

APPENDIX X – Crosswalks of Section 3.1.1E Requirements in Subcontracts submitted as Attachments to Section 3.1.1

Requirement	Citation
The parties to the contract. If the applicant is not a party to the contract, it must be identified by name as an entity that will benefit from the services described in the contract.	
The functions to be performed by the first tier, downstream, or related entity. Describe the reporting requirements the first tier, downstream, or related entity identified in Section 3.1.1C of the application has to the applicant. 42 CFR §423.505(i)(4)(i)	
Language clearly indicating that the first tier, downstream, or related entity has agreed to participate in your Medicare Prescription Drug Benefit program (except for a network pharmacy if the existing contract would allow participation in this program).	
Contains flow-down clauses requiring the first tier, downstream, or related entity's activities to be consistent and comply with the Applicant's contractual obligations as a Part D sponsor. 42 CFR §423.505(i)(3)(iii)	
The payment the first tier, downstream, or related entity will receive for performance under the contract, if applicable.	
Are for a term of at least the one-year contract period for which application is submitted. Note: Where the contract is for services or products to be used in preparation for the next contract year's Part D operations (marketing, enrollment), the initial term of such contract must include this period of performance (e.g., contracts for enrollment-related services must have a term beginning no later than October 15 extending through the full contract year ending on December 31 of the next year).	
Are signed by a representative of each party with legal authority to bind the entity.	
Language obligating the first tier, downstream, or related entity to abide by all applicable Federal laws and regulations and CMS instructions. 42 CFR §423.505(i)(4)(iv)	
Language obligating the first tier, downstream, or related entity to abide by State and Federal privacy and security requirements, including the confidentiality and security provisions stated in the regulations for the program at 42 CFR §423.136.	

Requirement	Citation
<p>Language ensuring that the first tier, downstream, or related entity will make its books and other records available in accordance with 42 CFR 423.505(e)(2) and 42 CFR 423.505(i)(2). Generally stated these regulations give HHS, the Comptroller General, or their designees the right to audit, evaluate and inspect any books, contracts, records, including medical records and documentation involving transactions related to CMS' contract with the Part D sponsor and that these rights continue for a period of 10 years from the final date of the contract period or the date of audit completion, whichever is later. 42 CFR §423.505</p>	
<p>Language stating that the first tier, downstream, or related entity will ensure that beneficiaries are not held liable for fees that are the responsibility of the Applicant. 42 CFR §423.505(i)(3)(i)</p>	
<p>Language ensuring that if the Applicant, upon becoming a Part D sponsor, delegates an activity or responsibility to the first tier, downstream, or related entity, that such activity or responsibility may be revoked if CMS or the Part D sponsor determines the first tier, downstream, or related entity has not performed satisfactorily. Note: The contract/administrative services agreement may include remedies in lieu of revocation to address this requirement. 42 CFR §423.505(i)(4)(ii)</p>	
<p>Language specifying that the Applicant, upon becoming a Part D sponsor, will monitor the performance of the first tier, downstream, or related entity on an ongoing basis. 42 CFR §423.505(i)(4)(iii)</p>	
<p>Language that the Part D sponsor retains the right to approve, suspend, or terminate any arrangement with a pharmacy if the first tier, downstream, or related entity will establish the pharmacy network or select pharmacies to be included in the network. 42 CFR §423.505(i)(5)</p>	
<p>Language that if the first tier, downstream, or related entity will establish the pharmacy network or select pharmacies to be included in the network contain language that payment to such pharmacies (excluding long-term care and mail order) shall be issued, mailed, or otherwise transmitted with respect to all clean claims submitted by or on behalf of pharmacies within 14 days for electronic claims and within 30 days for claims submitted otherwise. 42 CFR §423.505(i)(3)(vi)</p>	
<p>Language that if the first tier, downstream, or related entity will establish the pharmacy network or select pharmacies to be included in the network and a prescription drug pricing standard is used for reimbursement, identifies the source used by the Part D sponsor for the prescription drug pricing standard of reimbursement. 42 CFR §423.505(i)(3)(viii)(B)</p>	

Requirement	Citation
<p>If the first tier, downstream, or related entity will establish the pharmacy network or select pharmacies to be included in the network, and the source for any prescription drug pricing standard is not publicly available, a provision for disclosing all individual drug prices to be updated to the applicable pharmacies in advance of their use for reimbursement of claims. 42 CFR §423.505(i)(3)(vii).</p>	
<p>If the first tier, downstream, or related entity will establish the pharmacy network or select pharmacies to be included in the network and a prescription drug pricing standard is used for reimbursement, a provision requiring that updates to such a standard occur not less frequently than once every 7 days beginning with an initial update on January 1 of each year, to accurately reflect the market price of acquiring the drug. 42 CFR §423.505(i)(3)(viii)(A)</p>	
<p>If the first tier, downstream, or related entity will establish the pharmacy network or select pharmacies to be included in the network, language requiring the network pharmacies to submit claims to the Part D sponsor or first tier, downstream or related entity whenever the membership ID card is presented or on file at the pharmacy unless the enrollee expressly requests that a particular claim not be submitted. 42 CFR §423.120(c)(3)</p>	
<p>Language that if the first tier, downstream, or related entity will adjudicate and process claims at the point of sale and/or negotiate with prescription drug manufacturers and others for rebates, discounts, or other price concessions on prescription drugs contain language requiring that the first tier, downstream, or related entity will comply with the reporting requirements established in 42 CFR §423.514(d) and (e).</p>	