



## Program Announcement Letter

DATE: November 2, 2010 DOCUMENT NUMBER: ONC-REC-PAL-001

SUBJECT: Policy for Clarifying the Vendor Selection process

TO: Health Information Technology Extension Program: Regional Centers Cooperative Agreement Program Grantees

The purpose of this Program Announcement Letter (PAL) is to provide guidance for the vendor selection processes for Regional Extension Centers (RECs) participating in the Health Information Technology Extension Program: Regional Centers Cooperative Agreement Program.

Each Regional Extension Center which enters into a cooperative agreement with ONC to support priority primary-care providers who seek to implement electronic health record (EHR) technology and achieve meaningful use needs to adhere to the vendor selection guidelines provided by ONC. This memo clarifies requirements for Regional Extension Centers (RECs) in the electronic health record (EHR) vendor selection process, seeking to support priority primary-care providers in their EHR adoption process.

If you have any questions or require further guidance, please contact the Regional Extension Center Division of the Office of Provider Adoption Support at [regional-center-applications@hhs.gov](mailto:regional-center-applications@hhs.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "David Blumenthal".

David Blumenthal, M.D., M.P.P.  
National Coordinator for Health Information Technology  
U.S. Department of Health & Human Services

### PURPOSE

The purpose of this Program Announcement Letter (PAL) is to ensure that grantees are aware of the

requirements for Regional Extension Centers (RECs) in the electronic health record (EHR) vendor selection process.

#### **APPLICABILITY**

These requirements are applicable to all RECs who enter into cooperative agreements with ONC to support priority primary-care providers who seek to implement EHR technology and achieve meaningful use.

#### **BACKGROUND**

The Health Information Technology Extension Program: Regional Centers Cooperative Agreement Program Funding Opportunity Announcement and Grant Application Instructions (FOA) for the Regional Extension Center Cooperative Agreement program mandates that each Regional Center assist priority primary care providers, in its geographic service area, by providing on-site technical assistance and a variety of other services to priority primary-care providers. The scope of services required of all Regional Centers includes:

- Education and Outreach to Providers
- National Learning Consortium
- Vendor Selection and Group Purchasing
- Implementation and Project Management
- Practice and Workflow Redesign
- Functional Interoperability and Health Information Exchange
- Privacy and Security Best practices
- Progress Towards Meaningful Use
- Local Workforce Support

#### **DISCUSSION**

Vendor selection must be a transparent process in which the REC reviews evaluation criteria such as vendor functionality, usability, service levels, contract language and appropriate fee structures. The FOA addresses the need for a fair and transparent process by noting that each Regional Extension Center must "offer unbiased advice on the systems and services best suited to enable the priority primary-care providers to become meaningful users of EHRs." Regional Extension Centers are expected to avoid any business arrangements or contracts that would create an actual or gives the appearance of a conflict of interest with the Regional Extension Center's obligation to act solely in the best interests of advancing meaningful use of certified EHR technology and other health IT by the providers it serves.

Per the Funding Opportunity Announcement (FOA) and Codified Federal Regulations (CFR) 45 Part 74.40-74.48, the process for selecting vendors or resellers, using Regional Extension Center Cooperative Agreement Program monies, includes:

- an open and competitive selection process that strives to ensure full and open competition (45 CFR Part 74.43)
- a selection process that ensures the elimination of the possibility for unfair competitive advantages (45 CFR Part 74.43)
- a process that is based on objective performance measures that are transparent and posted in a request for proposals (45 CFR Part 74.44)
- a process that engages representatives of the priority primary-care providers actively practicing within the Regional Center's geographic area

Regional Extension Centers are expected to remain compliant with federal regulations governing the use of federal dollars in the acquisition and procurement process.

Federal Regulations require that "all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition." Pursuant to 45 CFR Part 74.43, it is the Regional Extension Center's responsibility to ensure that procurement and acquisition of services/products, with federal monies, are free of conflict of interests and noncompetitive practices. Regional Extension Centers should maintain any documentation pertaining to the activities of its employees and/or selection committee members engaged in the administration and awards of vendor contracts. RECs must also have, as part of their own procurement process, an appeals process, per 45 CFR 74.41.

The applicable procurement sections to the Regional Extension Center Program are available in the following sections of the Federal CFR:

- 45 CFR 74.40-74.48 for Institutions of Higher Education, Hospitals, other Non-Profit Organizations, and Commercial Organizations

A copy of the 45 CFR is available at: [http://www.access.gpo.gov/nara/cfr/waisidx\\_09/45cfrv1\\_09.html](http://www.access.gpo.gov/nara/cfr/waisidx_09/45cfrv1_09.html)

Regional Extension Centers are expected to remain compliant with both Program and Federal regulations governing the procurement and acquisition process.

The following steps are taken by ONC to ensure compliance:

- Technical Assistance and Frequently Asked Questions (FAQs) Documents- these are two instruments used to educate RECs on Federal Regulations
- Monitoring-site visits, both programmatic and financial are conducted to gauge and measure compliance of recipients with federal rules and regulations, and requirements of grants/cooperative agreements, to ensure that recipient institutions possess adequate policies, processes, and systems to appropriately manage ONC awards
- The award recipient must attest to the fact of having procurement policies and procedures; REC assigned Project Officer will document attestation in writing, during oral or on-site consultation.