

1 February 2022

The Honorable Chiquita Brooks-LaSure
Administrator, Centers for Medicare and Medicaid Services
200 Independence Ave., SW
Washington, DC 20201

Re: Open RFI on Organ Transplant and Organ Procurement Organizations

Dear Administrator Brooks-LaSure:

We are writing supporting reforms to the nation's organ transplantation system. We appreciate reforms that are already underway, and believe that both support for living donors and accountability for the governments' own contractors are critical to reducing disparities in organ transplantation and saving more lives through organ transplantation.

Because of the monopoly nature of existing government contracts, we note that bipartisan, bicameral Congressional leaders were correct to identify accelerating reforms of organ procurement organizations (OPOs) as an ["urgent health equity issue"](#), and that both the [Senate Finance Committee](#) and the [House Appropriations Committee](#) have appropriately highlighted the need for reform of the organ procurement transplantation network (OPTN).

The recommendations below are based on removing barriers and conflicts, increasing transparency, and following basic principles of good governance and federal contracting.

We recommend that CMS and the Department of Health and Human Services (HHS) more broadly:

- **Provide support to living donors** by removing all financial disincentives to organ donation. This would include expanding the reforms announced in 2020 that cover child care, elder care, lost wages, and other costs associated with donation, and piloting new models to ensure that no interested living donor is unable to donate for financial reasons;
- **Ensure a high-functioning deceased donation system** by accelerating the date by which high performing OPOs can replace failing OPOs so that all parts of the country are served by high performing OPOs before 2026, and not allowing critical performance metrics to be gamed through race-based adjustments (which codify poorer treatment for donors of color, and remove all incentive for OPOs to improve [historically-inferior service](#) they provide to minority patient populations), or organs which do not result in transplants (so-called zero donors and organs for research);

- **Make all OPO process data publicly available**, in line with established international best practice standards for OPO transparency, and as the practical way to show evidence of equitable treatment of donor families (e.g., OPOs should have no differential response rates for Black donors compared to white donors; or for rural donors compared to urban donors);
- **Base future OPO contracting rounds on objective data**, using CMS' new, pro-patient competition model to award designated services areas to high performers based on OPO performance metrics (donation/transplantation rate) and evidence of equitable treatment (available in OPO process data). This will ensure CMS is not preferencing simply for incumbency at the expense of patients' lives, especially given [research](#) finding that historical OPO mergers were seamless and improved patient outcomes;
- **Streamline organ donation policymaking through an elevated Office of Organ Policy**, as advocated for by the [House Appropriations Committee](#), including to address what the [bipartisan Senate Finance Committee](#) has identified as "conflicts of interest and gaps in oversight" from the organ procurement transplantation network (OPTN); and
- **Ensure a first-ever competitive OPTN contract** in line with calls from the [House Appropriations Committee](#) and consistent with standard government contracting policies, which would subdivide the contract and make its components open to all bidders, so that HHS can choose from the best vendors to serve patients - in particular with regard to replacing what former top government technologists have identified as ["antiquated technology"](#).

Ike Brannon

White House Office of Information and Regulatory Affairs, 2001 - 2002; Senate Finance Committee, 2005 - 2007; U.S. Treasury, 2007 - 2008; House Energy and Commerce Committee, 2009-2011

Jennifer Erickson

White House Office of Science and Technology Policy, 2015 - 2017

Jerold Mande

Staff author of the National Organ Transplant Act of 1984, Al Gore, 1982 - 1991; White House Office of Science and Technology Policy, 1997 - 1998

Jim Parker

U.S. Department of Health and Human Services, 2018 - 2021

Bryan Sivak

U.S. Department of Health and Human Services, 2012 - 2015

Abe Sutton

White House National Economic Council and Domestic Policy Council, 2017 - 2019