UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NATIONAL FAMILY PLANNING & REPRODUCTIVE HEALTH ASSOCIATION, *et al.*, Plaintiffs, v. ROBERT F. KENNEDY, JR., *et al.*, Defendants.	No. 1:26-cv-1684-JPW (Hon. Jennifer P. Wilson)

STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Local Rule 56.1, Plaintiffs hereby submit this Statement of Undisputed Facts in support of their Motion for Summary Judgment.

UNDISPUTED FACTS

I. THE PARTIES

1. Plaintiff National Family Planning & Reproductive Health Association ("NFPRHA") is a national, non-profit membership association that advances and elevates the importance of family planning in the nation's health care system. *See* Decl. of Clare M. Coleman in Supp. of Pls.' Mot. for Summ. J. or Prelim. Inj. ("Coleman Decl.") ¶ 2 (Ex. D to Plfs.' Mem. in Supp. of Summ. J. or Prelim. Inj.).

2. NFPRHA promotes and supports the work of family planning providers and administrators, especially those that provide care funded through government programs. *Id*.

3. NFPRHA is a membership organization. *Id*. ¶ 4.

4. NFPRHA represents nearly 800 organizational members. *Id*.

5. NFPRHA's members include multiple organizations that receive Title X grants. *Id*. ¶ 5.

6. Within Title X, NFPRHA's members operate or administer more than 3,100 health centers that provide family planning services to more than 2.2 million patients each year. *Id*.

7. Many of NFPRHA's Title X grantee members have provided Title X services for decades. *Id*.

8. NFPRHA anticipates that all or nearly all of NFPRHA's current Title X grantee members will apply for a Title X grant for fiscal year ("FY") 2027. *Id*. ¶ 8.

9. As it has historically, NFPRHA intends to provide support and technical assistance to its members as they navigate the application process for FY 2027 funds. *Id*.

10. NFPRHA is the leading national advocacy organization for the Title X family planning program. *Id*. ¶ 6.

11. A vital component of NFPRHA's mission involves working to maintain Title X as a critical part of the public health safety net. *Id*.

12. In furtherance of its mission and purpose, NFPRHA engages in Title X advocacy, provides education, resources, and technical assistance to Title X grantees and subrecipients, and supports those entities as they apply for Title X grant funding, and on an ongoing basis as they implement Title X. *Id*.

13. Among NFPRHA's members is Plaintiff Family Health Council of Central Pennsylvania ("FHCCP"). *Id*. ¶ 8; *see also* Decl. of Patricia Fonzi in Supp. of Pls.' Mot. for Summ. J. or Prelim. Inj. ("Fonzi Decl.") ¶ 3 (Ex. E to Plfs.' Mem. in Supp. of Summ. J. or Prelim. Inj.).

14. FHCCP is a private, not-for-profit organization with a mission of building and supporting community-based health networks through partnership, advocacy, and effective resource provision. Fonzi Decl. ¶ 6.

15. Since FHCCP's founding in 1973, each Title X grant cycle, FHCCP has applied for and been awarded Title X funding to provide family planning services in Central Pennsylvania. *Id*. ¶¶ 13–14.

16. The care that FHCCP provides through Title X includes a broad range of contraceptive services; natural family planning; pregnancy testing and counseling; screening for breast and cervical cancer; testing and treatment for sexually transmitted infections; basic infertility services; screening for intimate

partner violence, mental health concerns, obesity, and substance use; health education; and referrals for other health and social services. *Id*. ¶ 14.

17. Under its current Title X grant, FHCCP subcontracts with a network of 19 service providers at approximately 48 service sites in a 24-county region in Central Pennsylvania. *Id*. ¶ 15.

18. FHCCP's Title X network supports the delivery of family planning services to approximately 30,000 low-income Pennsylvanians each year. *Id*. ¶ 16.

19. FHCCP intends to apply for Title X funding in the next grant application cycle for FY 2027. *Id*. ¶ 29.

20. Defendant Robert F. Kennedy Jr. is the United States Secretary of Health and Human Services ("HHS") and is responsible for all aspects of the operation and management of HHS, including implementing and fulfilling HHS's duties under the United States Constitution, statutory law, and applicable regulations. *See, e.g.*, 42 U.S.C. § 3501; HHS Leadership, Robert F. Kennedy, Jr., https://www.hhs.gov/about/leadership/robert-kennedy.html.

21. HHS is an "agency" within the meaning of the Administrative Procedure Act. 5 U.S.C. § 551(1).

22. HHS is the agency to which congressional Title X funding is appropriated, *see* Consolidated Appropriations Act, 2026, Pub. L. No. 119-75, 140

Stat. 173, 262 (2026), and is responsible for implementing Title X, *see, e.g.*, 42 U.S.C. § 300.

23. Defendant Brian Christine is the Assistant Secretary for Health and heads the Office of the Assistant Secretary for Health ("OASH"), an office within HHS. *See* OASH Leadership, Brian Christine, M.D., https://health.gov/brian-christine-md.

24. OASH will administer the competition for the funds available under the Title X Notice of Funding Opportunity for FY 2027. *See* 2027 Notice of Funding Opportunity for Title X, Funding Opportunity Number PA-FPH-27-001 (the "NOFO") at 4 (Ex. A to Plfs.' Mem. in Supp. of Summ. J. or Prelim. Inj.).

25. Defendant Amy L. Margolis is the Deputy Director of the Office of Population Affairs ("OPA"), an office within HHS and within the purview of OASH. *See* OASH, Office of Population Affairs, About, https://opa.hhs.gov/about.

26. OPA is the entity that announced the availability of funds through the NOFO. *See* NOFO at 2.

II. THE TITLE X PROGRAM

27. Title X became law as part of the "Family Planning Services and Population Research Act of 1970." Pub. L. No. 91-572, 84 Stat. 1504 (1970).

28. Congress declared the first purpose of the legislation that included Title X to be "making comprehensive voluntary family planning services readily available to all persons desiring such services." *Id*. § 2(1).

29. Title X became, and remains, the only dedicated source of federal funding for family planning services in this country. Coleman Decl. ¶ 15; Fonzi Decl. ¶ 13.

30. The Title X program provides high-quality family planning and sexual health care to all, with priority given to the low-income patients that the program was established to serve. Coleman Decl. ¶ 19.

31. The Title X program provides access to effective contraceptive methods, cancer screenings, testing and treatment for sexually transmitted infections ("STIs"), other preventive services, and, fundamentally, the clinical care and education needed to either achieve or prevent pregnancy. *Id.*

32. Over the course of its history, the Title X program has enabled millions of low-income patients to both achieve and prevent pregnancy—decisions made by patients according to their needs and values. *Id.*

33. From its inception, one hallmark of the Title X program has been comprehensive access to contraceptive methods—especially the currently most effective ones—which projects offer both to prevent pregnancy and to treat a number of other medical conditions. *Id.* ¶¶ 17, 71; *see also* Fonzi Decl. ¶ 49.

34. Another hallmark of the Title X program from its outset has been client-centeredness—meaning that care is voluntary and responsive to the specific needs of the diverse patient populations seeking care from the Title X project. Coleman Decl. ¶¶ 17, 65–66.

35. The Title X program is governed by the statute Congress enacted in 1970, subsequent legislative mandates, regulations promulgated by HHS, and additional guidance that the Agency publishes from time to time, including the Title X Handbook and *Providing Quality Family Planning Services: Recommendations of CDC and the U.S. Office of Population Affairs*, a joint Centers for Disease Control ("CDC") and OPA publication from 2014 regarding clinical standards for providing quality family planning services ("2014 QFP"),[1] which was updated in 2024 ("2024 QFP").[2] Coleman Decl. ¶¶ 29–30.

36. The Title X Handbook is a guidance document produced by OPA which "provides information critical to managing a Title X project" and is intended to "help recipients and subrecipients be successful as they implement their Title X projects."

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[1] Loretta Gavin et al., *Providing Quality Family Planning Services: Recommendations of CDC and the U.S. Office of Population Affairs*, MMWR Recomm. Rep. 2014 2, https://www.cdc.gov/mmwr/pdf/rr/rr6304.pdf.

[2] Sarah E. Romer et al., *Providing Quality Family Planning Services in the United States: Recommendations of the U.S. Office of Population Affairs (Revised 2024)*, 67 Am. J. Prev. Med. S41, S42 (2024), https://pubmed.ncbi.nlm.nih.gov/39570204//.

Id. ¶ 38 (quoting Off. of Population Affs., Title X Program Handbook 12 (Dec. 2024) https://opa.hhs.gov/sites/default/files/2025-03/title-x-program-handbook-dec-2024.pdf (the "Title X Handbook")).

37. The Title X Handbook instructs that "[a]dvancing equity for all, including people from low-income families, people of color, and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality, is a priority for HHS, OPA, and Title X." Title X Handbook at 12.

38. Title X-funded entities have been required to adhere to QFP standards since 2014. Coleman Decl. ¶ 31 (citing Title X Handbook at 10).

39. The original 2014 QFP set national clinical standards for family planning services after a lengthy process involving dozens of technical experts. *Id.* ¶ 33.

40. The 2024 QFP is an update to the 2014 QFP. *Id.* ¶ 30.

41. The 2024 QFP describes nationally recognized standards of care and clinical guidance for any family planning provider, whether funded by Title X or not. *Id.* ¶ 31.

42. OPA considers the update of the QFP in 2024 to be "a nationally recognized standard of care when implementing the Title X requirements." *Id.* ¶ 32

(quoting OPA, OPA Program Policy Notice 2024-02, https://opa.hhs.gov/node/4173).

43. The 2014 QFP states that the recommendations "encourage taking a client-centered approach" to providing care. 2014 QFP at 2.

44. The 2014 QFP defines "client-centered" care as care that "is respectful of, and responsive to, individual client preferences, needs, and values; client values guide all clinical decisions." *Id.* at 4.

45. The 2014 QFP also explains that taking a "client-centered approach" involves, *inter alia*, "highlighting that the client's primary purpose for visiting the service site must be respected," "encouraging the availability of a broad range of contraceptive methods so that clients can make a selection based on their individual needs and preferences," and "reinforcing the need to deliver services in a culturally competent manner so as to meet the needs of all clients, including . . . those who are lesbian, gay, bisexual, transgender, or questioning their sexual identity (LGBTQ)." *Id.* at 2.

46. Similarly, the 2024 QFP says that one of the guiding principles of delivering quality sexual and reproductive health care is ensuring that it is person-centered, which is defined as "focus[ing] on an individual person's needs, values, and preferences." 2024 QFP at S47–48.

47. The 2014 QFP further emphasizes "[e]quitable," "[e]vidence-based" and "quality" care that is "consistent with current professional knowledge" and "does not vary in quality because of the personal characteristics of clients." 2014 QFP at 4.

48. The 2024 QFP incorporates new evidence and "includes newer approaches to care by adopting a health equity lens and recognizing the impact of structural and interpersonal racism, classism, ableism, and bias based on sexual orientation and/or gender identity on health and [sexual and reproductive health] care." 2024 QFP at S42.

49. The 2024 QFP also lists "inclusivity," including for LGBTQ people, as one of the "guiding principles" of sexual and reproductive health care delivery. *Id.* at S47–48.

50. The 2024 QFP defines inclusive care as "culturally and linguistically affirming, meaning that services respond to diverse cultural health beliefs and practices, preferred language, health literacy, and other communication needs of patients." *Id.* at S48.

51. The 2024 QFP instructs that "[p]roviders should support the sexual and reproductive health care needs of all people regardless of their gender identity by providing gender-inclusive and affirming care." *Id.* at S72.

52. The 2024 QFP further instructs that "To establish an inclusive clinical environment, it is essential to address both administrative processes, such as registration and documentation, as well as patient care practices. This includes ensuring that patient information in medical records and portals accurately reflects their identity. Rather than making assumptions, healthcare providers should ask patients about their sex assigned at birth, current anatomy, preferred name, gender identity, and pronouns." *Id.* at S48.

53. The 2014 QFP prioritizes effectiveness and, for example, "support[s] offering a full range of Food and Drug Administration (FDA)-approved contraceptive methods as well as counseling that highlights the effectiveness of contraceptive methods" so that "clients can make a selection based on their individual needs and preferences." 2014 QFP at 2.

54. The 2024 QFP says that "[a] broad range of Food and Drug Administration (FDA)-approved or FDA-cleared contraceptive products should be available on-site." 2024 QFP at S57.

55. The 2024 QFP further instructs that "[p]roviders should also support people interested in using birth control methods for reasons other than contraception. Noncontraceptive indications for some methods include STI prevention; gender-affirming care; menstrual management or suppression; and treatment of acne,

premenstrual dysphoric disorder (PMDD), heavy or painful periods, polycystic ovary syndrome (PCOS), and endometriosis." *Id.* at S55.

III. THE FY 2027 TITLE X NOFO

56. HHS typically solicits applications for Title X funding by publishing a Notice of Funding Opportunity, commonly referred to as a NOFO. Coleman Decl. ¶ 44.

57. In April of 2026, OPA published a new competitive NOFO, soliciting applications for projects to provide Title X services starting in FY 2027, for a five-year term, with a grant award date of April 1, 2027. *Id.* ¶¶ 57, 60; *see also* NOFO at 1–2.

58. The NOFO did not go through any notice and comment process prior to its issuance. *See generally* NOFO; Fonzi Decl. ¶ 54.

59. HHS generally makes award decisions and issues grants to successful applicants by April 1, around the time the performance period for the prior Title X grants ends on March 31, to ensure that there is no lapse in funding and, accordingly, no lapse in the provision of family planning services. Coleman Decl. ¶ 55.

60. The deadline to apply for funding under the NOFO is January 9, 2027. NOFO at 1.

61. The NOFO indicates that a "Technical Assistance Webinar" will take place on September 15, 2026. *Id*.

62. Following the webinar, the Agency typically will post a document addressing frequently asked questions regarding the grant application process. *Id.* at 36.

63. Title X grant applications must satisfy extensive and detailed requirements. Coleman Decl. ¶¶ 48–52; Fonzi Decl. ¶¶ 55–56.

64. Accordingly, applicants typically devote multiple months to preparing their applications. Coleman Decl. ¶ 48; Fonzi Decl. ¶ 56.

65. Based on its history of assisting its members in the grant application process, NFPRHA expects that some of its members that intend to submit applications for FY 2027 Title X grants will soon start preparing their applications. Coleman Decl. ¶ 54.

66. Based on its history of assisting its members in the grant application process, NFPRHA expects that any of its members that intend to submit applications for FY 2027 Title X grants and that have not started preparing their applications by the time of the September 15, 2026, Technical Assistance Webinar will prepare their applications immediately afterwards, to meet the January 2027 deadline for submission. *Id.*

67. The NOFO describes the availability of funding, encourages entities to apply for funding, offers an overview of the program's requirements and priorities, and details how applications will be evaluated. *Id.* ¶¶ 22, 44–47.

68. Entities interested in applying for Title X grants must structure their applications in accordance with the requirements and programmatic priorities set out in the NOFO. *Id.* ¶¶ 44–53.

69. Indeed, the NOFO instructs all "applicants to review [the] . . . information in th[e] funding announcement to ensure that their application complies with all requirements and instructions." NOFO at 3.

70. The NOFO makes clear that the Agency will only fund "activities . . . in compliance with the requirements of the Title X statute, legislative mandates, and regulations." *Id.*

71. The NOFO states that applications "will first undergo an initial qualification and alignment review conducted by HHS . . . personnel in coordination with Federal program staff, including senior Department officials or other designated Presidential appointees, consistent with the Executive Order on 'Improving Oversight of Federal Grantmaking.'" *Id.* at 38.

72. During this initial qualification and alignment review stage, "applications will be reviewed by a senior appointee or appointee's designee to assess alignment with: HHS, OASH and OPA priorities." *Id.*

73. The review to assess alignment with HHS, OASH, and OPA priorities occurs prior to any review of the application's merits. *Id.*

74. The review to assess alignment with HHS, OASH, and OPA priorities will result in "a final determination of eligibility based on this initial review," which "is not appealable." *Id.*

75. The NOFO instructs that Title X grant recipients "must implement any funds awarded under this NOFO to effectuate program goals and agency priorities in accordance with the Priorities of the Office of the Assistant Secretary for Health"—hyperlinked to at https://health.gov/priorities—"and when authorized by law according to the Title X statute, regulations, legislative mandates, and additional program guidance." *Id.* at 7.

76. To that end, the NOFO states that grant recipients "must align program design and activities with the following [OASH] priorities, where consistent with the authority and scope of the award," in carrying out any project that is funded under the NOFO:

> 1) Address the chronic disease epidemic
>
> 2) End diversity, equity, and inclusion (DEI) policies and practices across OASH's programs
>
> 3) Reduce overmedicalization in health care and increase focus on optimal health and addressing underlying root causes
>
> 4) Provide medically accurate and reliable information necessary for informed consent
>
> 5) Promoting evidence-based care through the delivery of Title X services
>
> 6) Enforce the Hyde Amendment

> 7) Ensure gold standard science, curtail corporate capture and prevent conflicts of interest
>
> 8) To the extent allowed under Federal law and regulations, including the preliminary injunction issued in New York, et al. v. DOJ, et al. (DRI), 1:25-cv-00345, OASH will prioritize programs, partnerships, and funding mechanisms that further the agency's priority to ensure that federal resources are not used to facilitate or incentivize illegal immigration
>
> 9) Ensure adolescent program materials are age-appropriate
>
> 10) Protect parental rights to direct the religious upbringing of their children

Id. at 7–8.

77. Additional OASH priorities are found on its website, including the priority of "[e]nding support for gender ideology, including sex-rejecting procedures for children" as well as "[e]nsuring OASH funds benefit eligible individuals and not illegal aliens." *See Priorities of Office of the Assistant Secretary for Health*, Off. of the Assistant Sec'y for Health, U.S. Dep't of Health & Hum. Servs., https://health.gov/priorities ("OASH Priorities") (Ex. B to Plfs.' Mem. in Supp. of Summ. J. or Prelim. Inj.).

78. Under the "Ending diversity, equity, and inclusion (DEI) policies and practices across OASH's programs" priority on OASH's website, OASH maintains that it "has previously invested in ideologically-laden concepts like health equity" but that "[t]his has not translated into measurable improved health for minority populations, and in many cases has undermined core American values." *Id.*

79. Accordingly, OASH states that it "will prioritize efforts that go beyond the use of ideologically laden concepts and focus on solution-oriented approaches," which it states "includes actively testing, advancing, scaling, and implementing innovative evidence-based interventions and treatments that address poor health outcomes, including the root causes of Americans' chronic disease epidemic." *Id.*

80. Under the "Ending diversity, equity, and inclusion (DEI) policies and practices across OASH's programs" priority on OASH's website, OASH also professes its "commit[ment] to restoring merit-based opportunities and, to the extent permitted by law, removing discriminatory or otherwise illegal practices, such as providing benefits and advantages based on race or ethnicity rather than need, severity of disease, or other legitimate basis." *Id.*

81. Under the "Ending support for gender ideology, including sex-rejecting procedures for children, and ensuring evidence-based care" priority on OASH's website, OASH states that it is "a priority of OASH to protect children from [medical] interventions" such as "puberty blockers, cross-sex hormones, and surgeries, that attempt to reject a child's sex," and that it is also "an OASH priority to ensure OASH programs accurately reflect science, including the biological reality that a person's sex, as either male or female, is unchangeable and determined by objective biology." *Id.*

82. Accordingly, OASH states that it will "prioritize OASH programs and funding that accurately reflect the scientific biological reality of sex." *Id.*

83. In Executive Order No. 14168, entitled "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," the administration defines "gender ideology" as an ideology that "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 that] there is a vast spectrum of genders that are disconnected from one's sex." *See* Exec. Order. No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025).

84. The NOFO also instructs that "[i]n addition to the statute, regulations, legislative mandates, and additional program guidance that apply to Title X, Title X grantees should align their programs with OPA priorities to the extent authorized by law and within the scope of the program," and that "OPA expects recipients to develop and implement plans to address the program priorities and provide evidence of a project's capacity to address program priorities." NOFO at 11.

85. The NOFO states that OPA's program priorities for recipients funded under the NOFO "are in part informed" by the OASH priorities available on OASH's website. *Id.*

86. The NOFO identifies the following as OPA priorities: Addressing the chronic disease epidemic through the delivery of Title X services; Reducing overmedicalization in health care and increasing focus on optimal health through the delivery of Title X services; Promoting body and health literacy through the delivery of Title X services; Advancing reproductive goals counseling through the delivery of Title X services; Promoting evidence-based care through the delivery of Title X services; Enforcing the Hyde Amendment through the delivery of Title X services; Ensuring OASH funds benefit eligible individuals and not illegal aliens through the delivery of Title X services; and Implementing a Quality Improvement and Quality Assurance (QI/QA) Plan. *Id.* at 11–15.

87. Under the "Reducing overmedicalization in health care and increasing focus on optimal health through the delivery of Title X services" priority, the NOFO states that "OPA recognizes the overreliance on pharmaceutical and surgical treatments," asserts that various reports "have shown a decrease in females' current use of any contraception," and that "the most common reason women reported for discontinuing use related to dissatisfaction was side effects. This approach has failed to adequately address the root causes of the nation's chronic disease burden, resulting in ongoing health challenges that affect fertility, pregnancy, outcomes, and long-term health outcomes." *Id.* at 12; *see also* OASH Priorities.

88. The NOFO cites two studies as supporting its statements regarding the decrease in females' use of contraception and the reported reason for discontinuing use. NOFO at 12, n. 1, 2.

89. Under the "Reducing overmedicalization in health care and increasing focus on optimal health through the delivery of Title X services" priority, the NOFO also states that "[t]hrough the delivery of Title X services, OPA seeks to strengthen approaches that focus on the underlying behavioral and lifestyle factors of health—such as nutrition, sleep, physical activity, stress management, and environmental factors—that impact overall health and are shown to be effective in improving optimal health," and "expect[s] applicants to demonstrate how their Title X projects will integrate noninvasive, evidence-based practices that promote health literacy, fertility awareness, and reproductive health without unnecessary medicalization or symptom suppression." *Id.* at 12–13.

90. The NOFO identifies "expanding access to fertility-awareness-based methods (often referred to as natural family planning)" as a "key strateg[y]" for advancing optimal health under the "Reducing overmedicalization" priority. *Id.*

91. The word contraception is only used once in the NOFO, in the context of discussing a decrease in its use and alleged patient dissatisfaction with its side effects under the "Reducing overmedicalization" priority. *Id.* at 12; *see also, generally, id.*

92. Under the "Promoting evidence-based care through the delivery of Title X services" priority, the NOFO states that "HHS will prioritize funding for grantees who maintain a science-driven approach to healthcare, including by . . . respecting biological reality," and identifies key strategies for promoting this priority, including "providing developmentally appropriate counseling rooted in biological science" and "ensuring referral pathways align with evidence-based care." *Id.* at 14.

93. Under the "Enforcing the Hyde Amendment through the delivery of Title X services" priority, the NOFO states that "[t]o the extent permitted by applicable law, OASH will prioritize programs and funding that uphold Hyde protections and do not use taxpayer resources to promote or support elective abortion." *Id.* at 14–15.

94. Under the "Enforcing the Hyde Amendment through the delivery of Title X services" priority, the NOFO further states that OPA "expect[s] recipients to demonstrate how their Title X projects . . . contribute to broader HHS efforts to safeguard life-affirming, lawful, and ethical program delivery." *Id.* at 15.

95. The NOFO does not define what constitutes "life-affirming . . . program delivery." *Id.* at 14–15; *see also, generally, id.*

96. HHS's priorities also include ending diversity, equity, and inclusion—which HHS characterizes as "illegal race discrimination." *See HHS Priorities*, U.S. Dep't of Health & Hum. Servs., https://www.hhs.gov/about/priorities/index.html

("HHS Priorities") (Ex. C to Plfs.' Mem. in Supp. of Summ. J. or Prelim. Inj.). Under this priority, HHS states that "[r]ather than supporting DEI programs, HHS will end race-based special preferences in grant making and instead direct resources to programs that advance the health and longevity of all Americans." *Id.*

97. HHS's priorities also include "[c]ombat[ing] gender ideology," and "respect[ing] the dignity of human life at all stages of development." *Id.*

98. HHS's priorities include some that are unrelated to the provision of family planning services, such as "[f]urther[ing] our understanding of autism," "[i]nvestigat[ing] and car[ing] for those with Long COVID," "[a]dvanc[ing] the scientific understanding of the aging process," and "[e]nd[ing] crime and disorder on America's streets." *Id.*

99. The "Improving Oversight of Federal Grantmaking" Executive Order 14332 that the NOFO cites states that the alignment review is "consistent with" also instructs that "discretionary awards must . . . demonstrably advance the President's policy priorities" and that "discretionary awards shall not be used to fund, promote, encourage, subsidize, or facilitate . . . denial by the grant recipient of the sex binary in humans or the notion that sex is a chosen or mutable characteristic." *See* NOFO at 37–38, 42; Exec. Order. No. 14332, 90 Fed. Reg. 38929 (Aug. 7, 2025).

100. The NOFO does not explain how a Title X grantee is expected to align themselves with unrelated HHS priorities within the context of the Title X program,

with limited Title X funds. Coleman Decl. ¶ 74; Fonzi Decl. ¶¶ 52, 69; *see also, generally,* NOFO.

101. The NOFO does not specifically address whether and how a grantee is expected to demonstrate alignment with the priority of ending diversity, equity, and inclusion in the face of Title X regulations and guidance that require, *inter alia*, demonstration of grantee ability to advance health equity and the provision of Title X services in a manner that is client-centered, culturally and linguistically appropriate, inclusive, and trauma-informed, or the fact that aspects of the priority seemingly refer only to actions taken by the Agency. *See generally* NOFO.

102. The NOFO does not acknowledge, or provide an explanation for, a shift in the Agency's prior position regarding diversity, equity, inclusion and health equity within the Title X program. *See generally* NOFO; *see also* Coleman Decl. ¶¶ 64–67.

103. The NOFO does not specifically address whether and how a grantee is expected to demonstrate alignment with the priority of ending gender ideology in the face of Title X regulations and guidance that, *inter alia*, require the inclusion of transgender individuals in the provision of family planning services and prohibit discrimination on the basis of gender identity and sex characteristics. *See generally* NOFO.

104. The NOFO does not acknowledge, or provide an explanation for, a shift in the Agency's prior position regarding the inclusion of and respect for transgender

individuals within the Title X program. *See generally* NOFO; *see also* Coleman Decl. ¶¶ 64–66, 68–69.

105. The NOFO does not specifically address whether and how a grantee is expected to demonstrate alignment with the priority of "safeguard[ing] life-affirming program delivery" in the face of Title X regulations and the congressional rider that, *inter alia*, require the provision of non-directive options counseling, including counseling about abortion, and referrals for abortion upon request. *See generally* NOFO.

106. The NOFO does not specifically address whether and how a grantee is expected to demonstrate alignment with the "reducing overmedicalization" priority in the face of the Title X statute, regulations, and guidance that, *inter alia*, require that Title X projects offer a broad range of acceptable and effective family planning methods and services, including medically approved forms of contraception, and support people interested in using birth control methods for reasons other than pregnancy prevention. *See generally* NOFO.

107. The NOFO does not acknowledge, or provide an explanation for, a shift in the Agency's prior position regarding the import of the provision of medical contraception within the Title X program. *See generally* NOFO; Coleman Decl. ¶¶ 17, 71–73; Fonzi Decl. ¶ 49.

108. Title X applicants do not have any historical basis to inform whether and how to address the various new Agency Priorities in their applications. Fonzi Decl. ¶ 53.

109. The NOFO states that applications that pass the qualification and alignment review stage and are deemed "qualified and eligible" will move forward to be evaluated by "[f]ederal staff and an independent merit review panel" using Merit Review Criteria. NOFO at 38, 40.

110. The NOFO makes clear that applications that are "[d]isqualified" at the alignment review stage "will not be reviewed" against the Merit Review Criteria. *Id.* at 40.

111. The most significant criterion in the Merit Review—valued at 35 potential points out of a total of 100—is the "extent to which the applicant proposes strategies that meaningfully advance OPA's program priorities." *Id*. at 41.

112. The extent to which applicants describe the provision of a "broad range of methods and services that will be provided to address client needs" and identify "the number of low-income clients to be served" is worth only 10 points in the Merit Review. *Id*. at 40.

113. The degree to which the project plan adequately provides for the requirements set forth in the Title X statute, regulations, and legislative mandates is worth only 15 points in the Merit Review. *Id*. at 41.

114. The capacity of the applicant to make "rapid and effective use of Federal assistance" is worth only 5 points in the Merit Review, *id*., and the extent to which the applicant substantiates "that Title X family planning services are needed locally within the proposed service area" is worth only 15 points in the Merit Review, *id.* at 40.

115. The NOFO states that "successful proposals" shall include in the project narrative a description of "the broad range of acceptable and effective medically approved family planning methods (including natural family planning)." *Id*. at 21.

116. Finally, the NOFO states that "[i]n addition to the independent merit review panel, Federal staff will review each application for technical (programmatic), budgetary, and grants management compliance," and that OPA "will coordinate with a senior appointee to provide recommendations for funding to the Grants Management Officer to conduct the required risk analysis consistent with 2 CFR 200 and applicable HHS policy." *Id*. at 42.

117. The NOFO states that "[n]o award decision is final until a Notice of Award is issued by the Grants Management Officer, in coordination with a senior appointee or appointee's designee, consistent with the Executive Order on 'Improving Oversight of Federal Grantmaking.'" *Id*.

118. The NOFO states that Title X grant recipients "must align program design and activities with [the enumerated] agency priorities" and "must demonstrate ongoing compliance with these priorities . . . through program design, implementation, reporting, and evaluation," and that "[f]ailure to meaningfully align funded activities with the applicable requirements may result in corrective action," "including termination . . . for no longer effectuating program goals or agency priorities." *Id*. at 7–8.

119. There is nothing in the NOFO that would indicate that it is interim, temporary, or subject to further revision. *See generally* NOFO.

120. HHS, OASH, and OPA have not provided any indication that the NOFO is interim, temporary, or subject to further revision. Coleman Decl. ¶ 59.

121. A Title X project is defined by the family planning activities that a grantee proposes it will conduct if awarded a grant and any subrecipients that are described in detail in the grantee's application to HHS. *Id*. ¶ 53.

122. Historically, prospective grantees that go on to be selected for and receive Title X grant awards are held to representations they made in their applications regarding the nature, purpose, and scope of their Title X project and associated activities. *Id*.

July 2, 2026

Respectfully submitted,

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**Special admission approved*

CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2026, I sent the foregoing Statement of Undisputed Facts in Support of Plaintiffs' Motion for Summary Judgment to Defendants via U.S. First Class Mail to the following addresses below, and via email to Gerard Donahue, Civil Division of U.S. Attorney's Office, Middle District of Pennsylvania at Gerard.Donahue@usdoj.gov.

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