

Transparency Attestation Requirement: 45 CFR § 170.523(k)(2)

The 2015 Edition Final Rule includes a new transparency attestation requirement that is applicable to all health IT developers whose product(s) have been or will be issued a 2014 Edition or later certification. A developer only needs to respond to the attestation once, even if it has multiple product certifications. All health IT developers must make one of the following attestations:

In the affirmative:

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In support of enhanced marketplace transparency and visibility into the costs and performance of certified health IT products and services, and the business practices of health IT developers, **[Developer Name]** hereby attests that it will provide in a timely manner, in plain writing, and in a manner calculated to inform, any part (including all) of the information required to be disclosed under 45 CFR § 170.523(k)(1) under the following circumstances:

- **To all persons who request such information.**
- **To all persons who request or receive a quotation**, estimate, description of services, or other assertion or information from **[Developer Name]** in connection with any certified health IT or any capabilities thereof.
- **To all customers prior to providing or entering into any agreement** to provide any certified health IT or related product or service (including subsequent updates, add-ons, or additional products or services during the course of an on-going agreement).

- OR -

In the negative:

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[Developer Name] hereby attests that it has been asked to make the voluntary attestation described by 45 CFR § 170.523(k)(2)(i) in support of enhanced marketplace transparency and visibility into the costs and performance of certified health IT products and services, and the business practices of health IT developers. **[Developer Name]** hereby declines to make such attestation at this time.

- OR -

Self-developer exclusion:

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[Developer Name] hereby attests that it is a self-developer exempt from the disclosure requirements at 45 CFR §§ 170.523(k)(1)(iii) and 170.523(k)(2). **[Developer Name]** further attests that as a self-developer it does not and will not market, sell, or license its certified Health IT Module(s).

Pursuant to the 2015 Edition Final Rule, ONC-ACBs must include developers' attestations (i.e., a "yes" or "no") in the information submitted to National Coordinator for inclusion in the CHPL. Please take note that a developer's attestation under 45 CFR § 170.523(k)(2) does not change the scope of the information a developer is required to disclose under 45 CFR § 170.523(k)(1).