

Attachment 20
PROGRAM SPECIFIC CLAUSES – AIDS INSTITUTE

1) Maximum Reimbursable Amount:

- a) In the event that a **Maximum Reimbursable Amount** has been specified on the face page of this Agreement, it is understood and accepted by the Contractor that while the Budget attached hereto as Exhibit B is equal to the Total Contract Amount specified on the face page of this Agreement, the aggregate of all allowable costs reimbursed under this reimbursement contract **will not exceed the Maximum Reimbursable Amount**. The Contractor may incur allowable costs in all categories as noted in the Budget Exhibit B; however, the aggregate amount reimbursed by HRI under this Agreement shall not exceed the Maximum Reimbursable Amount. In the event the Maximum Reimbursable Amount is increased by HRI, the Contractor will be notified in writing by HRI.

2) Confidentiality:

- a) CONTRACTOR understands that the information obtained, collected or developed during the conduct of this agreement may be sensitive in nature. The Contractor hereby agrees that its officers, agents, employees and subcontractors shall treat all client/patient information which is obtained through performance under the Agreement, as confidential information to the extent required by the laws and regulations of the United States Codified in 42 CFR Part 2 (the Federal Confidentiality Law) and Chapter 584 of the laws of the State of New York (the New York State HIV Confidentiality Law) and the applicable portions of the New York State Department of Health Regulation Part 63 (AIDS Testing and the Confidentiality of HIV Related Information.)
- b) CONTRACTOR further agrees that its officers, agents, employees and subcontractors shall comply with the New York State Department of Health AIDS Institute policy "Access to and Disclosure of Personal Health Related Information," attached hereto and made a part hereof as Attachment D.

3) Evaluation and Service Coordination

- a) CONTRACTOR shall participate in program evaluation activities conducted by the AIDS Institute at the Evaluation Frequency specified in Exhibit C. These activities will include, but not be limited to, the collection and reporting of information specified by the AIDS Institute.
- b) For Direct Service Contracts Only - CONTRACTOR shall coordinate the activities being funded pursuant to this work plan with other organizations within its service area providing HIV-related services including, but not limited to: community entities that provide treatment adherence services, including treatment education, skills building and adherence support services; service providers; community based organization, HIV Special Needs Plans; and other agencies providing primary health care to assure the non-duplication of effort being conducted. The Contractor shall develop linkages with these providers in order to effectively coordinate and deliver services to the targeted population. As part of the reporting requirements, the Contractor will advise the AIDS Institute as to the coordination of efforts being conducted and the linkage arrangements agreed to.

4) Quality

- a) Contractors are required to participate in quality management activities as established by the New York State Department of Health AIDS Institute. This includes, but not limited to, the collection and reporting of data for use in measuring performance and identifying quality improvement projects. Quality management activities require a quality management infrastructure, including commitment from agency leadership, development of a quality management plan that incorporates the principles of a proven quality improvement framework, staff development and training, and a process that supports participation of staff from all levels and various disciplines, and consumer involvement.

5) Publication:

- a) All written materials, pictorials, audiovisuals, questionnaires or survey instruments and proposed educational group session activities or curricula developed or considered for purchase by the Contractor relating to this funded project must be reviewed and approved in writing by the NYS Department of Health AIDS Institute Program Review Panel prior to dissemination and/or publication. It is agreed that such review will be conducted within a reasonable timeframe. The Contractor must keep on file written notification of such approval.
- b) In addition to the sponsor attributions required under paragraph 10, "Publications" of "Attachment A General Terms and Conditions", any such materials developed by the Contractor will also include an attribution statement, which indicates the intended target audience and appropriate setting for distribution or presentation. Examples of statements are attached with Attachment E.

6) Fiscal Systems

- a) CONTRACTOR shall meet contracted programmatic and fiscal requirements including (i) financial reports that track expenditures as specified by HRI; (ii) financial and provider policies and procedures manual that meet HRI program requirements; and (iii) flexible fiscal reporting systems that allow the tracking of obligated balances and carryover funds and detail service reporting of funding sources.
- b) CONTRACTOR shall ensure adequacy of agency fiscal systems to generate budgets and expenditure reports including (i) accounting policies and procedures; (ii) budgets; and (iii) accounting system.
- c) CONTRACTOR shall (i) maintain file documentation of all payroll records, tax records, invoices, accounts payable and expenditure data related to this award and (ii) make the documentation available for HRI review upon request.
- d) CONTRACTOR shall provide HRI personnel access to (i) accounting systems, electronic spreadsheets, general ledger, balance sheets, income and expense reports and all other financial activity reports; (ii) all financial policies and procedures, including billing, collection, purchasing and procurement policies; and (iii) accounts payable systems and policies.
- e) CONTRACTOR shall (i) provide timely properly documented invoices; (ii) submit invoices on time with required documentation; (iii) maintain data documenting reimbursement periods, including monthly bank reconciliation reports and receivables aging report; (iv) inform HRI of any situation that will make it impossible or unlikely to fully spend this award; (v) track and provide accurate and timely reporting of position vacancies and unspent funds to HRI; and (vi) carry out monthly monitoring of expenses to detect and implement cost saving strategies.
- f) CONTRACTOR shall maintain a file documenting all travel expenses paid under this contract.
- g) CONTRACTOR shall submit a line-item budget with sufficient detail to permit review and assessment of proposed use of funds for the management and delivery of the proposed services.
- h) CONTRACTOR shall document all requests for and approval of budget revisions.

7) Documentation

- a) CONTRACTOR shall (i) develop and maintain a current, complete and accurate asset inventory list that lists purchases of equipment of a cost of more than \$5,000 per unit by funding source and make the list and schedule available to HRI upon request and (ii) implement adequate safeguards for all capital assets that assure they are used solely for authorized purposes.
- b) If applicable, CONTRACTOR shall establish policies and procedures that acknowledge the revisionary interest of the federal government over property improved or purchased with federal dollars and maintain file documentation of these policies and procedures for HRI review.

- c) CONTRACTOR shall include in personnel manual and employee orientation information on regulations that forbid lobbying with contract funds.
- d) If applicable, CONTRACTOR shall use purchasing policies and procedures that meet federal requirements.
- e) If applicable, CONTRACTOR shall establish policies and procedures to ensure compliance with all applicable federal and local statutes and regulations governing contract award and performance including (i) state law and procedures when awarding and administering subcontracts; (ii) ensure that every subcontract includes any clauses required by federal statute and executive orders and their implementing regulations; (iii) ensure that subcontract agreements specify requirements impose upon subcontractors by federal statute and regulation; (iv) ensure appropriate retention of and access to records and (v) ensure that any advances of grant funds to subcontractors substantially conform to the standards of timing and amount that apply to cash advances by federal agencies.
- f) CONTRACTOR shall prepare and provide to HRI upon request program and fiscal staff resumes, job descriptions, a staffing plan, and an organizational chart.
- g) CONTRACTOR shall maintain and review file documentation of (i) Corporate Compliance Plan; (ii) Personnel Policies; (iii) Code of Ethics or Standards of Conduct; (iv) Bylaws and Board Policies including Board Ethics; (v) business conduct practices; and (vi) file documentation of any employee or Board Member in violation of or with a complaint of violation of the Code of Ethics or Standards of Conduct and its resolution.
- h) CONTRACTOR shall have adequate policies and procedures to discourage soliciting cash or in-kind payments for (i) awarding contracts; (ii) referring clients; (iii) purchasing goods or services; and (iv) submitting fraudulent billings.
- i) CONTRACTOR shall also have employee policies that discourage (i) the hiring of persons being investigated by Medicare or Medicaid and (ii) large signing bonuses.

8) Allocations

- a) CONTRACTOR shall (i) ensure that budgets and expenses conform to federal cost principles; and (ii) ensure fiscal staff familiarity with applicable federal regulations.
- b) CONTRACTOR shall (i) make available to HRI very detailed information on the allocation and costing of expenses for services provided; and (ii) reconcile projected unit costs with actual unit costs on a yearly or quarterly basis.
- c) CONTRACTOR shall (i) have in place policies and procedures to determine allowable and reasonable costs; (ii) have in place reasonable methodologies for allocating costs among different funding and (iii) make available policies, procedures and calculations to HRI on request.
- d) CONTRACTOR shall (i) establish and consistently use allocation methodology for employee salaries and wages where employees are engaged in activities supported by several funding sources and (ii) make allocation methodology available to HRI upon request.

9) Audits

- a) CONTRACTOR shall (i) conduct a timely annual audit (an agency audit or a Single Audit, depending on amount of federal funds); (ii) request a management letter from auditor; (iii) submit the audit and management letter to HRI; (iv) prepare and provide auditor with income and expense reports that include payer of last resort verification; (v) have in place financial policies and procedures that guide

selection of an auditor; (vi) submit to HRI the CONTRACTOR's response to any reportable conditions on the audit.

10) Other

- a) CONTRACTOR shall cooperate with any federal investigation regarding funding under this contract.
- b) For Direct Service Contracts Only - CONTRACTOR shall ensure that the facility where services are provided is accessible by public transportation or provide for transportation assistance.
- c) For Direct Service Contracts Only - CONTRACTOR shall (i) if applicable, maintain file materials documenting Consumer Advisory Board (CAB) membership and meetings including minutes; (ii) regularly implement client satisfaction survey tool, focus groups and or public meetings with analysis and use of results documents and (iii) maintain visible suggestion box or other client input mechanism.
- d) For Direct Service Contracts Only - CONTRACTOR shall maintain files documenting provider activities for the promotion of HIV services to low-income individuals, including copies of HIV program materials promoting services and explaining eligibility requirements.
- e) For Direct Service Contracts Only - CONTRACTOR shall to the extent possible provide services in settings that are accessible to low-income individuals with HIV disease.

11) Client Eligibility and Recertification Requirements

- a) For Direct Service Contracts Only - CONTRACTOR shall implement client eligibility and recertification requirements per the AIDS Institute's "Client eligibility and recertification" policy.

12) Allowable Costs

- a) CONTRACTOR shall maintain documentation of policies that forbid use of contract funds for cash payments to service recipients.
- b) For vehicle purchases, CONTRACTOR shall seek HRI assistance in obtaining written approval and maintain documentation of such approval in file. Three quotes are required.
- c) CONTRACTOR shall prepare a detailed program plan and budget narrative that describe planned use of any advertising or marketing activities.

13) Unallowable Costs: Funds cannot be used to support the following services:

- (1) HIV prevention/risk reduction for HIV-negative or at-risk individuals.
- (2) Syringe exchange programs.
- (3) HIV counseling and testing.
- (4) Employment, vocational rehabilitation, or employment-readiness services.
- (5) Art, drama, music, dance, or photography therapy.
- (6) Social, recreational, or entertainment activities. **Federal funds cannot be used to support social, recreational or entertainment activities.** Ryan White funds cannot be used to support amusement, diversion, social activities, or any costs related to such activities, such as tickets to shows, movies or sports events, meals, lodging, transportation, and gratuities. Movie tickets or other tickets cannot be used as incentives. Funds should NOT be used for off-premise social/recreational activities or to pay for a client's gym membership. Ryan White funds cannot support parties, picnics, structured socialization, athletics, etc.
- (7) Non-client-specific or non-service-specific advocacy activities.
- (8) Services for incarcerated persons, except transitional case management, per HRSA policy Notice 18-02.
- (9) Costs associated with operating clinical trials.
- (10) Funeral, burial, cremation or related expenses.

- (11) Funds awarded under the Ryan White HIV/AIDS Program may NOT be used for direct maintenance expense (tires, repairs, etc.) of a privately owned vehicle or any other costs associated with a vehicle, such as lease or loan payments, insurance, or license and registration fees. This restriction does not apply to vehicles operated by organizations for program purposes.
- (12) Funds awarded under the Ryan White HIV/AIDS Program may NOT be used to pay local or State personal property taxes (for residential property, private automobiles, or any other personal property against which taxes may be levied).
- (13) Criminal defense or class action suits unrelated to access to services eligible for funding under Ryan White.
- (14) In no case may Ryan White HIV/AIDS Program funds be used to make direct payments of cash to recipients of services. Where direct provision of the service is not possible or effective, vouchers, coupons, or tickets that can be exchanged for a specific service or commodity (e.g., food or transportation) must be used. Grantees are advised to administer voucher programs in a manner which assures that vouchers cannot be used for anything other than the allowable service, and that systems are in place to account for disbursed vouchers.
- (15) Inpatient services.
- (16) Clothing.
- (17) Installation of permanent systems for filtration of all water entering a private residence.
- (18) Professional licensure or to meet program licensure requirements.
- (19) Broad-scope awareness activities about HIV services which target the general public.
- (20) **Fund raising.** Federal funds cannot be used for organized fund raising, including financial campaigns, solicitation of gifts and bequests, expenses related to raising capital or contributions, or the costs of meetings or other events related to fund raising or other organizational activities, such as the costs of displays, demonstrations, and exhibits, the cost of meeting rooms, and other special facilities used in conjunction with shows or other special events, and costs of promotional items and memorabilia, including gifts and souvenirs. These costs are unallowable regardless of the purpose for which the funds, gifts or contributions will be used.
- (21) Transportation for any purpose other than acquiring medical services or acquiring support services that are linked to medical outcomes associated with HIV clinical status. Transportation for personal errands, such as grocery shopping, other shopping, banking, social/recreational events, restaurants, or family gatherings is not allowed.
- (22) Pediatric developmental assessment and early intervention services, defined as the provision of professional early interventions by physicians, developmental psychologists, educators, and others in the psychosocial and intellectual development of infants and children.
- (23) Permanency planning defined as the provision of services to help clients or families make decisions about placement and care of minor children after the parents/caregivers are deceased or are no longer able to care for them.
- (24) Voter registration activities.
- (25) Costs associated with incorporation.
- (26) Herbal supplements/herbal medicines.
- (27) Massage and related services.
- (28) Reiki, Qi Gong, Tai chi and related activities.
- (29) Relaxation audio/video tapes.
- (30) Yoga, yoga instruction, yoga audio/video tapes, yoga/exercise mats.
- (31) Acupuncture services.
- (32) Buddy/companion services.
- (33) International travel.
- (34) Purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility.
- (35) Lobbying activities.
- (36) Funds may not be used for household appliances, pet foods or other non-essential products.

- (37) Funds cannot be used to support materials designed to promote intravenous drug use or sexual activity.
- (38) Purchase of vehicle without approval.
- (39) Pre-exposure prophylaxis.

14) For Direct Service Contracts Only - CONTRACTORS are expected to provide documented, fundable services to eligible clients and to clearly define the scope and nature of such services in the contract work plan. Contract work plans and duties descriptions of staff supported by these funds will be reviewed to ensure that they include only those activities that are fundable under this contract.