



Date: March 1, 2011

To: Regional Health Administrators, Regions I-X
Title X Grantees

From: Deputy Assistant Secretary for Population Affairs

Subject: OPA Program Instruction Series, OPA 11-01: Title X Grantee Compliance with Grant Requirements and Applicable Federal and State Law, including State Reporting Laws

Assistant Secretary for Health
Office of Public Health and Science
Office of Population Affairs
Washington DC 20201

The Office of Population Affairs (OPA) is issuing this memorandum as a reminder to the regional offices, Title X grantees, and grantee subrecipients, about a number of longstanding Title X program requirements. Although the requirement that Title X services be provided confidentially has been a cornerstone of the Title X program since its inception, Title X providers are also required to comply with specific State reporting and notification laws. This requirement, which has been part of appropriations language since Fiscal Year 1999, was most recently included in section 210 of the Fiscal Year 2010 Consolidated Appropriations Act (Pub. L. No. 111-117), and which remains in effect, states as follows:

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

OPA Program Instructions related to these requirements were issued previously, on January 12, 1999, and June 5, 2006, as OPA Program Instruction Series, OPA 99-1, "Compliance with State Reporting Laws" and OPA 06-01, and "Compliance with State Reporting Laws -- Reminder Notification (Revised)." Both of these Program Instructions, OPA 99-1 and OPA 06-01, are attached to this memorandum and remain in effect. Title X grantees are reminded that they are responsible for ensuring that: (1) grantee clinics, subrecipients, and contract agencies, receive and are complying with the information included in this memorandum and OPA 99-1 and OPA 06-01; and (2) that written policies and procedures are in place to address notification or reporting of child abuse, child molestation, sexual abuse, rape, or incest, or any other form of domestic violence, as required by current applicable State law.

Title X grantees are also reminded that, as a condition of accepting Title X funds, they are required to comply with: 1) all assurances that were signed as part of the application for Federal funds (including Assurance # 18 of the SF 424B, which requires that applicants "comply with all applicable requirements of ... Federal laws, executive orders, regulations and policies governing this program"); 2) all terms and conditions of the Notice of Grant Award; 3) all applicable Federal laws; 4) all Title X requirements set out in the Title X statute and regulation, as well as Title X policies set out in the Title X program guidelines and Program Instructions; and, 5) all applicable State laws.

As part of the requirement that grantees comply with all applicable Federal laws, grantees are reminded that they must comply with Federal anti-trafficking laws, including the Trafficking Victims Protection Act of 2000 (Pub. L. No.106-386), as amended, and 18 U.S.C. 1591. Noncompliance with these laws may result in the disallowance of Title X funds, or the suspension or termination of the Title X grant award.

As in the past, grantees also are responsible for ensuring compliance throughout their Title X projects with Section 1008 of Title X, which states that:

None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

Grantees that have questions about the interpretation of section 1008 should refer to the July 3, 2000, Federal Register Notice entitled "Provision of Abortion-Related Services in Family Planning Services Projects," which is available at 65 Fed. Reg. 41281, on the Office of Population Affairs website, and which is attached hereto, as well as the July 3, 2000, final rule entitled "Standards of Compliance for Abortion- Related Services in Family Planning Services Projects," which is available at 65 Fed. Reg. 41270.

Regional Offices continue to be responsible for periodic reviews of Title X grantees to ensure compliance with all of these requirements, and should take immediate steps to address issues related to adherence to established policies and procedures, including, but not limited to immediate notification of the Office of Population Affairs. Title X grantees are responsible for conducting periodic reviews of sub-recipient agencies, and must undertake immediate steps to address issues related to lack of compliance with established policies and procedures. Grantees must maintain documentation of all reviews of their sub-recipient agencies, including outcomes and any corrective action steps necessary to address deficiencies. Regional Office reviews of grantees should include review of the documentation of grantee monitoring of all agencies within the grantee's Title X project to ensure that adequate monitoring is occurring, staff have received training, and that there are no apparent deficiencies in this area that have not been addressed. Regional Office monitoring specific to the content of this Program Instruction should occur during annual site visits to grantees, as well as during comprehensive Title X Program Reviews.

Title X providers must ensure that policies and procedures are current and reflective of applicable State laws. Failure of a Title X grantee or any grantee subrecipient to comply with applicable State laws addressing the notification or reporting of child abuse, child molestation, sexual abuse, rape, or incest, or any other form of domestic violence, as required by applicable State law may result in the disallowance of Title X funds, or the suspension or termination of the Title X grant award.

Regional Offices should ensure that Title X grantees, grantee subrecipients, and all other project staff receive training regarding the provisions of this Program Instruction within the next six months.

Questions relating to the requirements addressed in this memorandum should be addressed to the Office of Population Affairs.

A handwritten signature in blue ink that reads "Marilyn J. Keefe". The signature is written in a cursive style with a large initial 'M' and 'K'.

Marilyn J. Keefe, MPH
Deputy Assistant Secretary for Population Affairs

Attachments:

OPA Program Instruction Series, OPA 99-1: Compliance with State Reporting Laws

OPA Program Instruction Series, OPA 06-01: Compliance with State Reporting Laws –
Reminder Notification (Revised)

“Provision of Abortion-Related Services in Family Planning Services Projects,” 65 Fed. Reg.
41281