

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' RESPONSES AND OBJECTIONS TO
DEFENDANTS' COUNTER-STATEMENT OF UNDISPUTED MATERIAL FACTS

Plaintiffs provide the following objections and responses to Defendants' Counter-Statement of Undisputed Material Facts, ECF No. 24-1.

1. *HHS solicited applications for TPP Program grant funds in April 2023 through a Notice of Funding Opportunity ("2023 NOFO"). See ECF No. 3-2. Applicants could request funding from \$350,000 to \$2 million per year for a period of up to five years. Id. at 4.*

Uncontroverted to the extent that the language accurately reproduces information contained in the 2023 NOFO. The 2023 NOFO best sets out its own contents. The fact that applicants could request TPP Program funding grants for \$350,000 to \$2 million per year for a period of up to five years is immaterial.

2. *Applications for TPP Program funds go through a formalized agency review process laid out in the 2023 NOFO before final decisions are made and funds are obligated. After initial selection for funding, for each year of the approved period of performance, grant recipients are required to submit a noncompeting application for funds. Id. at 16.*

Uncontroverted that the 2023 NOFO provides application review information and assessment criteria for evaluating TPP Program applications. The 2023 NOFO best sets out its own contents. *See* 2023 NOFO at 43-47, ECF No. 22-4. Uncontroverted that the 2023 NOFO indicates that TPP Program grant recipients are required to submit a non-competing continuation application for each budget period after the first to receive continued funding.

3. *That application requires grantees to submit a “progress report for the current budget year, [a] work plan, [and] budget and budget justification for the upcoming year.” Id. at 16-17, 56. HHS awards 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.” Id. at 56.*

Uncontroverted to the extent that the quoted language accurately reproduces language from the 2023 NOFO. The 2023 NOFO best sets out its own contents.

4. *As part of the registration process to receive funding, the 2023 NOFO required applicants to certify that they will comply “with all applicable requirements of all other federal laws, executive orders, regulations, and public policies governing financial assistance awards[.]” Id. at 61–62. The Notice of Award provided to Tier 1 funding recipients in 2023, under its “Standard Terms,” further states that “[t]he recipient must comply with all terms, conditions, and requirements outlined in this Notice of Award, including[] . . . [a]ll requirements imposed by program statutes and regulations, Executive Orders, and HHS grant administration regulations, as applicable. . . .” See, e.g., Sample Notice of Award for PPCCC at 5–6 (Ex. A).*

Uncontroverted to the extent that the quoted language accurately reproduces text of the 2023 NOFO. This document best sets out its own content. Disputed that Defendants accurately

quote an Exhibit A as it is unclear what document in question Defendants cite. Defendants' Statement of Undisputed Facts, *see* ECF 24-1, does not include a corresponding Exhibit A.

5. *The authorized representatives who signed these applications on behalf of Plaintiffs all had to agree that they "will comply with all required certifications and assurances" and "will comply with terms and conditions when accepting an award." HHS Grants Policy Statement 17.*

Disputed. Defendants' citation does not identify which edition of the HHS Grants Policy Statement is cited. To the extent Defendants refer to the "HHS Grants Policy Statement (effective from October 1, 2024 to April 16, 2025)" listed in Defendants' Index of the Administrative Record, ECF No. 23-1, uncontroverted that the quoted language accurately reproduces text therein. The Grants Policy Statement best sets out its own contents. Disputed as to the characterization that Plaintiffs, in submitting their 2023 NOFO applications prior to the effective date of the HHS Grants Policy Statement, "all had to agree" with terms of the subsequent HHS Grants Policy Statement.

6. *In January 2025, HHS issued guidance for funding recipients to apply for continuation awards in the third year of funding, to cover July 1, 2025 through June 30, 2026. Jan. Guidance for Non-Compete Awards, ECF No. 3-2. The January 2025 guidance set an application deadline of April 15, 2025. Id. at 2, 15.*

Uncontroverted. The identified January 2025 guidance's deadline is immaterial.

7. *Among other requirements, the January 2025 guidance instructed applicants to provide a project narrative for work to be performed in the upcoming year, including a brief summary of any proposed changes to the project work plan from the previous budget year, and a work plan to address expectations set forth in the 2023 NOFO. Id. at 5.*

Uncontroverted. The January 2025 guidance document best sets out its own contents.

8. *HHS provided updated guidance to applicants on March 31, 2025 (“March 2025 guidance”). Ex. F, ECF No. 22-8.*

Uncontroverted that HHS provided its “Guidance For Preparing A Non-Competing Continuation Award Application” on March 31, 2025. Object to the characterization of this document as mere “guidance” insofar as the document imposed additional requirements on grantees submitting NCC applications.

9. *The March 2025 guidance largely mirrored the guidance HHS provided in January 2025. The March 2025 guidance, however, added additional instructions that recipients of funding are “expected to review and be aware of current Presidential Executive Orders,” and the March 2025 guidance stated that recipients should “revise their projects, as necessary, to demonstrate that the [non-competing continuation] award application is aligned with current Executive Orders.” Id. at 4.*

Uncontroverted to the extent that the March 2025 “guidance” included some substance found in the January 2025 document. Uncontroverted to the extent that the quoted language reproduces text from the March 2025 document. The March 2025 document best sets out its own contents. Dispute the characterization of the March 2025 guidance as “largely mirror[ing]” prior iterations of this document. This document imposed a new requirement that grantees modify their projects in alignment with current Executive Orders.

10. *The March 2025 guidance states that “[r]ecipients should review and be aware of all current Presidential Executive Orders,” and lists five executive orders that “may be of most relevance to the work of the TPP program.” Id. at 4-5.*

Uncontroverted. The March 2025 guidance best sets out its own content.

11. *The March 2025 guidance further instructed applicants to include in the project narrative accompanying their applications a “[d]escription of changes made to align with Executive Orders, if applicable,” including “the steps taken to review the project and identify the modifications proposed.” Id. at 5. It provided examples of changes that recipients may make to align their projects, such as “selecting a different evidence-based program for implementation, making adaptations to existing curriculum, and updating policies, staffing, and training, etc.” Id. It also instructed applicants to provide a brief summary of any proposed substantial changes to the project work plan from the previous budget; to provide a work plan that “address[es] the expectations outlined in the 2023 NOFO, to the extent aligned with Presidential Executive Orders;” and to “submit program materials to [the Office of Population Affairs] for review” by uploading them as an appendix through the online portal for grant applications. Id. at 5, 15.*

Uncontroverted that the quoted language accurately reproduces text from the March 2025 guidance document. This document itself best sets out its own content.

12. *Plaintiffs are three not-for-profit organizations that received Tier 1 finding awards for a period of up to five years pursuant to the 2023 NOFO. See Compl. ¶ 50, ECF No. 1. They are Planned Parenthood of Greater New York (PPGNY); Planned Parenthood of the Heartland, Inc. (PPH); and Planned Parenthood California Central Coast (PPCCC).*

Uncontroverted that the Plaintiffs are Planned Parenthood of Greater New York (PPGNY); Planned Parenthood of the Heartland, Inc. (PPH); and Planned Parenthood California Central Coast (PPCCC) and that they are not-for-profit organizations with the clarification that Plaintiffs received Tier 1 funding awards for five-year periods. Disputed as to the citation in support of this fact with the clarification that this information is found in paragraphs 10 through 12 of the Complaint. *See* Compl. 10-12, ECF No. 1.

13. *All three Plaintiffs filed continuation applications by the applicable deadline of April 15, 2025. See Certification of the Administrative Record (noting these three applications).*

Uncontroverted.

14. *Plaintiffs' applications were granted by HHS, effective July 2, 2025. See Certification of the Administrative Record (noting these three grant awards).*

Uncontroverted.

15. *On July 1, HHS issued a "policy notice" intended to "clarify OASH policy for Teen Pregnancy Prevention Program (TPP Program) grant recipients." Off. of the Ass't Sec'y for Health, U.S. Dep't of Health & Human Servs., OASH Teen Pregnancy Prevention Program Policy Notice 1 (July 1, 2025) ECF No. 22-9 ("Policy Notice").*

Object to this Statement to the extent it presents a legal conclusion that is not properly presented as a statement of fact. To the extent a response is deemed required, Plaintiffs dispute that the Policy Notice "clarifies" or "intends to clarify" OASH's existing policy for the TPP Program. Rather, the Policy Notice imposed new requirements on TPP grantees and represents new agency policy backed by the threat of penalties for noncompliance with the new program requirements. Plaintiffs do not dispute that this paragraph accurately quotes language in the Policy Notice, but dispute it to the extent that language is presented out of context. The Policy Notice itself best sets out its own contents. This paragraph is further disputed to the extent that Defendants represent that HHS issued its Policy Notice on July 1. The Policy Notice was both posted to HHS's website publicly and shared with Plaintiffs on July 2, 2025.

Dated: September 19, 2025

Respectfully submitted,

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