

APPENDIX B
State Opioid Response (SOR) Grant Y2
Tier Award Program (TAP) – Tier 3.A-H

FISCAL REQUIREMENTS AND LETTER OF AGREEMENT (LoA) PAYMENT SCHEDULE

BETWEEN

DELAWARE HEALTH AND SOCIAL SERVICES, OFFICE OF THE SECRETARY

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

AND

VENDOR NAME

The Delaware Division of Substance Abuse and Mental Health (DSAMH) publicly released an application to seek providers to enhance and further develop the opioid use disorder (OUD) and stimulant use disorder (STUD) system of care for all Delawareans, while dedicating focused efforts to six key populations: pregnant and parenting people, racial/ ethnic minorities, individuals in high-need zip codes (including rural), Lesbian Gay Bisexual Transgender Queer or Questioning + (LGBTQ+) populations, justice-involved populations, and school-aged youth. The State of Delaware received a State Opioid Response grant through the Substance Abuse and Mental Health Services Administration (SAMHSA), and the goals include:

- Enhance structures and processes to oversee and administer award activities.
- Establish a centralized data-responsive strategy and hub (the Opioid Response Center).
- Increase the availability, quality, and sustainability of evidence-based treatment and recovery services, with a focus on low-barrier, rapid-access to Medications for Opioid Use Disorder (MOUD) and contingency management programming.
- Effectively collaborate with other systems and entities, as well as the public, to facilitate OUD/STUD prevention, harm reduction practices, and seamless pathways into OUD/STUD treatment and recovery services.
- Support new and existing partners to proficiently implement evidence-based and data-responsive practices to improve the engagement, care, and outcomes of under-served populations.
- Implement recovery support services that facilitate pathways to long-term recovery, address social needs, and promote quality of life.

This is a Letter of Agreement (the “LoA”) between Delaware Health and Social Service (“DHSS”), Office of the Secretary, the Division of Substance Abuse and Mental Health (“DSAMH”) and **Vendor Name** (the “Awardee”), **Vendor Address: Street, City, State, ZIP** collectively referred to as “Parties” covering the terms of the award (the “Award”). This LoA is made effective as of **Start Date** and is valid through September 29, 2024.

A. Payment Schedule:

Award will not exceed **\$xx,xxx.00** in accordance with the approved line-item budget (see below). Funding is contingent upon availability. Funds must be expended by the period end date of September 29, 2024. Funds not expended before September 29, 2024 will be reverted and no longer available.

1. Line-Item Budget
See Appendix A

2. **ALLOCATED FUNDING SOURCE: \$xx,xxx.00 FY24 State Opioid Response (SOR) Grant, CFDA 93.788 FAIN: H79TI085764 AWARD NUMBER: 5H79TI085764-02 (09.30.23 – 09.29.24)**

Final Funding identification (by award years and source location) utilized for this LoA will be verified as part of the Awardee’s annual audit process.

B. General Payment Terms

To receive funding under this LoA, the Awardee submitted a line-item budget (Appendix A) and plan of work for:

- Tier 3.A-H: Projects to implement OUD/STUD screening, brief intervention, referral, and follow-up in acute receiving facilities

Payment Specifics:

The funding provided through this Award will be used to fund staff time and eligible expenses listed in the Appendix A contributing to the active engagement and re-engagement services to boost retention in SUD services and improve safety and recovery outcomes, innovative evidence-based and high impact SUD treatment, and overdose prevention programming that target underserved and high-risk populations to include:

- Projects that strengthen initial and ongoing engagement of individuals with OUD/STUD, including those who are actively using substances, to link or retain them into care and promote their safety and/or;
- Projects that expand access to evidence-based services – including Medications for Opioid Use Disorder (MOUD) – to individuals with OUD/STUD with special focus on those with elevated overdose risk and underserved populations, such as individuals with justice involvement, pregnant and postpartum women, transition-aged youth, and individuals with past overdose
- Collection and reporting of data to DSAMH (see Table 1: Measurements)

The Awardee shall report data on at least a monthly basis or as requested by DSAMH through the following link: [SOR Tier Data Reporting \(https://delawaredhss.qualtrics.com/jfe/form/SV_erjcUUfipUZViMm\)](https://delawaredhss.qualtrics.com/jfe/form/SV_erjcUUfipUZViMm). Monthly reporting is required for the duration of the award. The Awardee shall provide the information requested by the Division’s Research and Evaluation team and/or assigned Program Integrity Specialist as well as the following:

Table 1: Measurements
Tier 3.A-H

Due	Number of unduplicated clients who were due for a screening in the last month.
Screened	Number of unduplicated clients who were due for a screening in the last month who were screened.
Positive	Of those screened in the last month, the unduplicated count of those who were positive.
Referred	Of those that screened positive in the last month, the unduplicated count of those who were referred to treatment.
Engaged	Of those that screened positive in the month before last, the unduplicated count of those who were connected/engaged in treatment in the last month.
<i>Customized Measures</i>	
●	

The Awardee shall ensure at least one attendee at quarterly TAP awardee meetings. In addition, a topic-based peer learning cohort series aligned with each of the three SOR tiers are also available. Additional required technical assistance or coaching may be assigned to projects by DSAMH to help ensure implementation of goals/objectives are in alignment with SAMHSA and DSAMH requirements and are completed within the federal funding cycle.

The State of Delaware:

- Pays for goods or services only after they are received. Advanced payments are not permissible.
- Requires itemization of awardee discounts and/or company credits on corresponding invoices.
- Is exempt from paying Federal excise tax, according to IRS Publication 510.

Eligible Awardees must apply with the Office of Supplier Diversity to register with the State: www.gss.omb.delaware.gov/osd. This is a free certification process. Certified minority (MBE), women (WBE / MWBE), and/or veteran (VBE) owned businesses are eligible to be listed in the State of Delaware directory for qualifying awardees; which is circulated to all State and Local government agencies. Additional information for Awardees is available at www.mymarketplace.delaware.gov.

Payment Procedure

New Provider awardees will receive the first disbursement of the contracted amount upon enrollment in Tier 3.A-H to perform the required work described in the award application. The subsequent funds will be paid upon reconciliation of monthly invoicing after the reporting required has been approved by the SOR Opioid Response Team (ORT).

New Providers			
Payment Sequence	Payment Structure	Disbursement Timeframe	Payment Amount
1	Enrollment in Tier 3.A-H	Within 30 days of enrollment in Tier 3.A-H	Q1
2	Cost Reimbursement	Monthly Invoicing The 10 th of each month	Eligible monthly cost incurred

Billing and budget inquiries and/or discrepancies must be directed to the following contact information:

ATTN: DSAMH Business Operations: DSAMHBusinessOperations@delaware.gov

C. Invoice Submission Requirements

Contractor shall submit a monthly invoice, within 30 calendar days of each month's end. All invoices will be submitted as communicated in writing by your DSAMH Program Integrity Specialist

Invoice Submission shall include the following:

DSAMH supplied Invoice Cover Letter

- Invoice Number: FY24_Provider_Service Level_Location_Invoice Type_Month of Service example (FY24_ABC_TAP3B_Newark_CR_0823)
- Contract Number:
- Fiscal String (multiple if applicable)
- Purchase Order
- Bud Ref
- Fund Code
- Department
- Appropriation
- Account Code
- OPU (Operation Unit)
- Project
- Activity
- Percent Allocation
- Start Dates for Billing to Fiscal String (State)
- End Date for Billing to Fiscal String (State)

Invoice Amount

- Current Budget with monthly charges including the contract budget balance, if applicable
- Invoice, in Excel templates provided by DSAMH, of all charges included in invoice total, if applicable

Certification statement: "I hereby certify that the information reported herein is true, accurate, and complete. I understand these reports are made in support of claims for government funds."

Approved Signature Authority

Data Submission Requirements

All data submissions will be done via a File Transfer Protocol (FTP) and will be in compliance with Appendix B of this contract. DSAMH will assist the -Provider in completing the necessary applications to be eligible for this process. Payment for services rendered will not be processed

without the required service detail file submission. Provider will submit Consumer Report Forms (CRF's) as required.

1. DSAMH agrees to provide funds for the Awardee's delivery of staff and services (as described herein). However, this provision is expressly subject to the understanding that DSAMH will not pay for services which:
 - a) have not been rendered;
 - b) cannot be verified as having been provided, according to standard DSAMH monitoring and audit procedures;
2. Both parties understand and agree that in the event the General Assembly of the State of Delaware does not appropriate, or otherwise withdraws funds from an appropriation, the Delaware's obligation to pay under this LoA, if any, will cease and this LoA shall be terminated. Delaware shall pay the Awardee in accordance with this LoA to the extent lawful funds are available.

Awardee agrees to adhere to the requirements of DHSS Policy Memorandum # 70, and divisional procedures regarding the concept of an inclusive workplace which is accepting of diverse populations in our workforce and actively practices acceptance of diverse populations within our community, through our programs and services we provide to our clients. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. Awardee's procedures must include the position(s) responsible for the PM70 process in the organization. Documentation of staff training on PM70 must be maintained by the Awardee.

D. Data Submission Requirements

DSAMH shall be entitled to withhold payment of any amounts otherwise due and owing under the agreement in the event that any required data submissions to DSAMH (as outlined in Appendix A) remain unfulfilled or incomplete.

Consumer Report Form (CRF)

All Contracted Providers are required to submit CRF data for all publicly funded clients served. That would include all Medicaid, Medicare, and DSAMH-funded clients.

Performance outcomes will be measured through the submission of the Consumer Reporting Form (CRF). DSAMH SRU maintains all CRF submission information and requirements at <http://dhss.dclaware.gov/dhss/dsamh/cpfrms.html>. The Division reserves the right to update the website at the Division's discretion, and if updated, will notify the Contractor. The Contractor is responsible for complying with any updates and/or changes.

The Contractor shall implement policies and procedures for ensuring the complete, accurate, and timely submission of encounter data (CRF) for all services for which the Contractor has incurred any financial liability, whether directly or through subcontracts or other arrangements. Encounter data

shall include data elements specified in DSAMH's most recent requirements related to CRF data reporting. The Contractor must comply with: completing all data elements as defined; reporting deadlines; and format submission requirements. The contractor shall have in place mechanisms, including edits and reporting systems sufficient to assure encounter data transfer is complete and accurate before submission to DSAHM SRU. The contractor shall upload encounter data to DSAMH SRU by the 10th business day of each month in the form and manner specified at

<https://www.dhss.delaware.gov/dhss/dsamh/startexp.html> related to data reporting.

Data Submission

Upon written notice by DSAMH SRU that the encounter data (CRF) has not been uploaded, is incomplete, or has not met the 95% threshold for error rate, the Contractor shall ensure that corrected data is transferred within the ten (10) business days of receipt of DSAMH notification. Upon the Contractor's written request, DSAMH may provide a written extension for the submission of corrected encounter data.

If encounter data (CRF) is not transferred after DSAMH has notified the contractor that the data is incomplete or does not meet the 95% error threshold, invoice payment for services may be withheld until the required CRFs are submitted with an accuracy rate of 95%.

Contractors with Electronic Health Record system will be given ninety (90) days advance notice of any changes for required data collection. This is to help prepare their external/internal vendors for coming adjustments to their system.

E. Technical Assistance Requirements

DSAMH shall be entitled to withhold payment of any amounts otherwise due and owing under the agreement in the event that any required Technical Assistance sessions (as outlined in Appendix A) are unattended.

F. Contingency Management

G. Financial Reports

1. The Awardee shall maintain a Personnel Activity Certification Form (Attached) for Federally Funded Salaries in compliance with Federal OMB directives in accordance with Uniform Grant Guidance (CFR §200.430) https://www.ecfr.gov/cgi-bin/text-idx?SID=8ed10f77c6940000e767fe7e158fea6d&mc=true&node=pt2.1.200&rgn=div5#se2.1.200_1430.
2. The funds received and expended under this LoA must be accounted for and recorded by the Awardee in order to permit auditing and accounting for all expenditures in conformity with the terms and provisions of this LoA, and State and Federal laws and regulations. **See Attachment 1.**

Program Operation Guide and laws and regulations outlined in the SAMHSA State Opioid Response (SOR) FOA, CFDA 93.788 FAIN: H79TI085764; SOR FY23

<https://www.samhsa.gov/sites/default/files/grants/pdf/fy-2020-sor-foa.pdf>. The Program Operation Guide (Attachment 1) is not inclusive of all SAMHSA, State of Delaware, or federal programmatic, contractual and procurement requirements and should be used as a guide. Please consult with your DSAMH designated program point of contact for additional information.

H. Audits

1. Upon notice given to the Awardee's Executive Director or his or her designee, representatives of DSAMH or other duly authorized State or Federal agencies shall have the right to inspect, monitor, audit and evaluate the program's fiscal records or other material relative to this LoA. The Awardee must cooperate and comply with all audit activities and submit all requested materials in support of the expense and/or service being reviewed.
2. The Awardee's fiscal records and accounts, including those involving other programs which, by virtue of cost or material resources sharing, are substantially related to this LoA, shall be subject to audit by duly authorized Federal and State officials.
3. The Vendor is required to have an annual audit, conducted by an independent auditor, and provide DSAMH (DELAWARE) with a copy of the completed annual audit, including any related financial statements and management letters, within nine (9) months of the end of the Vendor's fiscal year. The Vendor must provide one bound copy via US Mail and an electronic (via the DHSS_DSAMHSFiscalMonitoring@delaware.gov mailbox). Any DSAMH (DELAWARE) initiated audit shall neither obviate the need for, nor restrict the Vendor from conducting required annual corporate audits. Financial statements are to be prepared in accordance with appropriate generally accepted accounting principles. Vendor audits must be performed in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the U.S. Comptroller General. When required by the amount of the Vendor's total annual Federal award expenditures, the Vendor must comply with the requirements of the U.S. Office of Management and Budget (OMB) Uniform Grant Guidance, and its successors.

I. Federal Grant Requirements

SOR:

STANDARD TERMS OF AWARD:

Refer to the following SAMHSA website to access the Standard Terms applicable of the grant award for the current fiscal year: <https://www.samhsa.gov/grants/grants-management/notice-award-noa/standard-terms-conditions>

Any and all notices required by the provisions of this LoA shall be in writing and shall be sent to the following:

DELAWARE:

Delaware Division of Substance Abuse and Mental Health
DSAMH.ORT@delaware.gov

AWARDEE:

Vendor Name

Vendor Signatories Name & Title

Vendor Signatories email

SOR 3.0

2022 SAMHSA Operational Conditions and Guidance

Project Title: Delaware State Opioid Response Grant

Project Period: 9/30/2022-9/29/2024

Explanation and Purpose:

The content below outlines SOR 3.0 guidance. The purpose of this document is to provide the programmatic SAMHSA regulatory guidance (specific to SOR) on the “allowable” activities, expenses, restrictions of SOR 3.0 grant funding. This document is not inclusive of all SAMHSA, State of Delaware, or federal programmatic, contractual and procurement requirements and should be used as a guide. Please consult with your DSAMH designated program point of contact for additional information.

I. HIV and Viral Hepatitis Testing

- HIV and viral hepatitis testing must be performed as clinically indicated and referral to appropriate treatment provided to those testing positive. Vaccination for hepatitis A and B should be provided or referral made for same as clinically indicated.
- The Ryan White HIV/AIDS Program (RWHAP) provides a comprehensive system of care that includes primary medical care and essential support services for people living with HIV who are uninsured or underinsured. Providers are encouraged to collaborate and coordinate with RWHAP recipients for the provision of HIV care and treatment services, including Hepatitis screening, testing, and vaccination for people living with HIV.

II. Data Collection and Performance Measurement

- Providers are required to report performance on the following measures: abstinence, employment/education status, criminal justice involvement, social connectedness, health/behavioral/social consequences, and housing stability. Programs will be required to report client-level data on elements including but not limited to demographic characteristics, substance use, diagnosis(es), services received, and types of MOUD received. In addition to all requirements notated in the Special Terms section.

Naloxone

- Providers will also be required to report program-level data the following measures applicable within their scope of work (SOW) and workplan:
 - Naloxone overdose kits purchase and distribution
 - Overdose reversal
 - Fentanyl test strips purchase and distribution
 - Education of school-aged children, first responders, and key community sectors on opioid and/or stimulant misuse
 - Outreach activities that target underserved and/or diverse populations

III. Funding Restrictions include but are not limited to the following:

Refer to the following SAMHSA website to access the Standard Terms applicable of the grant award for FY 2022: <https://www.samhsa.gov/grants/grants-management/notice-award-noa/standard-terms-conditions>

- a. The grant program legislation and program regulation cited the Notice of Award.
- b. The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- c. 45 CFR Part 75 as applicable.
- d. The HHS Grants Policy Statement.
- e. The award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

SAMHSA grant funds may not be used to:

- SAMHSA grant funds may not be used to purchase, prescribe, or provide marijuana or treatment using marijuana. See, e.g., 45 C.F.R. 75.300(a) (requiring HHS to ensure that Federal funding is expended in full accordance with U.S. statutory and public policy requirements); 21 U.S.C. 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase, or distribution of marijuana).
- Pay for promotional items including, but not limited to, clothing and commemorative items such as pens, mugs/cups, folders/folios, lanyards, and conference bags (See 45 CFR 75.421(e)(3)).
- Make direct payments to individuals to enter treatment or continue to participate in prevention or treatment services (See 42 U.S.C. § 1320a-7b).
 - Note: When approved by DSAMH, a recipient or treatment or prevention provider may provide a non-cash incentive to individuals to participate in required data collection follow-up. This amount may be paid for participation in each required follow-up interview. For programs including contingency management as a component of the treatment program, clients may not receive contingencies totaling more than \$75 per budget period. **The contingency amounts are subject to change.**
- Meals are generally unallowable unless they are approved by DSAMH as an integral part of a conference grant or specifically stated as an allowable expense in the NOFO (See <https://www.hhs.gov/grants/contracts/contract-policies-regulations/spending-on-food/index.html>)
- General Provisions under Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act Public Law 116-260, Consolidated Appropriations Act, 2021, Division H, Title V, Section 527, notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. Provided, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with state and local law.
- Salary Limitation: The Consolidated Appropriations Act, 2022 (Public Law 117-103), signed into law on March 15, 2022, restricts the amount of direct salary to Executive Level II of the Federal Executive Pay scale. Effective January 2, 2022, the salary limitation for Executive

Level II is \$203,700. For awards issued prior to this change, if adequate funds are available in active awards, and if the salary cap increase is consistent with the institutional base salary, recipients may re-budget to accommodate the current Executive Level II salary level. However, no additional funds will be provided to these grant awards.

- **SOR Funds should be the Payer of Last Resort**
 - Recipients must utilize third party and other revenue realized from the provision of services to the extent possible and use SAMHSA grant funds only for services to individuals who are not covered by public or commercial health insurance programs, individuals for whom coverage have been formally determined unaffordable, or for services that are not sufficiently covered by an individual's health insurance plan. Recipients are also expected to facilitate the health insurance application and enrollment process for eligible uninsured clients. Recipients should also consider other systems from which a potential service recipient may be eligible for services (i.e. VA or RW). In addition, recipients are required to implement policies and procedures that ensure other sources of funding are utilized first when available for that individual.

IV. Special Terms as indicated in the SOR 2 and 3 Notice of Award issued September 23, 2022

- A. Medication for Opioid Use Disorder (MOUD) using one of the FDA-approved medications for the maintenance treatment of opioid use disorder. MOUD includes methadone, buprenorphine products, including single-entity buprenorphine products, buprenorphine/naloxone tablets, films, buccal preparations, long-acting injectable buprenorphine products, and injectable extended-release naltrexone.
- B. SOR grant funds must be used to fund prevention, harm reduction, treatment, and recovery support services and evidence-based practices that are appropriate for the population(s) of focus.
- C. SOR funds shall not be utilized for services that can be supported through other accessible sources of funding such as other federal discretionary and formula grant funds, ((e.g., HHS, CDC, CMS, HRSA, and SAMHSA), DOJ (OJP/BJA)), and non-federal funds, third party insurance, and sliding scale self-pay among others.
- D. SOR funds for treatment and recovery support services shall only be utilized to provide services to individuals that specifically address opioid or stimulant misuse issues. If either an opioid or stimulant misuse problem (history) exists concurrently with other substance use, all substance use issues may be addressed. Individuals who have no history of or no current issues with opioids or stimulants misuse shall not receive treatment or recovery services with SOR grant funds.
- E. Funds may not be expended through the grant or a subaward by any agency which would deny any eligible client, patient or individual access to their program because of their use of FDA-approved medications for treatment of substance use disorders (e.g., methadone, buprenorphine products including buprenorphine/naloxone combination formulations and buprenorphine monoproprietary formulations, naltrexone products including extended-release and oral formulations or long acting products such as extended release injectable or implantable buprenorphine.) Specifically, patients must be allowed to participate in methadone treatment rendered in accordance with current federal and state methadone dispensing regulations from an Opioid Treatment Program and ordered by a physician who has evaluated the client and determined that methadone is an appropriate medication treatment for the individual's opioid use disorder. Similarly, medications available by prescription or office-based implantation must be permitted if it is appropriately authorized through prescription by a licensed prescriber or provider. In all cases, MOUD must be permitted to

be continued for as long as the prescriber or treatment provider determines that the medication is clinically beneficial. Recipients must assure that clients will not be compelled to no longer use MOUD as part of the conditions of any programming if stopping is inconsistent with a licensed prescriber's recommendation or valid prescription.

- F. Procurement of DATA waiver training is not allowable use of SOR funds as this training is offered free of charge from SAMHSA at pcssnow.org. No funding may be used to procure DATA waiver training by recipients or subrecipients of SOR funding.
- G. Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder and stimulant use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 C.F.R. § 75.300(a) (requiring HHS to “ensure that Federal funding is expended . . . in full accordance with U.S. statutory . . . requirements.”); 21 U.S.C. §§ 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.
- H. With approval, contingencies may be used to reward and incentivize treatment compliance. Clients may not receive contingencies totaling more than \$75 per budget period. The contingency amounts are subject to change.