



# TEXAS

## Health and Human Services

**Health and Human Services (HHS)**  
**Additional Provisions – Grant Funding**  
**Version 1.0**  
**Effective: February 2021**

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## **ADDITIONAL PROVISIONS**

The terms and conditions of these Additional Provisions are incorporated into and made a part of the Grant Agreement terms included in these Additional Provisions and not otherwise defined have the meanings assigned to them in Exhibit B, Health and Human Services (HHS) Uniform Terms and Conditions—Grant Version 3.4.

For any Provisions requiring communication to the SUD Mailbox, Grantee shall email: [SUD.Contracts@hhs.texas.gov](mailto:SUD.Contracts@hhs.texas.gov).

For any Provisions requiring communication to the Program Mailbox, Grantee shall email: [Substance\\_Use\\_Disorder@hhs.texas.gov](mailto:Substance_Use_Disorder@hhs.texas.gov).

### **1. TURNOVER PLAN**

System Agency, in its sole discretion, may require Grantee to develop and submit a Turnover Plan at any time during the term of the Grant Agreement. Grantee must submit the Turnover Plan to System Agency for review and approval. The Turnover Plan must describe Grantee's policies and procedures that will ensure:

1. The least disruption in the implementation and performance of grant-funded activities during Turnover; and
2. Full cooperation with System Agency or its designee in transferring the performance and obligations of the Grant Agreement.

### **2. TURNOVER ASSISTANCE**

Grantee will provide any assistance and actions reasonably necessary to enable System Agency or its designee to effectively close out the Grant Agreement and transfer the performance and obligations of the Grant Agreement to another Grantee or to System Agency if necessary. Grantee agrees that this obligation survives the termination, regardless of whether for cause or convenience, or the expiration of the Grant Agreement and remains in effect until completed to the satisfaction of System Agency.

### **3. TRADEMARK LICENSE**

System Agency grants to Grantee, for the term of the Grant Agreement, a limited non-exclusive, royalty-free, non-assignable, non-transferable license to reproduce System Agency's trademarks on published materials in the United States related to the performance of the Grant Agreement, provided that such license is expressly conditional upon, and subject to, the following:

1. Grantee is in compliance with all provisions of the Grant Agreement;
2. Grantee's use of the trademarks is strictly in accordance with the quality standards and in conformance with the reproduction requirements set forth in this Grant Agreement or as otherwise communicated by System Agency;
3. Grantee takes no action to damage the goodwill associated with the trademarks, and refrains from any attempt to contest, attack, dispute, challenge, cancel and/or oppose System Agency's right, title and interest in the trademarks or their validity;

4. Grantee makes no attempt to sublicense any rights under this trademark license; and
5. Grantee complies with any marking requests System Agency may make in relation to the trademarks, including without limitation to use the phrase “Registered Trademark”, the registered trademark symbol “®” for registered trademarks, and the symbol “™” for unregistered trademarks.

#### **4. TRADEMARK OWNERSHIP**

Grantee acknowledges and agrees that the trademarks remain the exclusive property of System Agency, that all right, title and interest in and to the trademarks is exclusively held by System Agency, and all goodwill associated with such trademarks inures solely to System Agency.

#### **5. ELECTRICAL ITEMS**

All electrical items purchased under this Grant Agreement or used in the performance of approved and eligible grant-funded activities must meet all applicable Occupational Safety and Health Administration (OSHA) standards and regulations, and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

#### **6. DISASTER SERVICES**

In the event of a local, state, or federal emergency, including natural, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster declared by the appropriate federal official, Grantee may be called upon to assist the System Agency in providing the following services:

1. Community evacuation;
2. Health and medical assistance;
3. Assessment of health and medical needs;
4. Health surveillance;
5. Medical care personnel;
6. Health and medical equipment and supplies;
7. Patient evacuation;
8. In-hospital care and hospital facility status;
9. Food, drug and medical device safety;
10. Worker health and safety;
11. Mental health and substance abuse;
12. Public health information;
13. Vector control and veterinary services; and
14. Victim identification and mortuary services.

#### **7. NOTICE OF A LICENSE ACTION**

Grantee shall notify the assigned System Agency contract manager in writing of any action impacting Grantee’s license to provide services under this Grant Agreement within five business days of becoming aware of the action and include the following:

1. Reason for such action;
2. Name and contact information of the local, state or federal department or agency or entity;

3. Date of the license action; and
4. License or case reference number.

#### **8. EDUCATION TO PERSONS IN RESIDENTIAL FACILITIES**

- A. Grantee shall ensure that all persons, who are housed in System Agency licensed or funded residential facilities and are 22 years of age or younger, have access to educational services as required by Texas Education Code § 29.012.
- B. Grantee shall notify the local education agency or local early intervention program not later than the third calendar day after the date a person who is 22 years of age or younger is placed in Grantee's residential facility.

#### **9. CONSENT TO MEDICAL, DENTAL, PSYCHOLOGICAL, AND SURGICAL TREATMENT OF A CHILD**

Unless a federal law applies, before a Grantee or its subcontractor can provide medical, dental, psychological or surgical treatment to a minor without parental consent, informed consent must be obtained as required by Texas Family Code Chapter 32.

#### **10. TELEMEDICINE/TELEHEALTH SERVICES**

- A. If Grantee or its subcontractor provides grant-funded telemedicine/telehealth services, these services shall be in accordance with the Grantee's written procedures, applicable law, the Grantee's or subcontractor's licensing board rules, and System Agency equipment standards, if applicable. Grantee's procedures for providing telemedicine/telehealth service must include the following requirements:
  1. Consider any contraindications to the use of telemedicine/telehealth;
  2. Qualified staff members to ensure the safety of the individual being served by telemedicine/telehealth at the remote site;
  3. Safeguards to ensure confidentiality and privacy in accordance with state and federal laws;
  4. Use by credentialed licensed providers providing clinical care within the scope of their licenses;
  5. Demonstrated competency in the operations of the system by all staff members who are involved in the operation of the system and provision of the services prior to initiating the protocol;
  6. Priority in scheduling the system for clinical care of individuals;
  7. Quality oversight and monitoring of satisfaction of the individuals served; and
  8. Management of information and documentation for telemedicine/telehealth services that ensures timely access to accurate information between the two sites.Telemedicine/telehealth Services does not include chemical dependency treatment services provided by electronic means under 25 Texas Administrative Code Rule §448.911.

#### **11. SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY**

- A. Grantee shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities. Meaningful access may entail providing language assistance

services, including oral interpretation and written translation, if necessary. More information can be found at <https://www.lep.gov/>.

- B. Grantee shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.
- C. Grantee shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency, unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

## **12. THIRD PARTY PAYORS**

- A. Except as provided in this Grant Agreement, Grantee shall screen all clients and may not bill the System Agency for services eligible for reimbursement from third party payors, who are any person or entity who has the legal responsibility for paying for all or part of the services provided, including commercial health or liability insurance carriers, Medicaid, or other federal, state, local and private funding sources.
- B. As applicable, the Grantee shall:
  - 1. Enroll as a provider in Children's Health Insurance Program and Medicaid if providing approved services authorized under this Grant Agreement that may be covered by those programs and bill those programs for the covered services;
  - 2. Provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs;
  - 3. Allow clients that are otherwise eligible for System Agency services, but cannot pay a deductible required by a third party payor, to receive services and bill the System Agency for the deductible;
  - 4. Not bill the System Agency for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
  - 5. Maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement;
  - 6. Bill all third party payors for services provided under this Grant Agreement before submitting any request for reimbursement to System Agency; and
  - 7. Provide third party billing functions at no cost to the client.

## **13. HIV/AIDS MODEL WORKPLACE GUIDELINES**

- A. Grantee shall implement DSHS's HIV-STD Policy No. 090.021, HIV/AIDS Model Workplace Guidelines for Businesses, State Agencies, and State Contractors, accessible at <http://www.dshs.state.tx.us/hivstd/policy/policies.shtm>.
- B. Grantee shall also educate employees and clients concerning HIV and its related conditions, including AIDS, in accordance with the Texas Health & Safety Code §§ 85.112-114.

## **14. MEDICAL RECORDS RETENTION**

Grantee shall retain medical records in accordance with 22 TAC §165.1(b) or other applicable statutes, rules and regulations governing medical information.

**15. INTERIM EXTENSION AMENDMENT**

- A. Prior to or on the expiration date of this Grant Agreement, the Parties agree that this Grant Agreement can be extended as provided under this section.
- B. The System Agency shall provide written notice of interim extension amendment to the Grantee under one of the following circumstances:
  - 1. Continue provision of services in response to a disaster declared by the governor; or
  - 2. To ensure that services are provided to clients without interruption.
- C. The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
- D. Grantee will provide and invoice for services in the same manner that is stated in the Grant Agreement.
- E. An interim extension under subsection (B)(i) of this section shall extend the term of the Grant Agreement not longer than 30 Business Days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.
- F. An interim extension under subsection (B)(i) of this section shall be a one-time extension for a period of time determined by the System Agency.

**16. ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY AND SECURITY STANDARDS**

- A. Applicability
  - 1. This section applies to the procurement or development of Information and Communication Technology (ICT) for Health and Human Services (HHS), or any changes to HHS's ICT. This section also applies if the Grant Agreement requires Grantee to perform a service or supply goods that include ICT that: (i) HHS employees are required or permitted to access; or (ii) members of the public are required or permitted to access. This section does not apply to incidental uses of ICT in the performance of a Grant Agreement, unless the parties agree that the ICT will become property of the state or will be used by HHS's Client/Recipient after completion of the Grant Agreement.
  - 2. Nothing in this section is intended to prescribe the use of particular designs or technologies or to prevent the use of alternative technologies, provided they result in substantially equivalent or greater access to and use of a product / service.
- B. Definitions

The legacy term “Electronic and Information Resources” (EIR) and the term “Information and Communication Technology” (ICT) are considered equivalent in meaning for the purpose of applicability of HHS Uniform Terms and Conditions, policies, accessibility checklists, style guides, Grant Agreement specifications, and other Grant Agreement management documents. To the extent that any other of the following definitions conflict with definitions elsewhere in this Grant Agreement, the following definitions are applicable to this section only.

  - 1. **“Accessibility Standards”** refers to the Information and Communication Technology Accessibility Standards and the Web Accessibility Standards/Specifications under the Web Content Accessibility Guidelines version 2.0 Level AA, (WCAG 2.0).
  - 2. **“Information and Communication Technology (ICT)”** is any information technology, equipment, or interconnected system or subsystem of equipment for



which the principal function is the creation, conversion, duplication, automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, reception, or broadcast of data or information. Examples of ICT are electronic content, telecommunications products, computers and ancillary equipment, software, information kiosks and transaction machines, videos, IT services, and multifunction office machines which copy, scan, and fax documents.

3. **“Information and Communication Technology Accessibility Standards”** refers to the accessibility standards for information and communication technology contained in the Web Content Accessibility Guidelines version 2.0 Level AA.
4. **“Web Accessibility Standards/Specifications”** refers to the web standards contained in WCAG 2.0 Level AA.
5. **“Products”** means information resources technologies that are, or are related to, ICT.
6. **“Service”** means the act of delivering information or performing a task for employees, clients, or members of the public through a method of access or delivery that uses ICT.

C. Accessibility Requirements

Under Texas Government Code Chapter 2054, Subchapter M, and implementing rules of the Texas Department of Information Resources, HHS must procure Products or Services that comply with the Accessibility Standards when such Products or Services are available in the commercial marketplace or when such Products or Services are developed in response to a procurement solicitation. Accordingly, Grantee must provide ICT and associated Product and/or Service documentation and technical support that comply with the Accessibility Standards.

D. Evaluation, Testing and Monitoring

1. HHS may review, test, evaluate and monitor Grantee’s Products, Services and associated documentation and technical support for compliance with the Accessibility Standards. Review, testing, evaluation and monitoring may be conducted before and after the award of a Grant Agreement. Testing and monitoring may include user acceptance testing.
2. Neither (1) the review, testing (including acceptance testing), evaluation or monitoring of any Product or Service, nor (2) the absence of such review, testing, evaluation or monitoring, will result in a waiver of the State’s right to contest the Grantee’s assertion of compliance with the Accessibility Standards.
3. Grantee agrees to cooperate fully and provide HHS and its representatives timely access to Products, Services, documentation, and other items and information needed to conduct such review, evaluation, testing and monitoring.

E. Representations and Warranties

1. Grantee represents and warrants that: (a) as of the effective date of the Grant Agreement, the Products, Services and associated documentation and technical support comply with the Accessibility Standards as they exist at the time of entering the Grant Agreement, unless and to the extent the Parties otherwise expressly agree in writing; and (b) if the Products will be in the custody of the state or an HHS agency’s client or recipient after the Grant Agreement expiration or termination, the Products

will continue to comply with such Accessibility Standards after the expiration or termination of the Grant Agreement term, unless HHS and/or Client/Recipient, as applicable uses the Products in a manner that renders it noncompliant.

2. In the event Grantee should have known, becomes aware, or is notified that the Product and associated documentation and technical support do not comply with the Accessibility Standards, Grantee represents and warrants that it will, in a timely manner and at no cost to HHS, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, repair, replacement, and upgrading of the Product, or providing a suitable substitute.
3. Grantee acknowledges and agrees that these representations and warranties are essential inducements on which HHS relies in awarding this Grant Agreement.
4. Grantee's representations and warranties under this subsection will survive the termination or expiration of the Grant Agreement and will remain in full force and effect throughout the useful life of the Product.

**F. Remedies**

1. Pursuant to Texas Government Code Sec. 2054.465, neither Grantee nor any other person has a cause of action against HHS for a claim of a failure to comply with Texas Government Code Chapter 2054, Subchapter M, and rules of the Department of Information Resources.
2. In the event of a breach of Grantee's representations and warranties, Grantee will be liable for direct and consequential damages and any other remedies to which HHS may be entitled. This remedy is cumulative of any and all other remedies to which HHS may be entitled under this Grant Agreement and other applicable law.

**17. PROJECT COMMENCEMENT**

The Grantee shall begin the grant-funded project on or before 9/1/2025, unless otherwise approved by System Agency. If project commencement is delayed, the Grantee must submit in writing to the assigned contract manager, the steps taken to initiate the project, the reasons for the delay, and the expected start date. System Agency may require Grantee to take immediate remedial or corrective action in response to any delay.

**18. DUPLICATION OF FUNDING**

- A. If Grantee receives any funding that is duplicative of funding received under this Grant Agreement that cannot be used for new or expanded eligible grant activities, Grantee will notify the assigned contract manager as soon as possible. System Agency may issue an amendment modifying budget and/or project activities to eliminate duplication.
- B. Grantee understands that duplicative funding that cannot be re-programmed to support new or expanded grant-funded activities within the program's scope may be de-obligated from this Grant Agreement and returned to System Agency.

**19. NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS**

- A. Grantee shall immediately report in writing to its assigned System Agency contract manager when Grantee learns of or has any reason to believe it or any person with

ownership or controlling interest in Grantee, or their agent, employee, subcontractor or volunteer who is providing services under this Grant Agreement has been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.

- B. Grantee shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

## **20. NOTICE OF GRANT AGREEMENT ACTION**

- A. Grantee shall notify the assigned System Agency contract manager if Grantee has any grant agreement or contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five (5) Business Days of becoming aware of the action and include the following:
1. Reason for such action;
  2. Name and contact information of the local, state or federal department or agency or entity;
  3. Effective start date of the Grant Agreement;
  4. Date of suspension or termination; and
  5. Grant Agreement or case reference number.

## **21. NOTICE OF BANKRUPTCY**

Grantee shall notify in writing the assigned System Agency contract manager of its plan to seek bankruptcy protection within five (5) Business Days of such action by Grantee.

## **22. NOTICE OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL**

The Grantee shall notify in writing the assigned System Agency contract manager within 10 business days of any change to the Grantee's Contact Person or Key Personnel.

## **23. NOTICE OF INSOLVENCY, INCAPACITY, OR OUTSTANDING UNPAID OBLIGATIONS**

Grantee shall notify in writing its assigned System Agency contract manager of any insolvency, incapacity, or outstanding unpaid obligations of Grantee owed to the Internal Revenue Service or the State of Texas, or any agency or political subdivision of the State of Texas within five business days of the date of Grantee's becoming aware of such.

## **24. NOTICE OF ORGANIZATION CHANGE**

Within 10 business days, Grantee shall to the SUD Mailbox and Program Mailbox regarding changes to the Grantee legal name, contact information, organizational structure due to merger or acquisition, or any change in form of business, legal standing, or authority to do business in Texas.

## **25. NOTICE OF SIGNIFICANT INCIDENTS**

In addition to notifying the appropriate authorities, Grantee will submit notice to SUD Mailbox and Program Mailbox significant incidents involving substantial disruption of

Grantee's program operation or affecting or potentially affecting the health, safety, or welfare of the System Agency funded clients or participants within three (3) Calendar Days of discovery. Significant incidents may include, but are not limited to: client death; overdose; assaults; or any other related harm to clients in services; and any reason that leads to a facility closure or disruption in services, such as those identified in Section 6, Disaster Services.

## **26. RESPONSIBILITIES AND RESTRICTIONS CONCERNING GOVERNING BODY, OFFICERS, AND EMPLOYEES**

Grantee and its governing body must:

- A. Bear full responsibility for the integrity of the fiscal and programmatic management of the organization.
- B. Be accountable for all funds and materials received from the System Agency. The responsibility of Grantee's governing body will also include accountability for compliance with the System Agency rules, policies, procedures, and applicable federal and state laws and regulations; and correction of fiscal and program deficiencies identified through self-evaluation and the System Agency's monitoring processes.
- C. Ensure separation of powers, duties, and functions of governing body members and staff.
- D. Not vote for, confirm, or act to influence the employment, compensation, or change in status of any person related within the second degree of affinity or the third degree of consanguinity (as defined in Texas Government Code Chapter 573) to the member of the governing body or the officer or any employee authorized to employ or supervise such person. This prohibition does not prohibit the continued employment of a person who has been continuously employed for a period of two (2) years prior to the election, appointment, or employment of the officer, employee, or governing body member related to such person in the prohibited degree. These restrictions also apply to the governing body, officers, and employees of Grantee's subcontractors

## **27. DIRECT OPERATION**

System Agency may temporarily assume operations of a Grantee's program or programs funded under this Contract when the continued operation of the program by Grantee puts at risk the health or safety of clients and/or participants served by Grantee.

## **28. BREACH OF GRANTEE AGREEMENT AND LIQUIDATED DAMAGES**

### **A. Grant Agreement Monitoring and Enforcement**

System Agency will monitor Grantee for programmatic and financial compliance with this Grant Agreement. System Agency, upon request, may provide assistance to Grantee regarding actions which may be implemented by Grantee to mitigate or resolve its substandard performance.

If Grantee's performance does not comply with the Grant Agreement, System Agency may, in addition to the remedies set forth elsewhere in the Grant Agreement, impose remedies which may include any or all of the following:

1. Accelerated monitoring of Grantee's performance;
2. Additional or ad hoc reporting by Grantee, at no additional cost to System Agency, to address performance issues;
3. Compliance by Grantee, at no additional cost to System Agency, with the performance improvement activities and timelines specified in a written corrective action plan(s) approved by System Agency; and/or
4. Assessment of liquidated damages in accordance with Subsection E. below.

#### B. Liquidated Damages

For the liquidated damages specified in this section, Grantee agrees that (1) the measure of damages in the event of a default or breach by Grantee may be difficult or impossible to calculate, (2) the liquidated damages and any amounts assessed in connection therewith are neither a penalty nor a forfeiture, and (3) the amount of liquidated damages are a reasonable forecast of just compensation for the default or breach by Grantee.

Liquidated damages will not be assessed if System Agency determines that Grantee is not responsible for the delay or failure of the applicable requirement. For the avoidance of doubt, any liquidated damages remedy associated with non-compliance with the HHS Data Use Agreement v 8.5 will be specified within the HHS Data Use Agreement v 8.5 and not in this section.

#### C. Grant Agreement Enforcement Process

System agency will implement the progression of Grant Agreement remedies upon identification of substandard performance. System Agency may impose grant agreement remedies as allowable in Grant Agreement, which may not be reflected in this section, based on the significance of the Grant Agreement breach or substandard performance.

#### D. Liquidated Damages Regarding Unmet Deliverables

System Agency shall apply liquidated damages for late, incomplete, or inaccurate deliverables. System Agency shall consider a deliverable "not received" if the deliverable has not been submitted to System Agency in the required submission system by the due date, is incomplete, or inappropriate (including but not limited to: submitted using wrong template, completed incorrectly, or demonstrates unacceptable service delivery). System Agency shall issue a daily liquidated damages based on the average cost of one hour of work for System Agency staff, assessed at \$40 per Business Day.

#### E. Liquidated Damages Regarding Unmet Performance Measures

1. System Agency will conduct an annual analysis 45 Calendar Days following the close of each fiscal year for all performance measures in accordance with the Grant Agreement. The fiscal year starts September 1st of each year and ends August 31st

of each year.

2. Performance measures documented immediately below in Subsection 3 that do not meet at least 70% of the annual goal will result in liquidated damages as set forth in Subsection 4 below.
3. System Agency shall apply liquidated damages for substandard performance to the following Performance Measures for each Prevention program ID. The liquidated damages shall be enforced upon annual performance measures not meeting 70% of the fiscal year cumulative performance goal.

**i. Comprehensive Case Management Services (CCMS) (Required for awarded intensive residential contractors).**

Number of unduplicated CCMS clients served (open cases)
Number of CCMS clients admitted to treatment
Number of CCMS clients enrolled that completed treatment.

**ii. Treatment for Adults (TRA), Treatment for Specialized Females (TRF) and Treatment for Youth (TRY)**

Program	Service	Measure
TRA/TRF/TRY	Intensive Residential	Percent of clients receiving on average 10 hours of group counseling and 10 hours of group education weekly during their treatment episode
TRA/TRF/TRY	Intensive/Supportive Residential, Outpatient	Percent of Treatment Plans closed on or before the 5th Service Day
TRA/TRF/TRY	Intensive/Supportive Residential, Outpatient	Percent of discharge follow ups completed no sooner than 60 Calendar Days after discharge and no later than 90 Calendar Days after discharge.
TRA/TRF	Withdrawal Management	Percent of discharge follow ups completed no later than 10 Calendar Days after discharge.

4. The System Agency shall recoup a percentage of Grantee's reimbursed expenditures for the fiscal year. The liquidated damages amounts will be calculated according to the following formula:

$$L=[0.001T(70-P)] (E/T)$$

L: total liquidated damages amount in dollars,  
T: total program ID HHSC Share amount,  
P: percentage below 70% multiplied by 100 (to give a whole number rather than percentage) rounded to the nearest whole number, and  
E: total program ID funds expended over the fiscal year.

The calculation result is the liquidated damage amount to be recouped. The liquidated damages amount will increase as the percentage of measures goal goes down [data for P, ref. above] and is mitigated based on percentage of funds expended. Per this formula the absolute maximum liquidated damages in the event of 100% funds expenditure with zero services provided for the designated measures, would be 7% of the total contract value

#### F. Grantee Repayment

System Agency may elect to collect liquidated damages as set-off against payments due to Grantee or that become due at any time after assessment of liquidated damages. System Agency may take repayment from funds available under this Grant Agreement, active or expired, or any subsequent renewal, in amounts necessary to fulfill Grantee's repayment obligations. System Agency may also elect to collect liquidated damages through direct assessment and demand for payment delivered to Grantee.

#### G. Notice of Liquidated Damages

System Agency will formally notify Grantee in writing when liquidated damages actions are imposed, stating the nature of the action, the reasons for imposing, and the method of appealing. Grantee must submit a written appeal, within 10 Calendar Days of receipt of the notice, to the SUD email box and copy the assigned contract manager.

A submitted appeal must:

1. Include documented proof that Grantee submitted the information by the due date or received an exemption from the System Agency.
2. Demonstrate the findings on which the Liquidated Damage and/or sanction are based are either invalid or do not warrant the action(s).

If System Agency determines the liquidated damage is warranted, System Agency's decision is final, and the remedy shall be imposed.

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