPCCC has been unable to draw down funds. Yet, because the CSEC project has continued into year 3 based on the award, PPCCC has continued to incur staff and other expenses. Every day without relief from the Policy Notice adds further expenses incurred and risk as we remain in a lose-lose situation with respect to whether we can or should draw down funds.

84. Because of our commitment to the CSEC project and the communities it serves, PPCCC has gone to great lengths to reallocate resources to keep its TPP project afloat for a brief period. This has required us to use our limited, unbudgeted reserves to pay staff and cover other

program expenses. But this money will only be able to keep our TPP project running for a very limited period of time. PPCCC has no other funds to cover the costs of the program without its TPP grant money.

85. If PPCCC decides not to draw down at that point, is forced to shut down CSEC and furlough staff, PPCCC would attempt to rebuild its project to the greatest extent possible in the event that relief from the Policy Notice is obtained.

I declare under penalty of perjury that I prepared this Declaration on August 22, 2025, in Santa Barbara, California.

A handwritten signature in blue ink, appearing to read 'Jenna Tosh', is written over a horizontal line.

Jenna Tosh, Ph.D.
President & CEO
Planned Parenthood California Central Coast

EXHIBIT E

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PLANNED PARENTHOOD OF GREATER NEW YORK, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	
v.	)	Civil Action No. 25-cv-2453
	)	
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	
	)	

**DECLARATION OF CHRISTINE COLE ON BEHALF OF PLANNED PARENTHOOD
OF THE HEARTLAND, INC. IN SUPPORT OF
PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

I, Christine Cole, hereby declare the following under the penalty of perjury:

1. I am the Senior Director of Education at Planned Parenthood North Central States (“PPNCS”), a not-for-profit corporation that provides high-quality, affordable sexual and reproductive health care through 15 health centers across Iowa, Minnesota, Nebraska, and South Dakota. Planned Parenthood North Central States is the parent company of Planned Parenthood of the Heartland (“PPH”), its affiliated medical practice servicing various communities in Iowa and Nebraska. I have been employed at PPNCS for 8 years.

2. The Senior Director of Education, under the supervision of the Vice President of Community Engagement, serves as the leader of the PPNCS Education team, including programs managed by PPH. In addition to overseeing education activities across the affiliate, the Senior Director of Education is also responsible for setting the broad operations strategy, managing resources, cultivating key partnerships, and ensuring the effective design, coordination and implementation of education programs and initiatives.

3. This declaration is based upon my personal knowledge, my review of PPNCS and PPH's business records, and the knowledge I have acquired in the course of my duties at PPNCS. If called and sworn as a witness, I could and would testify competently thereto.

4. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment. Unless the Court quickly provides PPH with relief, PPH faces an untenable decision: (1) agree to comply with a program policy so standardless that it can be subjectively and arbitrarily enforced against PPH's Teen Pregnancy Prevention program on a whim; or (2) abruptly end our education program, which will have significant consequences for TPP and the communities that we serve in Iowa and Nebraska.

PPH's MISSION

5. PPH provides, promotes, and protects reproductive and sexual health through high quality care, education, and advocacy. PPH's mission is to empower vital generations by providing and advocating for sexual and reproductive health so more people can choose their own path to a healthy and meaningful life. The provision of comprehensive sex education is core to PPH's mission and an integral part of the work we do.

6. PPH advances its mission by providing clinical care to nearly 93,000 patients, as well as health education to more than 58,000 people in our region through our affiliated organizations.

7. PPH is committed to using medically accurate evidence-based programs to provide the best sexual and reproductive health education possible and has a long history of using research and evaluation to advance its educational services.

8. Our staff regularly collect data on our programs to ensure that our evidence-based programs are driving the expected engagements and meeting the program purposes.

PPH's PARTICIPATION IN THE TPP PROGRAM

9. PPH joined the Teen Pregnancy Prevention program in 2015 as a Tier 1 Grantee. We received \$935,000 annually for the grant period of 2015–2020, and then subsequently received a three-year grant for the 2020–2023 grant period in the amount of \$705,630 each year.

10. On February 14, 2023, OPA solicited applications for its funding opportunity through a Notice of Funding Opportunity (“NOFO”), titled Advancing Equity in Adolescent Health through Evidence-Based Teen Pregnancy Prevention Programs and Services. The NOFO solicited applications for projects to serve communities and populations with the greatest needs and facing significant disparities to advance equity in adolescent health through the replication of evidence-based teen pregnancy prevention programs (“EBPs”) and services.

11. PPH submitted an application for Tier 1 funding based on the NOFO to OPA on April 17, 2023. This application was for PPH's current project, the Community-Responsive, Youth-Driven Comprehensive Sexual and Reproductive Health Interventions to Achieve Optimal Health for Black, Indigenous, and People of Color (“BIPOC”) and Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual, 2 Spirit and other identities (LGBTQIA2S+) Adolescents in Western Iowa and Eastern Nebraska (“PPH TPP Project”).

12. The PPH TPP Project is funded at \$773,619 per year for the 2023–2028 grant period as a Tier 1 program.

13. The PPH TPP Project aims to implement a five-year initiative with the goals of increasing the BIPOC and LGBTQIA2S+ communities' access to inclusive sexual reproductive health education information and resources and decreasing teen pregnancy and STI rates. The project targets Iowa and Nebraska counties, which include the Ponca and Winnebago Tribes of Nebraska. The project has three objectives: to implement evidence-based programs in each

community served, to mobilize parents, adults, and communities through health fairs and training, and to provide continuous quality improvement by measuring outcomes. The project serves two Iowa counties (Pottawattamie, Woodbury), three Nebraska counties (Cass, Douglas, and Sarpy), and two Nebraska tribes (Ponca and Winnebago Tribes). The project recognizes the unique needs of youth aged 12–24, BIPOC youth, and LGBTQIA2S+ youth.

14. PPH designed its TPP Project to meet the needs of underserved communities within the areas that we serve. While there is additional sexual and reproductive health programming outside of PPH, there are no other sexual and reproductive health education programs that focus their resources on addressing the needs of BIPOC youth in the area.

15. PPH determined goals for the TPP Project by taking community scans and running parent focus groups in connection with the Sanford Community Center. For the community scan, PPH commissioned outreach to community partners working with youth across the North Central states region to determine what education and resources were being offered to youth in order to identify gaps in offerings. PPH's work reaching these communities is especially needed due to in-school sex education curricula lacking comprehensiveness and inclusivity. In the rural Nebraskan counties of Cass and Sarpy, school administrators and LGBTQIA2S+ youth reached out to PPH about the need for programming in their region because of the lack of inclusive resources.

16. PPH selected two approved evidence-based TPP Programs to implement throughout its communities: Safer Choices, which was designed for high school students, and Draw the Line/Respect the Line, which was designed for middle school youth. Both curricula were reviewed by our community partners as meeting the requirements that they be medically accurate, age-appropriate, and culturally and linguistically appropriate.

17. In addition to providing youth with evidence-based programming, PPH supported and coordinated a Youth Advisory Board peer education program for teens aged 15–18, promoting youth engagement and community mobilization through events and partnerships. The Youth Advisory Board reviewed materials and contributed concepts to materials for outreach that ensured they were youth-friendly and culturally responsive.

18. PPH submitted an application for non-competing continuation funding for the second year of the grant cycle and received a Notice of Award on June 21, 2024, in the amount of \$773,619. This year two budget period ended on June 30, 2025.

19. Currently, the TPP program fully supports two full-time staff members and partially supports 3 other full-time staff, as well as numerous partnerships with community-based organizations. We also subcontract with other entities to carry out specific responsibilities associated with this project, such as delivery of evidence-based programming in an underserved community by The Sanford Center and evaluation of programming provided by University of Northern Iowa.

2025 NON-COMPETE AWARD NOTICE AND APPROVAL

20. On January 8, 2025, we received information for preparing a non-competing continuation award application for the third year of the five-year program grant cycle.

21. On March 31, 2025, via email, we received further updated requirements (the “NCC Notice”). The NCC Notice directed, among other requirements, that Tier 1 TPP grantees review and be aware of all current Presidential Executive Orders and revise our project scope and work plan, as necessary, to demonstrate that our program is “aligned with” all current Presidential Executive Orders (“EOs”).

22. PPH made modifications to the facilitator guidance part of our TPP programming, such as redacting words like “gender,” from the manual.

23. On April 15, 2025, PPH uploaded the non-competing continuation award application for year three of the current grant cycle and included language indicating that it was making such modifications under protest as to the new EO “alignment” requirement, and without certifying compliance with the new EO “alignment” requirement.

24. On July 2, 2025, PPH received an email informing it that its NCC application for year 3 funding had been approved.

25. Also on July 2, 2025, PPH received a workplan assessment as part of their TPP23 Tier 1 Continuation Application Technical Review. This assessment stated that “Grantee clearly demonstrated that substantial work was put into their NCC application to align their project with current administrative priorities.” PPH was told that their continued compliance in meeting the expectations of the grant under the priorities of the current administration was expected.

26. On July 7, 2025, PPH was able to access its Notice of Award indicating that it was approved for year three funding from July 1, 2025, to June 30, 2026, of \$773,619.00. Where, as here, a TPP continuation award is granted, the funds are made available in an online account. PPH can “draw down” funds as needed to be reimbursed for approved project expenses. It is my understanding that through the process of accessing funds already awarded—i.e., “drawing down” the awarded funds—TPP grantees, including PPH, are required to certify that they will comply with program policies.

POLICY NOTICE

27. At the same time that PPH was notified that its NCC application for year three was granted, PPH also received a document titled “OASH Teen Pregnancy Prevention Program Policy

Notice” which was dated July 1, 2025 (hereinafter “Policy Notice”). The Policy Notice was attached to the July 2, 2025 email informing PPH that it had been approved for Year 3 of its project. The Notice of Award received by PPH also incorporated the Policy Notice into the terms of the award.

28. The Policy Notice received by PPH purports to “clarify OASH policy” but instead imposes additional harmful requirements on the TPP Program funding. And the Policy Notice threatens to revoke and terminate TPP Program grantees’ funding if they fail to meet these requirements.

29. The Policy Notice prohibits programming from including “discriminatory equity ideology,” and “diversity, equity, or inclusion-related discrimination.” The Policy Notice includes a blanket prohibition on LGBTQ+ content, including what it refers to as “gender ideology.” And the Policy Notice also broadly forbids programs from promoting ideologies the administration deems “harmful.”

30. The Policy Notice imposes a prohibition on content that “encourages, normalizes, or promotes sexual activity for minors” but does not define those terms or describe what it means to “promote” sexual activity. I will refer to this as the “Anti-Normalization Mandate.”

31. Similarly, the Policy Notice purports to restrict content that is “obscene, indecent, or sexually explicit,” stating that “age appropriate” programs for minors do not depict, describe, expose or present “obscene, indecent, or sexually explicit content.”

32. The Policy Notice also re-defines “medically accurate.” It states that “‘Medically accurate’ materials or instructions with pharmaceutical or health-related recommendations are expected to include information on a full range of health risks, so that minors and their parents or guardians can make fully informed decisions.” Additionally, the Policy Notice asserts that content

that is not “‘medically accurate’ may include inaccurate information about methods of contraception, including associated health risks, or information that denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females, such as for the purpose of body literacy.”

33. The Policy Notice asserts that the programs cannot include content that is “not related to, or counter to the aim of, reducing teen pregnancy,” which it defines as “content that encourages, normalizes, or promotes sexual activity for minors, including anal and oral sex, or masturbation, including through sexual themed roleplay.”

34. It is PPH’s understanding that by drawing down funds and accepting the terms of the new award, PPH will be subject to the harmful terms of the Policy Notice, even though its “curricula and other program materials” . . . “were previously approved by OASH.”

35. The Policy Notice states that “OASH may re-evaluate the effectiveness of programs consistent with the statutory text and this PPN.”

36. It is my understanding that if HHS determines that PPH is not in compliance with the terms and conditions of the Policy Notice, PPH could be subject to HHS’s administrative enforcement procedures, which includes such available remedies as terminations and clawback of funding.

37. It is my understanding that a termination could have a negative impact on other grant programs or funding opportunities.

IMPACT OF POLICY NOTICE ON PPH’s OPERATIONS

38. Because of the Policy Notice, PPH is forced to decide between (1) continuing the program as approved and risking an arbitrary investigation or enforcement of the Policy Notice (2) incorporating further changes that render the program less effective and even then still potentially

risk being deemed non-compliant due to the vague and arbitrary nature of the Policy Notice (3) or leaving the program and shutting down the project.

39. While PPH, under protest, previously adjusted its programs in an attempt to align with the Executive Orders, PPH remains concerned about arbitrary and discriminatory enforcement. While PPH's OPA reviewer acknowledged that "substantial work was put into their NCC application to align their project with current administrative priorities," that statement provides no real reassurance. PPH remains concerned that it is at risk that another reviewer or HHS official could arbitrarily and discriminatorily come to a different conclusion. Rapid changes of policy and enforcement have been evidenced under the current HHS Administration. And, in any event, it is unclear whether PPH's OPA reviewer's statement about PPH's "alignment" referred only to the EO "alignment" requirement—not the full Policy Notice and its additional content restrictions and requirements—since the Policy Notice was only first issued to PPH on the same day that the OPA reviewer's statements were made.

40. PPH is committed to providing comprehensive and inclusive sexual education that meets young people where they are, and relies on programming proven to be effective by research. However, PPH is concerned that it would be vulnerable to arbitrary and discriminatory enforcement because of the "Anti-Normalization Mandate" and the Policy Notice's content restrictions, particularly when it comes to answering student questions. For example, Safer Choices, one of the EBP's that PPH uses, has as its objective the aim "to reduce the frequency of unprotected sex among high-school age students by reducing the number of sexually active students and increasing condom use among students who have sex." PPH is concerned that it could be subject to arbitrary and discriminatory enforcement based on accusations that this part of its program "normalizes" sexual activity.

41. Additionally, young people in PPH's programs often have questions related to masturbation, oral or anal sex relating to pregnancy or STI's. PPH's educators engage with and respond to these questions in a way that is consistent with best practices and national sex education standards. This includes providing information that is comprehensive, non-judgmental, and does not shame young people.

42. Over-complying with the Policy Notice by refusing to answer certain questions, censoring responses so as not to "normalize" sexual activity or responding to questions by promoting only abstinence would undermine PPH's program and go against PPH's mission as well as the express goals of OPA's NOFO. Responses to young people's questions that are judgmental or stigmatizing can foster shame, secrecy and discourage open communication about sexual health concerns. Shaming messaging will discourage participants from asking questions that are critical to taking care of their own health and well being, which includes the prevention of teen pregnancy. Refusing to answer or avoiding answering questions sends a message of disapproval or shame that would discourage youth from seeking medically accurate information to care for their health and prevent teen pregnancy.

43. Young people also often ask value-based questions about sex education topics, which are questions that do not call for a fact-based answer. PPH's program instructors are trained to respond to such value-based questions by using the "SOY Method," which involves saying "Some people believe... Others believe... You gather information and decide what you believe." This allows educators to be respectful of family belief systems, culture, and religion, and is important because imposing values undermines autonomy and informed decision making. Providing teens with information and decision making skills while encouraging them to talk with

trusted adults empowers them to make responsible choices that align with their goals and values resulting in less likelihood of unintended pregnancies.

44. PPH also fears that the Policy Notice will lead to arbitrary and discriminatory enforcement for providing approved materials about anatomy or contraception under the Policy Notice’s prohibition on providing young people with “obscene, indecent or sexually explicit content.” For instance, discussion of anatomy and anatomy slides are required when talking about pregnancy prevention and STI transmission. PPH is unsure if HHS will arbitrarily and discriminatorily interpret this as “sexually explicit” or otherwise non-compliant, even though PPH does not believe that these materials are obscene, indecent, or sexually explicit. Similarly, the approved curriculum used for high school age youth includes content on how to use a condom, condom demonstration and practice utilizing an anatomically accurate model or putting condoms on participants’ fingers. Once again, PPH is required to use these materials, which have been proven effective at preventing teen pregnancy.

45. Additionally, the Policy Notice’s anti-DEI mandate and prohibition on some LGBTQ+ content goes against PPH’s TPP project goals, which are to increase the community’s capacity to engage with BIPOC and LGBTQIA2S+ youth around their sexual and reproductive health in an effort to decrease teen pregnancy and STI rates across Nebraska and Iowa. PPH’s project was designed to lawfully address unmet needs of BIPOC and LGBTQIA2S+ youth, rural communities in Nebraska and Iowa, and the Ponca and Winnebago Tribes, where the greatest disparities in teen health rates and other health indicators persist. These project goals are undermined by the requirements of the Policy Notice, including the restrictions on inclusion of diversity, equity, and inclusion (DEI) language, references to gender identity, disability, and related components.

46. PPH is committed to providing culturally responsive sexual and reproductive health education for youth. Addressing the unique needs, experiences and beliefs of diverse populations, and ensuring that all young people receive accurate and relevant information to make informed decisions about their sexual and reproductive health, changes the trajectory of health outcomes for BIPOC and LGBTQIA+ youth. This level of comprehensive sex education helps to change disparities in health outcomes, builds trust with underserved communities, and promotes positive sexual health attitudes and behaviors needed to prepare young people to make healthy choices about their relationships and sexual health. This is critical when serving communities that are historically under-resourced and underserved in order to improve health outcomes.

47. While we believe that our program content and materials are in compliance with the requirements of the TPP Program, over complying to make further changes to the Policy Notice will render PPH's TPP programs less effective.

HARMS FROM INVESTIGATION AND ENFORCEMENT

48. PPH would be harmed by the risk of an HHS investigation and enforcement.

49. Even a temporary suspension of funds if PPH were subject to an arbitrary investigation or termination of funding would be devastating, because it would disrupt PPH's TPP program while the community was already relying on it and require significant staff resources to respond to the investigation.

50. Moreover, if an investigation resulted in a clawback of funds that are already spent in reliance on the expectation of reimbursement under the TPP grant, this would be untenable for PPH to manage because PPH is a non-profit organization and does not have significant reserves. Clawback of any significant sum would cause a cascading series of organizational disruption, including program curtailments and layoffs. Even if PPH were able to defend against the

enforcement action, the threat of such clawback would still create immense and unreasonable exposure.

51. An arbitrary investigation or termination of funding for failure to comply with the terms of the grant could also have a significant impact on PPH's abilities to obtain other state and federal funds for other programs.

TERMINATION OF THE PROGRAM WOULD BE DEVASTATING

52. Because PPH's TPP project is fully funded by the grant we received through the 2023 NOFO, the loss of TPP funding will shut down our TPP project entirely. While the TPP Program is invaluable to our mission and work, as a nonprofit, PPH is unable to independently subsidize the remaining three years of this program.

53. It would be devastating for PPH to leave or be forced out of the TPP Program.

54. PPH's infrastructure depends on our ability to seek TPP funds for reimbursement.

55. Without TPP funding, PPH would be forced to lay off, at minimum, the two staff members who are fully funded by the TPP Program. We would be losing talented and valued staff members, including one who has been an educator for PPH for almost 30 years. Our staff members have received specialized training in the curricula that we used as well as other important training in facilitation and classroom management, and who we have invested in significantly. Laying off staff would be disruptive to our programming and our ability to serve our mission.

56. Without TPP funding, PPH would not be able to support the education our subgrantee the Sanford Center does in the Sioux City community, which primarily serves BIPOC youth. PPH would be unable to provide multiple sessions of programming with Omaha Girls Inc or the Teen Center, community organizations that primarily serve BIPOC youth. PPH also uses TPP funding to contract with the University of Northern Iowa to collect and evaluate data that is

used to inform and improve PPH's TPP programming. Additionally, we would lose the capacity to provide professional training to community youth serving professionals, significantly reducing the broader reach of our impact. This level of funding loss would severely undermine youth health and well-being across our service areas.

57. While there is additional sexual and reproductive health programming outside of PPH, there are no other sexual and reproductive health education programs that focus their resources on BIPOC youth in the area. PPH staff are trusted in these communities among adults and youth. PPH's health educators have been present in Woodbury County for over 25 years and have extensive experience working with BIPOC communities. PPH's respect for all voices has kept us involved as a trusted partner with a seat at the table of health conversations. By building partnerships with community stakeholders to make an impact, PPH has earned trust as advocates for local youth and improving their health outcomes. Without TPP funding, these communities would lose the rigorous and inclusive programming PPH provides.

58. Moreover, PPH and our partner, the Nebraska AIDS Project, are the only organizations that travel to rural communities outside of the Omaha/Council Bluffs urban area to conduct sexual and reproductive health programming. These rural areas suffer from the greatest disparities in teen health rates and disparities in other health indicators persist. Broadband internet is not widely available in the rural areas we serve, and no other organization can conduct in-person programming outside of the local urban areas because of operational challenges faced in accessing such locations—so rural youth across two states would not have TPP education without PPH.

59. In many communities we serve there is little to no access to other sources of sexual health information and resources. Without our program, these youth would go without sexual health information, resources and sexual healthcare access information.

60. Additionally, we would be subject to reputational harm if we were to leave the program. PPH has spent significant time building relationships with community members in Iowa and Nebraska. These partnerships have grown and expanded over time, from a single program to multiple programs and opportunities. Indeed, PPH has become a trusted resource for youth and parents. PPH's departure from its TPP projects years before the expected end date would leave our partners without educational programming that they have grown to rely on. This would harm PPH's community relationships and reputation and make PPH seem like an unreliable partner. It would be difficult to recover this level of partnership in the future and would require considerable relationship repair and rebuilding of trust.

CURRENT STATUS OF PPH'S TPP OPERATIONS

61. As discussed above, since the Policy Notice issued, PPH has remained in a lose-lose situation with respect to whether we can or should draw down TPP funds for year three of our project. PPH has not to date drawn down funds for year three of its TPP project as a result of the Policy Notice's unlawful requirements. Every day without relief from the Policy Notice adds further expenses incurred and ongoing risk as we remain in a lose-lose situation with respect to whether we can or should draw down funds.

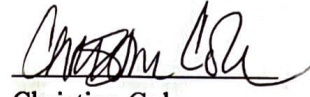
62. Because of PPH's commitment to its TPP project and the communities it serves, PPH has gone to great lengths to reallocate resources in order to keep its TPP project afloat for a brief period. This has required us to pause our contracts with University of Northern Iowa for our evaluation work, and pause our contract with Sanford Center who we contract with to provide programming in Sioux City. Both of these community partners agreed to provide contracted services for the entirety of the 5 year grant and will be financially impacted by our inability to

financially commit to supporting their contract for the third year of the grant and beyond. We are currently operating other aspects of the program utilizing community education general operating funds to support staff and programming. We do not have the funds to support internal program data evaluation that is required by the grant without TPP funds. Even with these adjustments and operating on a drastically reduced budget, this money will only be able to keep our TPP project running for another 2 weeks at most. Beyond that, PPH has no other funds to cover the costs of the program without its TPP grant money.

63. If PPH decides not to draw down at that point and is forced to shut down its TPP project, PPH would attempt to rebuild its project to the greatest extent possible in the event relief from the Policy Notice is obtained.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

Date: August 23, 2025

A handwritten signature in black ink, appearing to read "Christine Cole", written over a horizontal line.

Christine Cole

EXHIBIT F

OFFICE OF POPULATION AFFAIRS

GUIDANCE FOR PREPARING A NON-COMPETING CONTINUATION AWARD APPLICATION

***Teen Pregnancy Prevention (TPP) Program Recipients
(AH-TP1-23-001)***



**Applications Due:
April 15, 2025, 6:00 PM Eastern Time**

Updated March 2025

Office of Population Affairs

GUIDANCE FOR PREPARING A NON-COMPETING CONTINUATION AWARD APPLICATION
– TEEN PREGNANCY PREVENTION RECIPIENTS (TPP23 COHORTS)

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PART ONE: GENERAL INSTRUCTIONS

Applicability

These instructions are applicable to Office of Population Affairs (OPA) Teen Pregnancy Prevention (TPP) Program recipients in the TPP23 grant cohort and provide guidance on the preparation and submission of your non-competing continuation (NCC) award application.

Purpose

Recipients are required to submit a non-competing continuation application, which serves as the recipient's official request to OPA for continued funding for the upcoming budget year.

The OPA *Guidance for Preparing a Non-Competing Continuation Award Application* prescribes the content, information, and requirements for the OPA NCC award application. This guidance should be used in conjunction with the Notice of Funding Opportunity (NOFO) under which the competing award was initially funded. The NOFO provides information and guidance for recipients for the entire project period.

Ensure the application is complete, accurate, and responsive to this guidance prior to submission. Detailed information on your progress in accomplishing goals and objectives, TPP performance measure data, and any other progress reporting should **not** be included in the NCC award application. This information should be included in your next progress report.

NCC award applications will be reviewed by the Office of the Assistant Secretary for Health (OASH), including the OPA Project Officer (PO) and the Grants and Acquisitions (GAM) Division Grants Management Specialist (GMS). The PO and GMS will review NCC award applications for the following:

- NOFO expectations are being met, to the extent aligned with [Presidential Executive Orders](#) (see [Table 1](#));
- Budget and budget narrative is detailed, reasonable, adequate, cost efficient, and clearly aligned with the proposed work plan; and
- Compliance with grant terms and conditions.

The Grants Management Officer (GMO) will issue a notice of award (NoA) if funding has been approved for another budget period. The GMO or PO may contact individual recipients to address concerns or clarity in the NCC award application. Your application and any resulting award may be delayed pending adequate clarification. Your PO will also complete a technical review of your NCC award application to which you will have 30 days upon notification to provide a response to any items noted in the review. More instructions on this process will be provided upon receipt of the NoA.

Note that HHS awards are currently subject to 45 C.F.R. part 75, with the exception of a limited number of provisions in 2 C.F.R. part 200 became effective October 1, 2024, as noted in the [Interim Final Rule](#) describing the HHS bifurcated approach to transitioning to 2 C.F.R. part 200. The remaining provisions will become effective October 1, 2025 with HHS-specific material to be codified at 2 C.F.R. part 300. Furthermore, the HHS Grants Policy Statement (GPS) has been updated effective October 1, 2024.

Provisions effective October 1, 2024	
2 CFR part 200 citation	Replaces 45 CFR part 75 citation
2 CFR § 200.1. Definitions, <i>"Modified Total Direct Cost"</i>	45 CFR § 75.2. Definitions, <i>"Modified Total Direct Cost"</i>
2 CFR § 200.1. Definitions, <i>"Equipment"</i>	45 CFR § 75.2. Definitions, <i>"Equipment"</i>
2 CFR § 200.1. Definitions, <i>"Supplies"</i>	45 CFR § 75.2. Definitions, <i>"Supplies"</i>
2 CFR § 200.313(e). Equipment, <i>Disposition</i>	45 CFR § 75.320(e). Equipment, <i>Disposition</i>
2 CFR § 200.314(a). Supplies	45 CFR § 75.321(a). Supplies
2 CFR § 200.320. Procurement methods	45 CFR § 75.329. Procurement procedures
2 CFR § 200.333. Fixed amount subawards	45 CFR § 75.353. Fixed amount subawards
2 CFR § 200.344. Closeout	45 CFR § 75.381. Closeout
2 CFR § 200.414(f). Indirect costs, <i>De Minimis Rate</i>	45 CFR § 75.414(f). Indirect (F&A) costs, (f)
2 CFR § 200.501. Audit requirements	45 CFR § 75.501. Audit requirements

Citations below have been updated to reflect the effective changes.

PART TWO: APPLICATION CONTENT

The NCC award application should only include:

- I. Required OASH forms,
- II. Project narrative and work plan for the upcoming budget year,
- III. Detailed budget and a budget narrative for the upcoming budget year, and
- IV. Appendices
 - A. Program Materials
 - B. Other (as applicable)

I. REQUIRED FORMS

Below is the list of required forms that recipients must submit within this section of the NCC application. All forms can be found in the NCC applications kit at GrantSolutions.gov.

- SF-424 – Application for Federal Assistance
- SF-424A – Budget Information Non-Construction Program
- SF-424B, Assurances Non-Construction Program
- SF-LLL – Disclosure of Lobbying Activities

II. PROJECT NARRATIVE AND WORK PLAN FOR THE UPCOMING BUDGET YEAR

Recipients are expected to review and be aware of current [Presidential Executive Orders](#). Recipients are encouraged to revise their projects, as necessary, to demonstrate that the NCC award application is aligned with current Executive Orders. Recipients should review and be aware of all current Presidential Executive Orders; however, the following may be of most relevance to the work of the TPP program:

- [Executive Order 14168](#) *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*
- [Executive Order 14190](#) *Ending Radical Indoctrination in K-12 Schooling*
- [Executive Order 14187](#) *Protecting Children From Chemical and Surgical Mutilation*
- [Executive Order 14151](#) *Ending Radical and Wasteful Government DEI Programs and Preferencing*
- [Executive Order 14173](#) *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*

Project Narrative

Successful applications will include the following information in the project narrative:

1. Description of changes made to align with Executive Orders, if applicable
2. Summary of proposed changes in scope
3. Findings from needs and resource assessment

Description of Changes Made to Align with Executive Orders

Provide information on the changes made by the recipient to align the TPP project with Presidential Executive Orders, if applicable, including the steps taken to review the project and identify the modifications proposed. Examples of changes that recipients may make to align their projects include, but are not limited to, selecting a different evidence-based program for implementation, making adaptations to existing curriculum, and updating policies, staffing, and training, etc.

Summary of Changes in Scope

Provide a *brief* summary of any proposed substantial changes to the project work plan from the previous budget year, including any proposed changes in scope to align the project with Presidential Executive Orders, such as change in geographic location, change in population of focus, bringing on or parting ways with major partners, etc.

Changes in scope from the currently approved project should be clearly highlighted in your work plan and justified in your application. See [HHS Grants Policy Statement](#) for explanation of change of scope.

Findings from Needs & Resource Assessment

Provide a short summary of the most recent community needs and resource assessment. It is expected that the summary will include a brief description of the assessment process, major findings (e.g., identified needs and resources available), and brief paragraph about how the information has been used to guide the development of the work plan.

Work Plan

The main component of this section is the work plan for the upcoming budget year. The work plan should address the expectations outlined in the original NOFO, to the extent aligned with Presidential Executive Orders. [Table 1](#) provides updated information on which NOFO expectations it is expected recipients will focus on through their projects. The recipient is expected to clearly indicate in the work plan any changes made to align their project with Executive Orders and/or any substantial changes that would be considered a change in scope. This may be done in whatever manner easiest to identify changes (e.g., use of track changes, highlighting content, etc.). The work plan should include long-term

goals that span the life of the project, as well as the objectives and activities that will be completed during the upcoming budget period to assist in achieving the long-term goals. The work plan should also clearly demonstrate that the needs identified in the most recent needs assessment are being addressed.

Goal(s)

A goal is a broad statement that describes the purpose of your project and the expected long-term impact you hope to achieve as a result of your project. OPA recommends focusing on 1-2 goals for your project.

Objectives

An objective is a statement describing the results to be achieved and the manner in which these results will be achieved. All objectives should be SMART (specific, measurable, achievable, realistic, and timely).

For each objective:

- Provide a rationale for the objective that includes the corresponding NOFO expectation(s) the objective is aligned with (see [Table 1](#) for a consolidated list);
- List the activities that will be implemented to accomplish the objective;
- Provide a specific timeline, including specific dates, for accomplishing each activity;
- Identify the person/agency responsible for completing each activity; and
- Identify how you will assess the achievement of the activity.

While recipients may have as many objectives as necessary to accomplish the long-term goal(s) of the project, they should carefully review and streamline their work plan objectives. For example, recipients should carefully review objectives to identify any that may be duplicative or may be combined, any that would be better listed as activities under another objective; and any that are no longer necessary.

OPA understands that recipients may include objectives that do not directly address a specific NOFO expectation. However, OPA anticipates that each expectation noted in [Table 1](#) align with at least one work plan objective. Please note that if the work plan does not already include an objective and corresponding activities for one or more of the OPA expectations, OPA expects that you will create a new objective with corresponding activities for that expectation. As a reminder, [Table 1](#) outlines the updated NOFO expectations to demonstrate alignment with Presidential Executive Orders.

Activities

For each objective, the work plan should include the activities that are most critical to accomplishing the objective in the upcoming budget period. OPA asks that recipients focus activities on those that are most critical and refrain from including activities that may be important but are less critical to report to OPA (e.g., reviewing newsletters from national organizations, attending information sharing meetings).

Table 1 – Overall OPA Expectations for TPP23 Grantees

TPP23 Tier 1 Expectations*	
1.	Project Management
2.	Focus on Areas of Greatest Need

3. Replicate to Scale Evidence-Based Teen Pregnancy Prevention Programs with Fidelity and Quality
4. Adolescent Friendly Supportive Services
5. Materials Review
6. Meaningful Youth Engagement
7. Parent/Caregiver Engagement
8. Overall Community Engagement
9. Monitor and Improve

**Updated guidance on NOFO expectations can be found on [Connect](#). Updates reflect alignment with Presidential Executive Orders.*

III. BUDGET and BUDGET NARRATIVE GUIDANCE

A complete budget package consists of the required standard form “Budget Information Non-Construction” (SF-424A) and a budget narrative with detailed justification. You should include supporting documentation for your budget (e.g., a copy of your approved indirect cost rate) as part of the budget package, not as part of your appendices.

1. Standard Form SF-424A

You must enter the project budget according to the directions provided with the standard form.

You must provide costs by object class category for the first 12 months (i.e., first budget period) of the proposed project using Section B, box 6 of SF-424A. If the estimated period of performance is 12 months or less, this will be your total budget request for the entire project.

"Federal resources" refers only to the funds for which you are applying under this NOFO. "Non-federal resources" are all other resources (federal and non-federal).

Do not include costs beyond the first budget period in the object class budget in box 6 of SF-424A or box 18 of SF-424. The amounts entered in these sections should only reflect the first budget period.

If there is a discrepancy between your SF-424A and budget narrative and justification, we will rely on the narrative and justification to determine the final amounts.

2. Budget Narrative and Justification

Your budget narrative must include a detailed line-item budget and must include calculations for all costs and activities by the “object class categories” identified on SF-424A. You must provide a detailed justification for the costs by object class. The object class budget organizes your proposed costs into a set of defined categories.

Your budget narrative should justify the overall cost of the project as well as the proposed cost per activity, service delivered, and/or product. For example, the budget narrative should define the amount of work you have planned and expect to perform, what it will cost, and an explanation of how the result is cost effective. If you are proposing to provide services to clients, you should describe how many clients you expect to serve, the unit cost of serving each client, and how this is cost effective.

Proposed costs must adhere to the cost principles described in [45 C.F.R. §§75.400-75.477](#). We have provided additional information on the most common cost categories for applications for OASH awards below.

Budget calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient to verify the calculations. Carefully review the NOFO (Section D.7 Funding Restrictions) for specific information regarding allowable, unallowable, and restricted costs.

For each proposed cost for the requested budget period, provide a budget justification, which includes explanatory text and line-item detail. The budget narrative should describe how you derived the categorical costs. Discuss the necessity and reasonableness of the proposed costs you propose.

For categories or items that differ significantly from the previous budget period, provide a detailed justification explaining these changes. Funding for all approved budget periods after the first is generally the same as the initial award amount subject to offset with funds unused in the previous budget period.

Preparing the Budget Narrative

Use the guidelines below for preparing the detailed object class budget. We recommend you present budget amounts and computations in a columnar format: first column, object class categories; second column, federal funds requested; third column, non-federal resources; and last column, total budget.

Sample Budget Table

Object Class	Federal Funds Requested	Non-federal Resources	Total Budget
Personnel	\$100,000	\$25,000	\$125,000

Describing Federal and Non-federal Share

Both federal and non-federal resources (if applicable) must be detailed and justified in the budget narrative. “Federal resources” refers only to the HHS/OASH funds for which you are applying under this NOFO. “Non-federal resources” are all other non-HHS/OASH federal and non-federal resources.

If matching or cost sharing is required or offered voluntarily, you must include a detailed listing of any funding sources identified in box 18 of SF-424 (Application for Federal Assistance).

Selecting an Indirect Cost Method

You must state the method you are selecting for your indirect cost rate. See Indirect Costs (Section J.4) for further information about the methods.

If you are providing in-kind contributions of any type or value, including costs otherwise covered by your indirect cost rate, you must identify those costs, and you should, as appropriate, include the value of the in-kind contribution as proposed cost-sharing (voluntary or required) ([45 C.F.R. § 75.306](#)).

If you are using a negotiated indirect cost rate, you may submit a copy of your negotiated agreement with your budget narrative. We may require a copy of your agreement prior to making any award to you.

Subrecipient and consultant activities must be described in sufficient detail to describe accurately the project activities that each will conduct.

All subrecipient and consultant detailed costs should be included on their respective line items and not broken out in the overall project object class line items. For example, contractor travel should be included in the Contractual line item not in Travel. See Section J.4 for more information.

A. OBJECT CLASS DESCRIPTIONS AND REQUIRED JUSTIFICATION

Personnel

Description

Includes costs of employee salaries and wages, excluding benefits.

Does NOT include consultants, subrecipient personnel costs, personnel costs outside of your organization. [45 C.F.R. § 75.459](#).

Justification

Clearly identify the PD/PI, if known. Provide a separate table for personnel costs detailing for each proposed staff person: the title; full name (if known at time of application), time commitment to the project as a percentage or full-time equivalent; annual salary and/or annual wage rate; federally funded award salary; non-federal award salary, if applicable; and total salary.

No salary rate may exceed the statutory limitation in effect at the time you submit your application (see E.2.c.2).

Sample Personnel Table					
Position Title and Full Name	Percent Time	Annual Salary	Federally-Funded Salary	Non-Federal Salary	Total Project Salary
Project Director, John K. Doe	50%	\$100,000	\$50,000	\$0	\$50,000
Data Assistant, Susan R. Smith	10%	\$30,000		\$3,000	\$3,000

Fringe Benefits

Description

Includes costs of personnel fringe benefits, unless treated as part of an approved indirect cost rate.

Justification

Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, Federal Insurance Contributions Act (FICA) taxes, retirement insurance, and taxes.

Travel

Description

Includes costs of travel by staff of the applicant organization only.

Does NOT include travel costs for subrecipients or contractors under this object class.

Justification

For each trip proposed for your organization employees only, show the date of the proposed travel, total number of traveler(s); travel destination; duration of trip; per diem; mileage allowances, if privately owned vehicles will be used; and other transportation costs and subsistence allowances.

Equipment

Description

Includes tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the recipient or subrecipient for financial statement purposes, or \$10,000 (([2 C.F.R. § 200.1](#) and § [200.313\(e\)](#)).

Acquisition cost means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non- Federal entity's regular accounting practices. See [45 C.F.R. § 75.2](#) for additional information.

Justification

For each type of equipment requested you must provide a description of the equipment; the cost per unit; the number of units; the total cost; and a plan for use of the equipment in the project; AND a plan for the use, and/or disposal of, the equipment after the project ends.

If your organization uses its own definition for equipment you should include in the budget narrative a copy of the policy, or section of your policy, that includes the equipment definition. Reference the policy in your justification. Do not include this policy in your appendices.

Supplies

Description

Includes costs of all tangible personal property other than those included under the Equipment category. This includes office and other consumable supplies with a per-unit cost of less than \$10,000 ([2 C.F.R. § 200.1](#)).

Justification

Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description

Includes costs of all contracts or subawards for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc.

Include third-party evaluation contracts, if applicable, and contracts or subawards with subrecipient organizations (with budget detail), including delegate agencies and specific project(s) and/or businesses to be financed by the applicant.

This line item is not for individual consultants.

Justification

Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open, and free competition. Recipients and subrecipients are required to use [45 C.F.R. § 75.329](#) procedures and must justify any anticipated procurement action that is expected to be awarded without competition and exceeds the simplified acquisition threshold fixed by [FAR 2.101](#) and currently set at \$250,000. In some cases, OASH may require recipients make pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., available. Any proposal for awarding fixed amount subawards is subject to [2 C.F.R. § 200.333](#) and will require detailed justification to support the fixed award amount.

Transferring a substantive part of the project effort to another entity (including non-employee individuals) through contract or other mechanism requires a detailed budget and budget narrative for each subrecipient, by title or name, along with the same supporting information referred to in these instructions. If you plan to select the subrecipients post-award and a detailed budget is not available at the time of application, you must provide information on the nature of the work to be transferred, the estimated costs, and the process for selecting the subrecipient.

Other

Description

Includes such costs as, where applicable and appropriate,

- consultants;
- insurance;
- professional services (including audit charges);
- space and equipment rent;
- printing and publication;
- training, such as tuition and stipends;
- participant support costs including incentives,
- staff development costs; and
- any other costs not addressed elsewhere in the budget.

Do not include costs covered by your negotiated indirect cost rate.

Justification

Provide computations, a narrative description, and a justification for each cost under this category.

Indirect Costs

Description

Calculate your indirect costs based on a percentage of your modified total direct costs (MTDC)([2 C.F.R. § 200.1](#)).

There are two methods. You must clearly identify the rate you used in your submitted budget.

Negotiated Indirect Cost Rate

If you have an approved negotiated indirect cost rate from the Department of Health and Human Services (HHS) or another cognizant federal agency, you should apply that negotiated rate. You should enclose a copy of the current approved rate agreement in your Budget package file.

If you request a rate that is less than allowed, your authorized representative must submit a signed acknowledgement that you are accepting a lower rate than allowed. This should be an explicit statement that you are accepting a lower rate than is allowed and specify what the lower rate is.

De minimis Rate ([2 C.F.R. § 200.414\(f\)](#))

If you do not have a current Federal negotiated indirect cost rate (including provisional rate) you “may elect to charge a de minimis rate of up to 15 percent of modified total direct costs (MTDC).” ([2 C.F.R. § 200.414\(f\)](#).) You may “determine the appropriate rate up to this limit. . . When applying the de minimis rate, costs must be consistently charged as either direct or indirect costs and may not be double charged or inconsistently charged as both.” ([2 C.F.R. § 200.414\(f\)](#).) If

you elect to use the de minimis rate, you must use the de minimis rate for all Federal awards until you choose to receive a negotiated rate.

Indirect costs for training are limited to a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of \$50,000 ([45 C.F.R. § 75.414 \(c\)\(1\)\(i\)](#)).

Modified Total Direct Cost (MTDC) means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$50,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward in excess of \$50,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs ([2 C.F.R. § 200.1](#)).

Justification

Provide the calculation for your indirect costs total, i.e., show each line item included in the base, the total of these lines, and the application of the indirect rate. If you have multiple approved rates, indicate which rate as described in your approved agreement is being applied and why that rate is being used. For example, if you have both on-campus and off-campus rates, identify which is being used and why.

Program Income

Description

Program income means gross income earned by your organization that is directly generated by an awarded project except as provided in [45 C.F.R. § 75.307\(f\)](#). Program income includes but is not limited to income from fees for services performed or the use or rental of real or personal property acquired under the award.

Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also [45 C.F.R. § 75.307](#) and [35 U.S.C. §§ 200-212](#) (applies to inventions made under Federal awards).

Justification

Describe and estimate the sources and amounts of program income that this project may generate. All program income generated as a result of awarded funds must be used within the scope of the approved project-related activities.

Any program income earned must be used under the addition or additive method unless otherwise specified in Section C.2. These funds should not be added to your budget, unless you are using the funds as cost sharing or matching, if applicable. This amount should be reflected in box 7 of the SF-424A.

Non-Federal Resources (Cost Share or Match)

Description

Amounts of non-federal resources that will be used to support the project as identified in box 18 of the SF-424. For all federal awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the criteria listed in [45 C.F.R. § 75.306](#).

For awards that require matching by statute, you will be held accountable for projected commitments of non-federal resources in your application budgets and budget justifications by budget period even if the justification exceeds the amount required.

For awards resulting from an application where you voluntarily propose cost sharing, we will include this voluntary cost sharing in the approved project budget and you will be held accountable for it as shown in the Notice of Award (NOA).

Failure to meet a cost sharing or matching obligation that is part of the approved project budget on the NOA may result in the disallowance of federal funds.

If you are funded, you must report cost sharing or matching funds on your quarterly Federal Financial Reports.

Justification

You must provide detailed budget information in your budget narrative (not your appendices) for every funding source identified in box 18. "Estimated Funding (\$)" on the SF-424.

You must fully identify and document the specific costs or contributions you propose as part of your required or voluntary cost sharing requirement. You must provide documentation in your application on the sources of funding or contribution(s).

For in-kind contributions, you must include how the stated valuation was determined. Matching or cost sharing must be documented by budget period.

Unrecovered indirect costs may be included as part of your cost sharing or matching only with prior approval of the grants management officer. Your budget narrative must clearly state that it is your intent to include unrecovered indirect costs as part of your cost sharing or matching. You should include in your budget narrative a copy of your negotiated cost rate to support the justification. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under your approved negotiated indirect cost rate. (See [45 C.F.R. § 75.306\(c\)](#)).

If your application does not include the required supporting documentation for cost-sharing or matching, review of the application and any award that may result may be delayed.

B. ESTIMATED UNOBLIGATED BALANCE

You must provide an estimated unobligated balance as of June 30, 2025, separate from your proposed budget at the amount provided by in this guidance. The reported unobligated balance should not include any unliquidated expense associated with the current budget period. The reported estimated unobligated balance remaining at the end of the current budget period may be used as carryover or offset by the federal government. An offset is the use of the unobligated funds to fund a future budget period partially or fully. It is best practice to explain why an unobligated balance exists.

If you do not provide an estimated unobligated balance with your application, we may calculate an estimate based on your cash drawdown history for the award.

If you are requesting the carryover of an unobligated balance along with your continuation budget, you must:

- Explain the reason the unobligated balance exists, including any activities that were not completed during the budget period.
- Indicate how you will separately use the unobligated funds to complete activities necessary for project completion.
- Provide a separate and revised budget and budget narrative for these funds; and
- Indicate the impact on the project if the funds are used to offset funding rather than add to funding.

The detailed budget and budget narrative should be uploaded in the Budget Narrative section of the application kit in GrantSolutions.

IV. APPENDICES

A. PROGRAM MATERIALS

As part of the NCC award application, recipients are expected to submit program materials to OPA for review. Recipients are expected to align program materials with Presidential Executive Orders. Program materials can be uploaded in as an appendix in Grant Solutions. If unable to upload documentation in Grant Solutions, please contact your Project Officer and Grants Management Specialist to discuss alternative options for submitting materials.

B. OTHER (AS APPLICABLE)

Supporting documents that add value or clarity to the information presented in the work plan should be included in the appendices of your continuation application. Recipients should revisit their logic models for alignment with the work plan proposed for the upcoming budget year. A revised logic model should be included as an appendix. Materials included in the appendices should present information clearly and succinctly. Extensive appendices are not required.

V. OTHER REQUIREMENTS

Federal Financial Report (SF – 425) (FFR)

Ensure you have submitted and your Grants Management Specialist has accepted your latest required FFR. Check the Federal Financial Report Cycle on your NOA for due dates.

Special Terms or Conditions

Ensure you have completed requirements for any special terms or conditions placed on your award during the project period.

Other Awards

If you have other awards with OASH or elsewhere in HHS, ensure you have met the terms and conditions and reporting requirements of those awards. Awards may be delayed until overdue progress reports, financial reports, or closeout documentation have been received.

PART THREE: APPLICATION SUBMISSION THROUGH GRANTSOLUTIONS

You must submit the non-competing continuation application electronically via GrantSolutions.gov.

Any applications submitted via hard copy or any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review.

You should submit your application as soon as possible but no later than **April 15, 2024**. Recipients are encouraged to initiate electronic applications early in the application development process, and to submit early on or before the due date. You should ensure your application is complete, accurate, and responsive to this guidance.

You may find your non-competing continuation application kit in GrantSolutions.gov. The application kit includes the following pre-determined fields:

- **Grantee NCC Guidance**
- **GrantSolutions Forms**
 - SF-424 – Application for Federal Assistance
 - SF-424A – Budget Information Non-Construction Program
 - SF-LLL – Disclosure of Lobbying Activities
- **Project Narrative**
 - Project Narrative – upload the project narrative **and** work plan for the upcoming budget year
 - Budget Narrative – upload the (1) detailed budget and budget narrative for the upcoming budget year, (2) estimated unobligated balance through June 30, 2024, and (3) carry over request (if applicable)

- **Additional Information to be Submitted (Appendix)** – upload the updated logic model, if applicable, and any additional documents needed to support the non-competing continuation application

Submitted non-competing continuation applications must contain all online forms, the program narrative (work plan), and the budget narrative (detailed budget and budget narrative) to be considered complete. Applications will not be considered valid until all application components are received.

Upon completion of a successful electronic application submission, the GrantSolutions system will provide you with a confirmation page indicating the date and time (Eastern Standard Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission. As items are received by the OASH Grants and Acquisitions Management Division, the electronic non-competing application status will be updated to reflect receipt of the items. Recipients should monitor the status of their application in GrantSolutions to ensure all items are received.

If you encounter any difficulties submitting your NCC application through GrantSolutions.gov, please contact the GrantSolutions helpdesk at (866) 577-0771 or help@grantsolutions.gov prior to the submission deadline. If you need further information, contact your GMS. For programmatic information, please contact your PO.

EXHIBIT G



July 1, 2025

OASH Teen Pregnancy Prevention Program Policy Notice

Release Date: July 1, 2025

OASH Program Policy Notice: 2025 - 01

Purpose

The purpose of this Program Policy Notice (PPN) is to clarify OASH policy for Teen Pregnancy Prevention Program (TPP Program) grant recipients, to delineate when materials and activities are not “medically accurate,” “age appropriate,” do not “reduce teen pregnancy,” or are otherwise outside the scope of the TPP Program. This PPN also clarifies TPP Program grant recipients’ obligations to protect parents’ rights to direct the religious upbringing of their children consistent with *Mahmoud v. Taylor*, 606 U.S. ____ (2025). Additionally, this PPN outlines evaluation standards for TPP Program grant recipients and evidence-based programs (EBPs). The PPN applies to TPP Program grant recipients, subrecipients, and service sites, and clarifies provisions contained in previous Notice of Funding Opportunities (NOFO), including AH-TP1-23-001 and AH-TP2-23-002.

Consistent with the preexisting obligations of recipients of TPP funds, HHS notified recipients in the “Guidance for Preparing a Non-Competing Continuation Award Application” (NCC guidance) that they should revise their projects to align with Executive Orders that are currently in force as necessary in order to receive continuation funding. The NCC guidance stated as follows:

Recipients are expected to review and be aware of current [Presidential Executive Orders](#). Recipients are expected to revise their projects, as necessary, to demonstrate that the NCC award application is aligned with current Executive Orders. Recipients should review and be aware of all current Presidential Executive Orders; however, the following may be of most relevance to the work of the TPP program:

- [Executive Order 14168](#) *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*
- [Executive Order 14190](#) *Ending Radical Indoctrination in K-12 Schooling*
- [Executive Order 14187](#) *Protecting Children From Chemical and Surgical Mutilation*
- [Executive Order 14151](#) *Ending Radical and Wasteful Government DEI Programs and Preferencing*

- [Executive Order 14173](#) *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*

The NCC guidance further clarified provisions of the NOFO AH-TPI-23-001 and AH-TP2-23-002, requiring OASH to review to ensure that “NOFO expectations are being met, to the extent aligned with Presidential Executive Orders: *Teen Pregnancy Prevention (TPP) Program Recipients (Tier 1: AH-TPI-23-001)*.”

In light of recent Presidential Executive Orders, Supreme Court decisions, current court orders, and the NCC guidance, OASH issues this PPN to further clarify these expectations for TPP Program grantees.

Statutory Language

TPP Program grant recipients must comply with the requirements set out in the statutory language of the annual HHS Appropriations Act (e.g., Division D of the Further Consolidated Appropriations Act, 2024 (Pub. L. No. 118-47)) (referenced herein as the statute):

That of the funds made available under this heading, \$101,000,000 shall be for making competitive contracts and grants to public and private entities to fund medically accurate and age appropriate programs that reduce teen pregnancy and for the Federal costs associated with administering and evaluating such contracts and grants, of which not more than 10 percent of the available funds shall be for training and technical assistance, evaluation, outreach, and additional program support activities, and of the remaining amount 75 percent shall be for replicating programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors [Tier 1 programs], and 25 percent shall be available for research and demonstration grants to develop, replicate, refine, and test additional models and innovative strategies for preventing teenage pregnancy [Tier 2 programs].

Ending Radical Indoctrination of Youth and Protecting Parental Rights

President Trump’s Executive Order 14190, *Ending Radical Indoctrination in K-12 Schooling*, referenced in the NCC guidance, establishes a clear Federal policy against indoctrinating our nation’s youth and blocking parental oversight:

Parents trust America’s schools to provide their children with a rigorous education and to instill a patriotic admiration for our incredible Nation and the values for which we stand.

In recent years, however, parents have witnessed schools indoctrinate their children in radical, anti-American ideologies while deliberately blocking parental oversight. Such an environment operates as an echo chamber, in which students are forced to accept these ideologies without question or critical examination. In many cases, innocent children are compelled to adopt identities as either victims or oppressors solely based on their skin color and other immutable characteristics. In

other instances, young men and women are made to question whether they were born in the wrong body and whether to view their parents and their reality as enemies to be blamed. These practices not only erode critical thinking but also sow division, confusion, and distrust, which undermine the very foundations of personal identity and family unity.

Imprinting anti-American, subversive, harmful, and false ideologies on our Nation's children not only violates longstanding anti-discrimination civil rights law in many cases, but usurps basic parental authority.

TPP Program-funded projects should not undermine the President's clear policy directive to protect children from harmful ideologies or the constitutional rights of parents to direct the religious upbringing of their children. *Mahmoud v. Taylor*, 606 U.S. ____ (2025), slip. op. at 1, 18-19; *id.* (op. of Thomas, J., concurring) at 6-7; *Wisconsin v. Yoder*, 406 U.S. 205, 232-33 (1972). This policy is also consistent with the limited scope of the TPP Program statute.

In *Mahmoud*, the Supreme Court reviewed certain children's books considered to be "LGBTQ+-inclusive" and found the books were "designed to present certain values and beliefs as things to be celebrated, and certain contrary values and beliefs as things to be rejected." *Id.* at 22. The Court determined that this content—combined with the "decision to withhold notice to parents and to forbid opt outs"—"substantially interferes with [parents'] religious development of their children and imposes the kind of burden on religious exercise that *Yoder* found unacceptable." *Id.* at 21-22. The Court determined that the content at issue portrayed messages and images about same-sex marriage and gender ideology that "impose[d] upon children a set of values and beliefs that are hostile to their parents' religious beliefs." *Id.* at 25 (internal quotation marks omitted). Just as "[p]ublic education is a public benefit," so also OASH seeks to make clear its expectation that, consistent with *Mahmoud*, federal funding provided through the TPP Program will not be conditioned "on parents' willingness to accept a burden on their religious exercise." *Id.* at 32-33. In order not to "burden[] [] parents' right to the free exercise of religion" with respect to their minor children, *id.* at 35, TPP Program grant recipients are expected to provide parents advance notice (including relevant specifics) and the ability to opt out of any content or activities, especially those related to sexuality, that may burden their religious exercise.

Scope of the TPP Program

Programs cannot be funded under the TPP Program if they include materials or activities (including any ancillary supportive services), whether provided by the grantee or by referral, that are inconsistent with, or beyond the scope of, the statutory requirements for TPP programs: (1) to be "medically accurate and age appropriate programs that reduce teen pregnancy," (2) in the case of Tier 1 grantees, to replicate EBPs that "reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors," and (3) in the case of Tier 2 research and demonstration grantees, "to develop, replicate, refine, and test additional models and innovative strategies for preventing teenage pregnancy."

The statute funds programs to reduce teenage pregnancy (including behavior risk factors underlying teenage pregnancy or other associated risk factors), and it makes no mention of

ideological content such as the content at issue in *Mahmoud*, gender ideology, or discriminatory equity ideology (as such terms are defined in Executive Order 14190). The statute does not require, support, or authorize teaching minors about such content, including the radical ideological claim that boys can identify as girls and vice versa. Programs must be aimed at reducing teen pregnancy, not instructing in such ideological content. That *Mahmoud* reaffirms that federal funding cannot be conditioned “on parents’ willingness to accept a burden on their religious exercise” confirms that the best reading of the TPP statute does not contemplate such ideological content.

By the same token, material or instruction outside the scope of the TPP Program may include other content that is not related to, or counter to the aim of, reducing teen pregnancy, such as content that encourages, normalizes, or promotes sexual activity for minors, including anal and oral sex, or masturbation, including through sexually themed roleplay. This also may include content on the eroticization of birth control methods, creating more pleasurable sexual experiences, or foreplay techniques.

Definitions

OASH is concerned that the below definitions in the NOFO AH-TPI-23-001 include deficiencies based on the statutory language and Congressional intent of the TPP Program:

Adolescent-friendly services - Services for youth that are equitable, accessible, acceptable, appropriate, and effective.

Age appropriateness - Ensures that topics, messages, and teaching methods are suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group. An age-appropriate program addresses students’ needs, interests, concerns, developmental and emotional maturity levels, experiences, and current knowledge and skill levels. Learning is relevant and applicable to students’ daily lives and concepts and skills are covered in a logical sequence.

Equitable environment - Ensures youth have equal access to and rights to the same opportunities and resources as others.

Health equity - The attainment of the highest level of health for all people. Achieving health equity requires valuing everyone equally with focused and ongoing societal efforts to address avoidable inequalities, historical and contemporary injustices, and the elimination of health and health care disparities.

Inclusivity - When all people, especially youth, are fully included, supported, and can actively participate in and benefit from the information they need to make healthy choices. This includes ensuring that program materials and practices do not alienate, exclude, or stigmatize individuals of diverse lived experiences and backgrounds, which includes but is not limited to, individuals who belong to underserved communities, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of

color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise historically marginalized and adversely affected by persistent poverty or inequality.

Medical accuracy - Verified or supported by the weight of research conducted in compliance with accepted scientific methods; and published in peer-reviewed journals, where applicable or comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete.

OASH seeks to clarify these definitions:

“Age appropriate” programs for minors do not contain material that depicts, describes, exposes or presents obscene, indecent, or sexually explicit content. Material or instruction that is not age appropriate for minors may include content that promotes sexual activity for minors, described above, which is also outside the scope of the TPP Program for other reasons.

OASH will determine whether program content is “medically accurate” consistent with the statutory language. “Medically accurate” materials or instructions with pharmaceutical or health-related recommendations are expected to include information on a full range of health risks, so that minors and their parents or guardians can make fully informed decisions. Content that is not “medically accurate” may include inaccurate information about methods of contraception, including associated health risks, or information that denies the biological reality of sex or otherwise fails to distinguish appropriately between males and females, such as for the purpose of body literacy.

The terms “health equity,” “equitable environment,” “inclusivity,” and “adolescent-friendly services” should not be construed to exceed the statutory scope of the TPP program, as described above, or to permit unlawful diversity, equity, or inclusion-related discrimination.

Compliance

TPP Program grant recipients agree to comply with Department regulations and policies in their grant terms, and those determined noncompliant with the PPN may face grant suspension under 45 C.F.R. § 75.371 and grant termination under 45 C.F.R. § 75.372(a) before October 1, 2025, and, starting October 1, 2025, termination under 2 CFR §§ 200.340(a)(1)-(4).

Materials or activities outside the TPP Program’s statutory scope, including those that are not “medically accurate,” “age appropriate,” or are unrelated to reducing teen pregnancy, as described in this PPN, and any expenditures associated therewith are not allowable, reasonable, or allocable to programs that include such content. *See* 45 C.F.R. §§ 75.403-405. TPP Program grant recipients are expected to ensure all program materials comply with this PPN. We are aware that curricula and other program materials—including content disqualified herein as not “medically accurate” or not “age appropriate” or unrelated to reducing teen pregnancy—were previously approved by OASH, and we have taken that into account in weighing factors relating to this policy notice. However, for the reasons described above, the prior administration erred in

approving such materials and that approval exceeded the agency's authority to administer the program consistent with the legislation as enacted by Congress. We understand that compliance with this PPN may require some grantees to revise their TPP Program curricula and content. However, the need to comply with the statutory requirements of the TPP Program, Presidential Executive Orders, and the U.S. Constitution outweighs such burdens. *See* 45 C.F.R. § 75.303(b) (requiring compliance with all Federal statutes, regulations, and the terms and conditions of the Federal award), §§ 75.403-405 (requiring grant expenditures to be reasonable and allocable in order to be allowable). The NOFOs AH-TPI-23-001 and AH-TP2-23-002 additionally required applicants to certify that they “[w]ill comply with all applicable requirements of all other federal laws, executive orders, regulations, and public policies governing financial assistance awards...” The NOFOs also informed applicants that they “must comply with all terms and conditions outlined in the Notice of Award... [including] requirements imposed by program statutes and regulations and HHS grant administration regulations, as applicable...”

OASH will not continue to fund materials or activities outside the TPP Program's statutory scope. OASH may re-evaluate the effectiveness of programs consistent with the statutory text and this PPN. OASH may impose additional conditions on grantees that fail to comply with any Federal statutes, regulations or terms and conditions that apply to their awards. *See* 45 C.F.R. § 75.371.

PLANNED PARENTHOOD OF
GREATER NEW YORK *et al.*

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES *et al.*

Defendants.