ERIE COUNTY
DEPARTMENT OF MENTAL HEALTH

2027 PROCEDURE MANUAL

FOR
ERIE COUNTY
DEPARTMENT OF MENTAL HEALTH
CONTRACT AGENCIES

COUNTY OF ERIE

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County Executive

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INTRODUCTION

This Erie County Department of Mental Health Procedure Manual applies to contracted mental health, developmental disabilities, alcohol and substance abuse services and programs covered under an Erie County Contract.

The Erie County Department of Mental Health Procedure Manual explains and defines the updated procedures, reporting requirements, and reimbursement methodologies as standards that Contracted Agencies must adhere to and comply with.

All reference materials mentioned herein can be accessed and downloaded from the designated Contract Agency page on our website by using the direct link listed below: https://www3.erie.gov/mentalhealth/information-contract-agencies.

GLOSSARY & DEFINED TERMS

- **Agency Head:**
  This is the agency's designated position to speak / approve changes on behalf of the agency, may be the CEO, Executive Director, President, or other title as defined by the individual agency.

- **Assisted Outpatient Treatment ("AOT"):**
  AOT ensures that individuals with mental illness and a history of hospitalizations or violence participate in community-based services appropriate to their needs through court order.

- Bureau of Justice Assistance **("BJA")**
- Buffalo Joint Certification Committee **("JCC")**
- Certificate(s) of Insurance (**"COI"**)
- Certificate of Need (**"CON"**)

- **ClearPoint:**
  ECDMH utilizes an online platform called "ClearPoint" to collect agency and program level performance information. Agencies are required to complete periodic Performance Reports in ClearPoint, typically quarterly or semiannually.

- Consolidated Budget Report (**"CBR"**)
- Consolidated Fiscal Report (**"CFR"**)
- Consolidated Fiscal Reporting and Claiming Manual (**"CFR Manual"**)
- Consolidated Fiscal Reporting System (**"CFRS Web"**)

- **Consumer**:
  Individual seeking or receiving services from a contract agency. May include individuals seeking or receiving services from other providers not under contract with ECDMH. Comparable terms include patient, recipient, and client.

- Continuity of Operations Plan **("COOP")**

- Contract Agency (**"Agency"**)

- Contract Coordinator (**"CC"**):
  Each Agency has an assigned Contract Coordinator who is the primary point of contact for the Agency with the ECDMH. The Contract Coordinator is responsible for reviewing Scopes of Service and contract documents, monitoring financial aspects of the contract, developing metrics and reviewing performance reports, and providing or facilitating technical support.

- Department of Criminal Justice Services (**"DCJS"**)
- Director of Community Services (**"DCS" / "ECDMH Commissioner"**)
- Division of Minority and Women's Business Development (**"DMWBD"**)
- Erie County Department of Mental Health (**"ECDMH"**)
- Erie County Department of Mental Health Procedure Manual (**"Procedure Manual"**)
- Erie County Medical Center (**"ECMC"**)

- Enhanced Voluntary Agreement (**"EVA"**)
  An Enhanced Voluntary Agreement refers to a process where an individual agrees to participate in structured supports similar to what is provided under an assisted outpatient treatment, without the court order

- Funding Authorization Summary (**"FAS"**)
- General Ledger (**"G/L"**)
- Law Enforcement Officers (**"LEO"**)
- Limited English Proficient (**"LEP"**)
- Local Services Plan (**"LSP"**)
- Long-Term Sheltered Employment (**"LTSE"**)

- **MHL §9.45 Designees**:
  MHL §9.45 Designees are empowered by the ECDMH Director of Community Services, in Erie County this is the Commissioner of the Erie County Department of Mental Health, to direct the removal of any person within Erie County to a MHL § 9.39 hospital for evaluation, when such person has a mental illness for which immediate care is appropriate and is acting in a way that poses a danger to self or others.

- Mental Illness (**"MI"**)
- Minority Owned Business Enterprise (**"MBE"**)
- Minority and Women Business Enterprises (**"M/WBE"**)

- New York State (**"NYS"**)
- New York State Codes, Rules, and Regulations (**"NYSCRR"**)
- New York State Division of Criminal Justice Services (**"NYS DCJS" / "DCJS"**)
- New York State Mental Hygiene Law **("NYS MHL" / "MHL")**
- New York State Office for People With Developmental Disabilities (**"NYS OPWDD" / "OPWDD"**)
- New York State Office of Addiction and Supports (**"NYS OASAS" / "OASAS"**)
- New York State Office of General Services (**"NYS OGS" / "OGS"**)
- New York State Office of Mental Health (**"NYS OMH" / "OMH"**)

- Prior Approval Review (**"PAR"**)
- Program Funding Source Detail (**"PFSD"**)
- Scope of Service (**"SoS"**)

- Single Point of Access (**"SPOA") –** Add qualifier of A-SPOA for Adult and C-SPOA for Children's
- State Finance Law (**"SFL"**)
- United States Department of Housing and Urban Development (**"HUD"**)
- Women Owned Business Enterprise (**"WBE"**)
- Year to Date (**"YTD"**)

I. PROGRAM SERVICES GUIDELINES

A. Contracted Service Values & Principles

The contracted program and services shall be consistent with the following vision, values and principles:

Vision

The ECDMH will empower stakeholders to access behavioral health services that promote hope, recovery and improved quality of life.

Values

1. Promoting choice, hope and independence.
2. Fostering practices that work.
3. Providing training and educational opportunities.
4. Advocating for parity and inclusion.
5. Ensuring collaborative partnerships with diverse stakeholders.

Principles

1. The consumer shall receive supports & services that are effective and meet his/her individualized needs.
2. The consumer shall relate to his/her family, friends, and communities when and how he/she chooses, consistent with the rights and wishes of others.
3. The consumer shall be as independent as possible and determine the direction of his/her life.
4. The consumer shall have the opportunity to make life choices that do not compromise health and safety, and those choices shall be respected and valued.
5. The consumer shall have the opportunity to communicate his/her feelings, including fears, and have them addressed and not be subjected to fear of harm or reprisal in connection with the provision of supports and services.

The Agency Program Services Policies & Procedure Manual required by NYS for Certification, and other documents applicable to the quality of contracted services, shall be available for review during site visits and quality assurance visits.

B. Outcomes

The focus of contract oversight and accountability places increased emphasis on service utilization, quality of care and program performance outcomes. Outcomes describe the impact of services on consumers' quality of life, and address the question: "*How are consumers better off as a result of the program service or intervention*?" Outcomes should be quantified, measurable, and reflect consumer choices and values. The ECDMH will be able to use this data to evaluate outcomes and performance. Agencies will ensure the outcome data is accurate and submitted to ECDMH by the dates provided by their Contract Coordinator.

C. Discharge Planning

Discharge planning to facilitate the transition of consumers from inpatient or other institutional level of care to aftercare services must occur with coordination between the consumer, inpatient facility, aftercare provider(s) and family, when possible and appropriate, in order to assure the probability of an adequate transition by the consumer to community life. Discharge planning should include, in partnership with the

consumer, referrals to community services that facilitate integration into the community with the least restrictive levels of care that allow a consumer to thrive.

D. Procedures Related to Review of Proposed Residential Services in Erie County

Erie County is responsible for the planning, coordination, and development of a comprehensive system of care for individuals with mental disabilities and addictions and their families under Articles 19, 23, and 41 of the NYS MHL. The ECDMH is responsible for the review and recommendation to NYS Office of Mental Health ("NYS OMH"), NYS Office for People with Developmental Disabilities ("NYS OPWDD") and Office of Addiction Services and Supports ("NYS OASAS") of certified residential programs subject to and in accordance with Parts 551, 620, 820, and 1010 of the NYSCRR. Criteria to be considered in this review include: character and competence of the operator; need for the program; financial viability and cost effectiveness; and the probability of operating in conformance with applicable regulations. The ECDMH may seek information and input from multiple sources to assist in its review of such residential proposals/projects subject to Parts 620 and 551 of the NYSCRR.

Prior to the formal submission of an application for Prior Approval Review (PAR) and as early as possible, it is required that all Agencies submitting Certificate of Need (CON) applications for OASAS and OPWDD residential programs consult with the ECDMH to ensure, to the extent possible, that the proposed project is needed, and consistent with the Local Government Plans for mental disabilities and addictions.

E. Program Services Policies & Procedures

The Contract Agency ("Agency") will develop and maintain an updated Program Services Policies & Procedures Manual for their agency. It is the responsibility of the Agency to assure provision of services by professional staff consistent with the Mental Hygiene Law ("MHL"), the New York State Codes, Rules, and Regulations ("NYSCRR"), and the Program/Budget Submission of the Agency within the Agency's Program Services Policies & Procedures Manual. The Agency's Program Services Policies & Procedures Manual needs to include the Agency's policies, practices, and procedures designed to assure high quality care and service to consumers. In addition, the Agency's Program Services Policies & Procedures Manual shall detail the policies and practices for maintaining confidentiality as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all other applicable laws.

F. Standards for Program Services

Contracted agencies are required to operate all programs and services in full compliance with applicable laws, regulations, and standards governing the delivery of services to individuals with mental illness ("MI"). This includes, but is not limited to:

1. **New York State (NYS) Law and Regulations:** Agencies must comply with all regulations established under New York State law and the rules of the applicable oversight offices, including the Office of Mental Health (OMH), Office of Addiction Services and Supports (OASAS), and Office for People with Developmental Disabilities (OPWDD), as applicable.
2. **Other State and Federal Requirements:** Agencies must meet all applicable requirements of other state and federal departments or funders, including the New York Codes, Rules and Regulations (NYCRR) and rules of the Federal Office of Management and Budget (OMB).

3. **Funding and Service Delivery Standards:** Agencies must adhere to any conditions, standards, or regulations tied to specific funding streams or service delivery requirements, including those imposed by federal, state, or local government partners.

These standards represent the **minimum contractual requirements** for program operation. The ECDMH may establish **additional requirements for quality of care and accountability**, as specified in this Procedure Manual. Agencies are expected to comply with both the minimum standards and any supplemental quality standards outlined herein.

G. Quality Improvement

ECDMH expects agencies to do their best to serve the community with the highest quality services possible, which requires agencies to be proactive about quality improvement activities. Quality Improvement is an active integration of data collection, monitoring and understanding the relationship between practice and outcomes. This is achieved through both the administration and management of a program, as well as group and individual clinical supervision. It is through a combination of integrated management and clinical practices that improvement opportunities are identified, and effective solutions are implemented.

Although the ECDMH not require a Quality Improvement Plan to be submitted as part of its contracting process, the ECDMH continues to require each contracted agency to engage in rigorous Quality Improvement activity and reserves the right to request a Quality Improvement Plan should performance concerns arise. For example, deficiencies identified through **NYS** and/or County site visits may require a Quality Improvement Plan to be developed and implemented by the Agency that includes a management plan and/or actual resolution of deficiencies prior to execution of the following year's contract.

The **Agency Quality Improvement Plan** must have the capacity to identify potential or realized problems in services delivered and lead to effective corrective actions. Agencies must demonstrate evidence of the use of information or analyses derived from quality improvement activities. No direct tie of Quality Improvement to reimbursement is established.

The Agency Quality Improvement Plan includes staff and board champions, outcomes, performance measures, actions and targets to be achieved.

H. Performance Reports

ECDMH utilizes an online platform called "ClearPoint" to collect agency- and program-level performance information. Agencies are required to complete periodic Performance Reports in ClearPoint, typically quarterly or semiannually. If not otherwise specified, Performance Reports are to be submitted quarterly. Agency representatives can request user accounts for staff through a request to their assigned Contract Coordinator. Consistent with the practice to outcome model, the ECDMH may also require Agencies to track data on fidelity to practice and make supplemental data available to the ECDMH on request.

II. PROGRAM AND FISCAL REVIEW GUIDELINES

A. Program and Fiscal Review

Each Agency is responsible for implementing the program and services consistent with: (1) Local laws, (2) New York State MHL, NYCRR, (3) Federal laws and regulations and (4) the ECDMH approved Agency Contract and its Appendices.

B. Site Visits

The ECDMH's site visit reviews of each Agency may be conducted on a periodic basis to assess quality of care, program effectiveness, efficacy of services, and adherence to all local, state & federal rules & regulations both programmatic and fiscal. Site reviews may occur through both on-site visits or remotely and include review of written documents. Site reviews may be announced or unannounced. The site visit may be coordinated with similar reviews conducted by the ECDMH and/or NYS or Federal Offices with Agency oversight responsibilities wherever possible. The Agency shall permit and participate in reviews. Site reviews may include but not be limited to: record reviews; fiscal reviews; Board, staff and consumer interviews; and observation of program operations. All site review procedures utilized by the ECDMH will be performed in a manner consistent with the protection of consumer rights and ensuring consumer confidentiality. The ECDMH will seek to implement site visits and program audits in a manner that is conducive to and not disruptive of Agency operations without lessening the ECDMH contract obligations, responsibilities, and authority.

The Agency will establish and maintain all records and documents necessary, pursuant to the laws governing not-for-profit corporations, and pursuant to local laws, the NYS MHL, NYCRR, Federal laws and regulations, and as required pursuant to th**is** Procedure Manual. The Agency shall make all such related records available to the ECDMH.

Fiscal site reviews may be done separately, or as part of a programmatic site visit. The ECDMH will give an Initial Review Report that will be forwarded to the Agency summarizing the findings and recommendations regarding required corrective action that doesn't meet practice standards or required thresholds. The Agency will have thirty (30) days to review and respond to the preliminary written report and writing a Plan of Corrective Action (POCA) as necessary. Upon receipt of the Agency response, ECDMH will review the plan of corrective action and discern next steps. These could include, but are not limited to, a structured set of follow-up meetings to discern progress, incidences of technical assistance, or a request for revision if needed.

The Agency Site Review Report will identify the duration of time allowed to complete all corrective actions. The ECDMH may perform a follow-up site visit to assess the effectiveness of the corrective actions in resolving the identified deficiencies.

C. Contract Oversight and Investigation of Incidents and Complaints

The ECDMH may respond to and investigate complaints and/or incidents related to service delivery or quality filed with the ECDMH or Erie County by any individual, consumer, their advocate, and/or Agency employee.

The Agency further agrees, upon fifteen (15) days advance written notice, to make available its records relating to services, facilities, and all financial, statistical and client or patient records, memoranda and other data relating thereto for audit, inspection and visitation by the County, Federal Government and/or the Offices of NYS. All examinations, inspections, audits and visitations shall, in the absence of an effective waiver by the client or patient, be conducted in accordance with laws governing patient confidentiality and privilege. The Agency obligation under this Section shall continue beyond the expiration or termination of your ECDMH Contract.

The Agency agrees to submit the results of any Federal, State or other oversight entity audit, site/program review and/or inspection. The Agency also agrees to submit a copy of any corrective action plans and/or responses to such audits, site/program reviews or inspections.

The Agency understands that it must comply with the following:

1) The Protection of People with Special Needs Act, enacted as Chapter 501 of the Laws of 2012 for incident reporting; and

2) As applicable, the following statutory regulations with regard to incident management plans:

- OPWDD funded, operated or certified agencies
- OASAS funded, operated, certified or licensed agencies
- OMH funded, operated or licensed agencies

The Agency's responsibilities include reporting to the NYS Justice Center any incidents of alleged abuse and neglect of a person receiving services. Additionally, the Agency will comply with any subsequent investigations completed by the NYS Justice Center. Agency will copy to the ECDMH any resulting reports/correspondence including directed corrective action in relation to said regulations.

III. APPOINTMENT & AUTHORITY OF EMERGENCY EVALUATION DESIGNEES PURSUANT TO MHL §9.45

Within Erie County, individuals who experience a mental health crisis have several methods to receive crisis related services. The Emergency Evaluation Procedure described below is one component of the Emergency Mental Health Service System in Erie County. That system was established in accordance with MHL §9.45 and by an agreement which was reached on December 18, 1972, by Erie County, Suicide Prevention & Crisis Services, Inc., and the Erie County Medical Center ("ECMC"). As of 2025, documentation surrounding the specifics of this agreement cannot be located, prompting a formal review of the designee process. Additionally, the system has further evolved since its inception, with the addition of other provider agencies to the crisis response part of the continuum of services. For these reasons, the ECDMH Commissioner, who also serves as the Director of Community Services ("DCS"), now develops formal policies and procedures related to MHL §9.45 Designees as detailed below.

A. NYS MHL §9.45 ("MHL §9.45")

SECTION 9.45 Emergency assessment for immediate observation, care, and treatment; powers of directors of community services. MHL Mental Hygiene (MHY) CHAPTER 27, TITLE B, ARTICLE 9:

(a) The director of community services or the director's designee shall have the power to

direct the removal of any person, within their jurisdiction, to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article, or to a comprehensive psychiatric emergency program pursuant to subdivision (a) of section 9.40 of this article, if the parent, adult sibling, spouse, domestic partner as defined in section twenty-nine hundred ninety-four-a of the public health law or child of the person, the committee or legal guardian of the person, a licensed psychologist, registered professional nurse or certified social worker currently responsible for providing treatment services to the person, a supportive or intensive case manager currently assigned to the person by a case management program which program is approved by the office of mental health for the purpose of reporting under this section, a licensed physician, health officer, peace officer or police officer reports to the director of community services or the director's designee that such person has a mental illness for which immediate care and treatment is appropriate and that is likely to result in serious harm to self or others. It shall be the duty of peace officers, when acting pursuant to their special duties, or police officers who are members of an authorized police department, or force or of a sheriff's department to assist representatives of such director to take into custody and transport any such person. Upon the request of a director of community services or the director's designee, an ambulance service, as defined in subdivision two of section three thousand one of the public health law, is authorized to transport any such person. Such person may then be retained in a hospital pursuant to the provisions of section 9.39 of this article or in a comprehensive psychiatric emergency program pursuant to the provisions of section 9.40 of this article.

(b) A person otherwise determined to meet the criteria for an emergency assessment pursuant to this section may voluntarily agree to be transported to a crisis stabilization center under section 36.01 of this chapter for care and treatment and, in accordance with this article, an assessment by the crisis stabilization center determines that they are able to meet the service needs of the person § 9.45 Emergency admissions for immediate observation, care, and treatment; powers of directors of community services. The director of community services or the director's designee shall have the power to direct the removal of any person, within their jurisdiction, to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article if the parent, spouse, domestic partner as defined in section twenty-nine hundred ninety-four-a of the public health law or child of the person, a licensed physician, health officer, peace officer or police officer reports to such director of community services or the director's designee that such person has a mental illness for which immediate care and treatment in a hospital is appropriate and which is likely to result in serious harm to self or others, as defined in section 9.39 of this article. It shall be the duty of peace officers, when acting pursuant to their special duties, or police officers, who are members of an authorized police department or force or of a sheriff's department to assist representatives of such director to take into custody and transport any such person. Upon the request of a director of community services or their designee an ambulance service, as defined in subdivision two of section three thousand one of the public health law, is authorized to transport any such person. Such person may then be retained pursuant to the provisions of section 9.39 of this article.

B. Qualifications of MHL §9.45 Emergency Evaluation Designees

Pursuant to NYS MHL §9.45, the DCS has the authority to appoint Designees to act on their behalf. MHL §9.45 Designees (referred to locally as “9.45 Designees”) are empowered to direct the removal of any

person within Erie County to a MHL §9.39 hospital for evaluation, when such person has a mental illness for which immediate care is appropriate and is acting in a way that poses a danger to self or others.

MHL §9.45 Designees are empowered with a grave responsibility on behalf of the DCS and therefore all MHL §9.45 Designees must meet certain qualifications.

1. Appointed MHL §9.45 Designees shall consist of currently licensed psychologists, licensed social workers, licensed mental health counselors or master's level psychiatric mental health nurses currently licensed as registered nurses. The individual must have obtained a degree from a college or university recognized by the NYS Education Department.

- **a.** Nurse Practitioners in Psychiatry and other individuals who are in supervisory positions are also eligible to apply for MHL §9.45 Designee status provided they meet the requirements as specified in paragraph B below.
- **b.** Other individuals may be appointed as MHL §9.45 Designees who are in key clinical oversight positions provided the DCS determines they have the need and requisite skills needed to responsibly carry out the duties under MHL §9.45 and meet the requirements as specified in paragraph B below.

2. In addition to the licensure requirements listed in Section III.B. above, MHL §9.45 Designees must also possess the following qualifications:

- **a.** Master's level academic degree in a mental health field which included supervised clinical experience working with individuals with mental illness;
- **b.** Two (2) years supervised experience in assessing individuals' lethality and mental health needs*;
- **c.** Successful completion of a training program approved by the DCS which includes assessment of lethality**; evidence of a negative State Central Register Database check by NYS Office of Children and Families; and
- **d.** Annual renewal of MHL §9.45 Designee appointment.

*Should this requirement impact operations for an organization please contact the department directly.

**Substantially equivalent training or experience may be approved by the DCS on a case-by-case basis.

Failure to maintain these qualifications may result in a loss of an individual's MHL §9.45 Designee status. A personal interview with the DCS may be required for appointment and annual re-appointment.

C. MHL §9.45 Designee Application Process

1. To submit a MHL §9.45 Designee Application, local mental health agencies shall contact the County of Erie's DCS via EC.DMH@erie.gov and will receive a response back that will contain a link to complete the application. The application will request that the following be submitted:

- **a.** Letter of support from the agency naming the MHL §9.45 Designee applicant, outlining why the individual needs MHL §9.45 authority, and confirming evidence of a negative State Central Register Database check by NYS Office of Children and Families;

b. A copy of the applicant's NYS Professional License;
c. The applicant's resume; and
d. A copy of applicant's government issued photo ID.

2. Submission of a MHL §9.45 Designee application signifies that such individual is in good standing with the agency under which their name is being submitted (i.e., that the individual is duly licensed and/or credentialed, that there are no disciplinary actions and/or malpractice suits pending due to concerns about clinical decision-making), and that they have reviewed and understand the pertinent Sections of MHL.

3. Upon receipt and review of submissions, the DCS will notify the agency via mail of the decision to appoint an individual. To ensure that individuals appointed as MHL §9.45 Designees understand the pertinent Sections of MHL and how those are operationalized in the County of Erie, prospective MHL §9.45 Designees must attest that they fully understand the relevant statutes of MHL and the requirements contained in this Procedure Manual. A template attestation will be provided to be completed on agency letterhead between the agency and its employee. The attestation serves as an affirmation by the MHL §9.45 Designee employee to the agency employer that they have reviewed and fully understand MHL §9.45 and this Procedure Manual and will appropriately execute their designee responsibilities in accordance with the law. A copy of this attestation must be provided to the DCS prior to final designee approval. Upon receipt of the attestation, the DCS will mail each approved MHL §9.45 Designee their designee ID card and their designee status will become effective immediately upon receipt.

a. It is recommended that the MHL §9.45 Designee maintains a copy of their attestation for their personal files.
b. It will be the responsibility of the mental health agencies that submit names to the DCS to inform the DCS when those individuals are no longer working at that agency. When this occurs, the DCS will remove them from the list of approved MHL §9.45 Designees. In addition, should an individual no longer want to be a MHL §9.45 Designee, that individual should contact the DCS directly to have their name removed from the list.

4. Training Requirements for Approved §9.45 Designees

All individuals approved to serve as a Mental Hygiene Law (MHL) §9.45 Designee for Erie County must successfully complete the required Erie County Department of Mental Health (ECDMH) §9.45 Designee Training.

Initial Training Requirement

a. Newly approved designees shall complete the ECDMH-approved §9.45 training program in person within three months of receiving approval as a §9.45 Designee. ECDMH will establish and distribute an annual training schedule to participating agencies. The schedule will include training dates, times, locations, and registration information for all planned §9.45 Designee training sessions during the calendar year. This schedule is intended to assist agencies in workforce planning and ensure designees have adequate opportunity to complete required training within the established timeframes.

b. Additional training sessions may be scheduled throughout the year based on operational needs and training demand. Agencies will be notified of any additions or changes to the training schedule as they occur.
c. Failure to complete the required training within the designated timeframe may result in suspension or revocation of designee authorization.
d. Requests for extensions or exceptions to the training deadline must be submitted to the Erie County Commissioner of Mental Health for review and approval prior to the expiration of the thirty-day training period.
e. Extensions will be considered on a case-by-case basis and must be supported by appropriate justification.

Annual Training Requirement

a. All active §9.45 Designees are required to complete annual refresher training as designated by ECDMH.
b. Annual training must be completed within thirty (30) calendar days of the designee's annual authorization expiration or renewal date.
c. Failure to complete the annual training requirement within the listed timeframe may affect the individual's authorization status as a §9.45 Designee.
d. Requests for exceptions or extensions to the annual training requirement may be submitted to EC.MHL@erie.gov and addressed to the Erie County Commissioner of Mental Health prior to the training deadline.
e. Approved extensions shall be documented and maintained in accordance with ECDMH recordkeeping requirements.

ECDMH shall maintain records of all completed trainings, approved extensions, and compliance with annual training requirements.

D. Functions and Responsibilities of MHL §9.45 Designees

In alignment with Erie County's commitment to recovery-oriented and providing access to the least-restrictive care, MHL §9.45 Designees must prioritize resolving behavioral health crises through collaborative, voluntary interventions prior to enacting MHL §9.45. The MHL §9.45 Designees must rely on trauma-informed, culturally responsive practices to stabilize crises without resorting to involuntary hospitalization whenever clinically appropriate.

When these interventions are no longer sufficient to ensure the safety of an individual or others, the MHL §9.45 Designee may act pursuant to MHL §9.45 and determine that emergency involuntary psychiatric evaluation is necessary. This decision must be based on a direct, in-person clinical evaluation conducted during a planned or unplanned attempted interaction. The MHL §9.45 Designee's authority to initiate an emergency involuntary evaluation is limited to the periods during which they are formally scheduled to work and approved under this policy.

1. When acting under DCS authority, MHL §9.45 Designees are responsible for knowing and acting in accordance with the pertinent Sections of MHL, this Procedure Manual, and all other relevant Laws and Regulations. Most specifically, MHL §9.45 Designees must review and understand all the provisions below:

a. Subsection (a) of §9.39 of the Mental Hygiene Law, as amended by chapter 789 of the laws of 1985, is amended to read as follows:

(a) The director of any hospital maintaining adequate staff and facilities for the observation, examination, care, and treatment of persons alleged to be mentally ill and approved by the commissioner to receive and retain patients pursuant to this Section may receive and retain therein as a patient for a period of fifteen days any person alleged to have a mental illness for which immediate observation, care, and treatment in a hospital is appropriate and which is likely to result in serious harm to [himself] or others. "Likelihood to result in serious harm" as used in this article shall mean: substantial risk of physical harm to [himself] as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that [he is] they are dangerous to [himself] , or a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm[.], or a substantial risk of physical harm to the person due to an inability or refusal, as a result of their mental illness, to provide for their own essential needs such as food, clothing, medical care, safety, or shelter.

2. Prior to the decision to enacting MHL §9.45, MHL §9.45 Designees will be required to attempt the following during engagement with the individual receiving Emergency Evaluation:
   - **a.** Conduct a lethality assessment; **and**
   - **b.** **Attempt several de-escalation techniques**
   - **c.** Make every attempt to employ lethal means reduction as documented within the evaluation case note; **and**
   - **d.** Address and document within the evaluation case notes any conversation of guns, knives, explosives, hazardous chemicals; and potentially threatening behavior(s) towards emergency response personnel.

3. If after an emergency mental health evaluation is conducted, the MHL §9.45 Designee determines that a transport to a MHL §9.39 hospital is necessary, the MHL §9.45 Designee will:
   - **a.** Consider the need to request the assistance of a police or peace officer to facilitate safe and respectful transportation to the designated hospital (it is ultimately the responsibility of law enforcement to assist with transportation of the individual to the designated hospital).
   - **b.** Engage the individual in a conversation about transportation options when appropriate.
   - **c.** Fully complete the required New York State OMH 474A/476A form and offer a copy of the form to both the responding law enforcement agency as well as the consumer. This form is available here: https://omh.ny.gov/omhweb/forensic/manual/pdf/474a476a.pdf.
   - **d.** When an involuntary transport occurs, the MHL §9.45 designee **must complete and submit the Erie County Department of Mental Health (ECDMH) MHL §9.45 Involuntary Transport Supporting Documentation form** upon transfer of custody. A picture/image of the New York State OMH 474A/476A must be included in the documentation. MHL §9.45 Designees will receive access to the MHL §9.45 Involuntary Transport Supporting Documentation form during the MHL §9.45 Designee training provided by ECDMH.

e. Ensure that all documentation is submitted to the DCS in a timely and accurate manner to support continuity of care, legal compliance, and quality assurance.

E. Additional MHL §9.45 Designee Responsibilities

1. While carrying out MHL §9.45 designee responsibilities, if the MHL §9.45 Designee gains knowledge of systemic issues that should be brought to the attention of the DCS, then the MHL §9.45 Designee is responsible for reporting these concerns to the DCS immediately via email sent to EC.DMH@erie.gov. At any point if a MHL §9.45 Designee is injured in an assaultive manner while performing their official duties, this incident must be promptly reported to the DCS for appropriate follow-up and system-level response. **Additionally, if the individual being transported to a hospital suffers an injury during the transport, this also needs to be reported to the DCS via an email to EC.DMH@erie.gov.**

2. Appointment as a MHL §9.45 Designee is associated with a Designee's current employment at a mental health agency and as such, when a MHL §9.45 Designee leaves that agency or transfers to a new position within the agency, they will no longer be an approved MHL §9.45 Designee. MHL §9.45 Designee status is non-transferrable should the Designee accept new employment.

Failure to comply with the above requirements may result in a revocation of MHL §9.45 Designee status at the discretion of the DCS.

F. Community Verification of MHL §9.45 Designee Status

1. It is the responsibility of the DCS to provide emergency telecommunicators with accurate up-to-date lists of MHL §9.45 Designees. Law enforcement officers ("LEO") are informed that they can call their department's non-emergency number for verification of an individual's MHL §9.45 Designee status. The DCS will provide an updated list to each LEO agency monthly.

2. Individuals certified as MHL §9.45 Designees shall be issued ID cards. **These ID cards are required to be clearly visible to both clients and emergency responders on scene.**

G. Responsibilities of Agencies Who Employ MHL §9.45 Designees

1. The agencies who employee MHL §9.45 Designees are ultimately responsible for the actions of its Designee employees during the course of their employment. Agencies are responsible for ensuring that its MHL §9.45 Designee employees act appropriately and in accordance with MHL and this Procedure Manual at all times.

2. Agencies must ensure that their MHL §9.45 Designee employees comply timely with all DCS reporting requirements. The DCS reserves the right to audit agency records regarding individuals transported pursuant to any MHL §9.45 Designee authority.

3. Agencies are responsible for informing the DCS when a MHL §9.45 Designee has left their current employment and collecting and returning the MHL §9.45 Designee ID card to the DCS immediately.

4. To ensure transparency and accountability in the use of emergency authority, all agencies that employ MHL §9.45 Designees must prepare and submit an annual report on the conditions and frequency of utilization of MHL §9.45 emergency admissions to the DCS.

This report supports the DCS in system oversight, policy evaluation, and continuous quality improvement.

Failure to comply with the above requirements may result in revocation of agency MHL §9.45 Designee status at the discretion of the DCS.

H. Required Reporting Provisions of NYS and Federal Government

Agencies must be familiar with and comply in practice with all mandatory reporting requirements established by NYS and Federal Law and Regulation.

I. Limited English Proficiency

In accordance with all applicable Federal, State and/or Local Laws, including but not limited to, Title VI of the Civil Rights Act of 1964, NYS Mental Hygiene Regulation Section 527.4, and Erie County Local Law 5, 2024, the Agency is required to provide patients who are Limited English Proficient (LEP) with meaningful access to mental health treatment in their primary language.

In the absence of an applicable Federal or State language access law, Erie County Local Law 5, 2024, Section 6 requires any contractor hired by Erie County to perform a direct public service to provide LEP individuals with access to such service.

To ensure that your Agency is providing access to LEP recipients of direct public services, your agency will be requested to certify they are in full compliance with the applicable language access laws and attest to providing meaningful access to Agency service for LEP recipients on a yearly basis with your Initial Contract.

J. HUD Continuum of Care Regulations and HUD Subrecipient Agreement

Agencies receiving HUD funds must be familiar with, and comply with, all regulations put forth by the United States Department of Housing and Urban Development (HUD) Continuum of Care Program Interim Rule (24 CFR part 578), the ECDMH HUD Policy and Procedure Manual and must sign a Subrecipient Agreement with the ECDMH which will guide the service provision and operations of HUD funded grants.

A formatted version of the Continuum of Care Program Interim Rule can be found at:
www.hudexchange.info/resources/documents/CoCProgramInterimRule_FormattedVersion.pdf.

1. **HUD Subrecipient Agreement:**
   All agencies receiving HUD grants will be required to sign a Subrecipient Agreement that will be specific to the grant operating term of the HUD award. For example, if the term of the grant is October 1, 20XX through September 30, 20XX, the Subrecipient Agreement between the agency and ECDMH will cover that timeframe. This Subrecipient Agreement will be attached to your annual county contract and amended to the contract upon execution of the Subrecipient Agreement for a new grant term. The Agreement will include all necessary clauses for adequate oversight and management of the grants.

K. Department of Criminal Justice Services (DCJS)

Agencies receiving DCJS funds must be familiar with and comply in practice with all regulations put forth by the Department of Criminal Justice Services and must sign a Subrecipient Agreement with the ECDMH which will guide the Service Provision and Operations of DCJS funded grants. The Department of Criminal Justice Services Guide can be found at: http://www.criminaljustice.ny.gov/ofpa/applcntgrntfrms.html.

1. DCJS Subrecipient Agreement

The purpose of this Subrecipient Agreement is to set forth the terms and conditions under which ECDMH shall grant DCJS funds to the Subrecipient. This Subrecipient Agreement sets forth rights and responsibilities of both parties in connection with the Subrecipient's program. In this Subrecipient Agreement, the Subrecipient assumes full responsibility for adherence to all applicable laws, assurances, regulations, and guidelines associated with DCJS.

a. All agencies receiving DCJS grant funds will be required to sign a Subrecipient Agreement that will be specific to the grant operating term of the DCJS award. For example, if the term of the grant is October 1, 20XX through September 30, 20XX, the Subrecipient Agreement between the agency and ECDMH will cover that timeframe. This Subrecipient Agreement will be attached to your annual county contract and amended to the contract upon execution of the Subrecipient Agreement for a new grant term. The agreement will include all necessary clauses for adequate oversight and management of the grants.

L. Bureau of Justice Assistance (BJA) Regulations & BJA Subrecipient Agreement

Agencies receiving BJA funds must be familiar with and comply in practice with all regulations put forth by the United States Department of Justice BJA and must sign a Subrecipient Agreement with the ECDMH which will guide the Service Provision and Operations of BJA funded grants. The Department of Justice Grants Financial Guide can be found at: https://www.ojp.gov/funding/financialguidedoj/overview.

1. BJA Subrecipient Agreement

The purpose of this Subrecipient Agreement is to set forth the terms and conditions under which the ECDMH shall grant BJA funds to the Subrecipient. This Subrecipient Agreement sets forth rights and responsibilities of both parties in connection with the Subrecipient's program. In this Subrecipient Agreement, the Subrecipient assumes full responsibility for adherence to all applicable laws, assurances, regulations, and guidelines associated with BJA.

a. All agencies receiving BJA grant funds will be required to sign a Subrecipient Agreement that will be specific to the grant term of the BJA award. This Subrecipient Agreement will be attached to your annual county contract in the year the award begins. The agreement will include all necessary clauses for adequate oversight and management of the grants.

IV. PERSONNEL POLICIES & MANPOWER REGULATIONS

Each Agency is responsible for preparing & maintaining a Program Services Policies & Procedures Manual for their agency. The provisions of the manual shall comply with applicable Federal and State laws, rules and regulations.

A. Organizational Structure & Staffing Pattern

1. It is the responsibility of each Agency to develop and maintain an organizational structure and staffing pattern which is appropriate and adequate for delivering the program of contracted services, utilization levels, and quality of service to the target population. Any changes in staffing patterns must be consistent with all applicable regulations. Agencies must meet and maintain minimum staffing ratios as specified in regulatory requirements for certified programs. Staffing for other contracted programs must be sufficient for safe and effective programming. Agencies must ensure that staff meets all background checks, licensure, certification, and other qualification requirements established in applicable laws and regulations.

2. Agencies will be responsible for the recruitment and retention of qualified staff to ensure that contracted services are of highest quality and are effective, as well as ensure the satisfaction of the individuals served. The Agency is further responsible to ensure the availability and provision of training activities that serve to maintain, increase, expand, and update staff skills in providing contracted services in the most effective, efficient, and highest quality manner.

3. Agencies must ensure sufficient staffing in number and qualifications necessary to provide accessible, high quality, and effective services to all targeted and other special populations in a program including, but not limited to, individuals with special needs, multiple disabilities, and/or from culturally diverse backgrounds.

B. Contract Personnel

The Agency shall provide and maintain sufficient qualified staff necessary to ensure the delivery of safe and effective Contract Services. The Agency shall be responsible for all training and retraining of staff providing contract services under this Contract.

C. Notice regarding Critical Staff Vacancies

The Agency shall notify their assigned ECDMH Contract Coordinator (CC) regarding any key staffing changes including when there are vacancies to include the Executive Director/Chief Executive Officer/President, Chief Operating Officer, Chief Financial Officer and Program Directors or Program Managers, primary insurance contact, agency signatory, etc. The Agency and CC will negotiate any additional critical positions on an Agency/Program basis.

V. PROGRAM AND BUDGET SUBMISSION

A. Purposes of Program Budgeting

The Agency shall comply with all administrative, financial and performance requirements as outlined within this Procedure Manual, ensuring timeliness and accuracy of information reported. All contract reference documents are available on the ECDMH website at https://www3.erie.gov/mentalhealth/information-contract-agencies, and hereby made a part of the ECDMH Contract. The Agency agrees to be bound by these documents.

B. Program and Budget Document Contents

The program document that serves to describe and integrate program outcomes, priority target populations, quality, and service utilization for contracted services is the Scope of Service (SoS). A SoS will need to be completed and approved for each and all funded services and is appended to your ECDMH Initial Contract as Appendix A. The SoS document for each Erie County contracted program includes the following:

1. **Program Identification – Your ECDMH Contract Coordinator completes this Section.**
   Specifies the program name, program type, program code with suffix, ClearPoint outcome report, site address(es), hours of operation, and operating capacity, if applicable.
2. **Numbers Served**
   Include the annualized number to be served in current year and projected number to be served in the contract year.
3. **Service Description**
   A description of the program services to be provided within the contracted program and description of any evidence-based practices used. This should also include the goals of the program, service components, and other details and deliverables as appropriate. Unique and/or discrete service elements within a broader program category should be identified and briefly described. This narrative should be clearly written and easy to understand.
4. **Referral Source(s)**
   A brief description of how people find their way to this service.
5. **Target Population**
   Population variables may include, but not be limited to: specific disability, diagnosis, risk, severity of disability, functional level, age, sex, race, funding eligibility, and concurrent physical, medical, or mental disability. The ECDMH and Agencies shall meet as necessary to work with referral sources to address potential variations between local planning priority populations and referral populations to contracted programs. The ECDMH will continue to focus on reduction of risk factors for target populations. This analysis may impact upon allocation of funds in future years.
6. **Special Population**
   Identification of any special populations to be served in this program.
7. **Full Time Equivalents (FTE) by Title/Role funded in ECDMH Contract**
   Identifies the FTEs funded in the ECDMH contract by Title/Role.

Other required reports include:

8. **Program Performance Outcomes**
   Program Performance Outcomes are available in ClearPoint, the program performance reporting system.

9. The Agency Personnel Report

The Agency Personnel Report, also available in ClearPoint, is required to be completed by contract agencies to provide information pertaining to personnel race/ethnicity. Agencies are required to report annually.

10. Budget

The Agency is required to complete an annual calendar year budget document, located within the current year's Cost Report file, which resides in Google Sheets, for review and approval by ECDMH consistent with the Contract Reporting Calendar posted on the ECDMH website at: https://www3.erie.gov/mentalhealth/information-contract-agencies.

a. The budget should comply with all CFR accounting standards and those of any funding source contained in the Agency's contract with the County and shall be submitted on the required ECDMH Cost Report template using the required format to include projected expenses, Medicaid and other third-party revenues and deficit funding, up to the amount authorized by ECDMH.

C. Submission & Review Process

For 2027 contracts, the ECDMH will initiate the annual Contract process in July 2026, with a request from the assigned Contract Coordinator for agencies to review and update their SoS. Contract start letters and related documents will be emailed starting in October 2026. Information about changes for 2027 will be communicated to agencies throughout the process. Actual funding is subject to availability from Federal, State and Local sources.

Please note that ECDMH expects contract agencies to return any contract related documents to ECDMH within two weeks in order to ensure efficient processing of contracts. If this is not possible, the agency is expected to notify the assigned Contract Coordinator to inform when the documents will be received.

VI. AGENCY CONTRACTS

A. Agency Contract

1. Funding appropriations will not be directly related to program population profiles in any single contract year. However, contract funding may be based upon shifts in population profiles in subsequent contract periods in relation to changing target population priorities identified in Erie County's Local Services Plan (LSP) located at: https://www3.erie.gov/mentalhealth/reports.

2. The ECDMH Initial Contract sets forth the basic responsibilities and duties of each of the parties. The Contract incorporates, as part of the contract, appendices to this agreement, including the Scope(s) of Service, Business Associate Agreement (BAA), Erie County Equal Pay Certification, Subrecipient Agreements for agencies receiving Federal Grant funds, and this Procedure Manual.

3. Receipt of contract funding is contingent upon the Agency providing contracted services detailed in the PFSD/FAS and in accordance with Article I and all applicable Sections of the Contract. Agency expenditures must be in accordance with all requirements set forth in the Procedure Manual and the Contract. The Agency is required to comply with all relevant provisions of Local laws, the NYS MHL, NYCRR, NYS Department of Criminal

Justice Services, Federal Laws and Regulations and/or any NYS or other governmental or organizational entity for which the Agency receives a contract.

4. To allow for flexibility to respond to unforeseen circumstances, the Appendices and/or ClearPoint may be amended or modified during the contract period, subject to the governing Sections of this Procedure Manual and the contract itself.

B. Contract Funding Ceilings

Erie County establishes annual contracts with Agencies based upon planning priorities and forecasts of State and Local funding levels anticipated to be available for the contracted fiscal year. Contracted funding levels may be reduced through the establishment of a contract funding ceiling in lieu of a full contract amendment. Such funding ceilings shall be communicated in writing by the Commissioner of the ECDMH (or other authorized designee) to the Agency Head. Notification of a contract funding ceiling shall be provided to Agencies as soon as possible, and, in those instances involving State Aid from the Offices of NYS, upon such State notification to Erie County.

C. Contract Services

The Agency shall provide the level and type of contract services to the target population as set forth in ClearPoint and/or the FAS ("Funding Authorization Summary"). The Agency further agrees not to make any changes to contracted services unless it has obtained the prior written permission of the County prior to implementation. The Agency shall achieve program performance goals that include program performance measures as set forth in ClearPoint and the SoS. If an Agency fails to achieve its program performance measures and capacity as set forth in ClearPoint and /or the SoS, the County will monitor and intervene as necessary to ensure quality services.

Contract services shall be provided in accordance with all applicable Local, NYS, and Federal laws, rules, and regulations including, but not limited to, the following:

NYS Office of Mental Health Aid to Localities Spending Plan Guidelines: guidelines, fiscal control points and other rules can be found on the NYS Office of Mental Health (NYS OMH) website at the following location: https://apps.omh.ny.gov/omhweb/spguidelines/.

NYS Office of Addiction Services and Supports (OASAS) State Aid Funding Authorization Funding Requirements can be found at the following location: https://www3.erie.gov/mentalhealth/information-contract-agencies.

As a provider operating one or more OASAS funded programs, the Agency agrees to comply with the Administrative and Fiscal Guidelines for OASAS Funded Providers located at: https://oasas.ny.gov/system/files/documents/2024/10/administrative-and-fiscal-requirements-for-oasas-funded-providers_0.pdf, which includes a requirement that providers are to accurately complete a CFR schedule CFR-5 Transactions with Related Organizations/Individuals. Agency understands that failure to accurately disclose all financial transactions with related organizations/individuals may result in the denial of provider claims for reimbursement. It is understood that Erie County advances funds to Agency in anticipation of reimbursement from payment of OASAS provider claims. Should OASAS deny payment of such claims, Agency shall be liable to Erie County for reimbursement of advanced funds.

Agency acknowledges that it is receiving "State funds" or "State authorized payments" originating with or passed through the OASAS in order to provide program or administrative services on behalf of the ECDMH. The provider shall comply with the terms of 14 NYCRR Part 812, as amended. A failure to comply with 14 NYCRR Part 812, where applicable, may be deemed a material breach of this Agreement constituting a sufficient basis for suspension or termination for cause.

Agency shall ensure that no non-allowable expenses, as defined in the CBR (Consolidated Budget Report) and the CFR Manuals and in the OASAS Administrative and Fiscal Guidelines, are budgeted or claimed for State aid reimbursement.

NYS Office for People with Developmental Disabilities (OPWDD) regulations and laws can be found at the following location: https://opwdd.ny.gov/regulations-guidance/current-proposed-regulations.

Grant contracting and reporting forms for the NYS Division of Criminal Justice Services (DCJS) can be found at the following location: http://www.criminaljustice.ny.gov/ofpa/applcntgrntfrms.html.

Information pertaining to contracting for the United States Department of Housing and Urban Development (HUD) can be found at the following location: http://www.hudexchange.info/.

The Health Insurance Portability and Accountability Act of 1996: http://www.hhs.gov/ocr/privacy/.

Department of Justice Bureau of Justice Assistance (BJA):
https://www.ojp.gov/funding/financialguidedoj/overview.

NYS Office of Children and Family Services can be found in the following location:
https://www.ocfs.ny.gov/main/.

All contract services shall be delivered by the Agency in accordance with generally accepted standards of professional quality. Contract services reimbursed through Federal Government funds must be provided in compliance with the Federal Funds Guidelines made available by the State Offices as well as the requirements of the Federal Funds Certifications.

2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Health and Human Services Grants Policies & Regulations

24 CFR Part 578 Regulations Relating to Housing and Urban Development: Continuum of Care Program

28 CFR Part 33 Regulations Relating to Department of Justice Bureau of Justice Assistance (BJA)

For all contracted services, licensed or certified services of the State Offices, the Agency shall maintain and retain records in accordance with all applicable local, NYS and Federal laws, rules and regulations and the ECDMH Procedure Manual. The Agency further agrees, upon fifteen (15) days advance written notice, to make available its records relating to services, facilities, and all financial, statistical and client or patient records, memorandum and other data relating thereto for audit, inspection and visitation by the County

and/or the Offices of NYS. All examinations, inspections, audits and visitations shall, in the absence of an effective waiver by the client or patient, be conducted in accordance with laws governing patient confidentiality and privilege and shall be performed on a "no-name" basis on the Agency's premises. The Agency obligation under this Section shall continue beyond the expiration or termination of this Contract.

The Agency agrees to participate in County work groups, as requested, to establish system/program-wide common performance measures to be incorporated in subsequent contracts.

Changes in contracted services may result in an amendment of the FAS in accordance with the Contract. All contract amendments require signature by the Board President or other agency representative who is authorized in the agency bylaws to sign contracts on behalf of the agency and notary.

Insurance coverage must be obtained and described on an Erie County Standard Insurance Certificate, and approved by the Erie County Attorney, prior to, and in order to execute a service contract (*See Section VII.Z.*).

D. Contract Documentation

The Agency shall comply with all administrative, financial and performance requirements as outlined in the ClearPoint data system and this Procedure Manual, ensuring timeliness and accuracy of information reported. All data collection and information forms published through ClearPoint are, by reference, hereby made a part of this Contract.

All contract material will be maintained in hardcopy and/or electronic format in the ECDMH. All contract documentation and funding documents shall be submitted annually, as needed/required for reporting purposes and upon revision or corrective action.

E. Information Transmittal and Reporting Requirements

Agencies may be required to track and submit specific information for certain programs in order to monitor enrollments and services provided through the various behavioral health initiatives under the auspices of the ECDMH. This requirement includes reporting to the Single Points of Access (SPOA) for both Children and Adults (Care Management and Housing). The County will involve Agencies participating in these initiatives where possible to assure appropriate design and specification of information requirements. Information must be submitted in data management formats and on the schedule approved by the ECDMH.

F. Contract Property

The Agency is responsible for the inventory and maintenance of property purchased under this Agreement and cannot remove said property from the Agency without written permission from the County or replacement as specified in the Contract. The Agency shall carry sufficient property insurance pursuant to County requirements as referenced in Section VII.Z. herein, with the County included as a named additional insured/loss payee to cover all such property acquired by the Agency through purchase under contract or acquired through the County on some other basis. The County shall maintain an equitable interest in all such property and, additionally, the State of New York shall also maintain an equitable interest where said property is acquired utilizing funds granted from the NYS Office of Mental Health (OMH), the NYS Office of Addiction Services and Supports (OASAS), NYS Division of Criminal Justice Services (DCJS), and additionally the Federal Government shall also maintain an equitable interest where said property is

acquired utilizing funds granted from Housing and Urban Development (HUD) and the Bureau of Justice Assistance (BJA). Upon the request of the County, the Agency shall identify such property (or, if fungible, an equivalent amount). This shall apply to contract property purchased under this Contract or under any preceding agreement between the parties hereto. The Agency obligation under this Section shall continue beyond the expiration or termination of this Contract. Please see Section VII.W. for additional details regarding property management.

G. Lease Agreements

It is recommended that the agency include the following language, or similar language, in any real property lease agreements:

"In the event that the funding necessary for Tenant to continue to operate said facility is discontinued or for any reason its certificates or licenses required for operation of said facility are revoked, this lease will terminate sixty (60) days after Landlord receives written notice from tenant of such discontinuance of funding, without further liability to either party, except that this lease shall not be deemed terminated and Tenant shall remain liable therefore if said revocation of approval is caused by the voluntary withdrawal from the program by Tenant or as a result of any fault of Tenant in the operation of said program."

Please be advised that agencies must consult applicable regulations to determine whether its funding sources, including, but not limited to, NYS OASAS funding, require inclusion of specific language in real property leases.

VII. FISCAL RECORDS AND REPORTING STANDARD

A. The Contract and Operating Budget

The contract between the County of Erie and the services Agency is written to cover a period of one (1) year or as otherwise specified and is supported by a detailed Cost Report. Program service categories are identified and described by the Agency for the purpose of forecasting program unit costs and developing an acceptable program of professional services.

The payment schedule shall be in accordance with the Cost Report and the prevailing FAS. The accrual basis of accounting will be the basis for computing the County payment. An Agency that does not generate Agency Income as defined in VII.I., with prior approval from the ECDMH, may use the cash basis for computing the County payment.

The current County contract and quarterly fiscal reporting processes are based upon program service costs by category of expenditures. The Cost Report allocates costs on a program category basis and provides the basis for State reporting requirements. The Agency must develop and maintain an accounting system which satisfies Agency management needs and enables timely and accurate completion of county and state reporting requirements by service category.

As a point of clarification, Net Deficit Funding consists of State Aid, Erie County funds from tax revenue, Federal Medicaid salary sharing and other sources of funding that are communicated to agencies via the FAS. When reporting budget and actuals on the Cost Report, providers must enter total gross expenses and revenues for each program and actively manage against these numbers. Consistent with the *Certification*

for Quarterly and Year-End Reports that accompanies the Cost Reports, quarterly submissions must be submitted as actual auditable figures and not estimates. All significant variances must be communicated to ECDMH and addressed immediately.

According to State Finance Law, Net Deficit Funding must be considered revenue of last resort and all other sources of revenue must be reported prior to applying these allocations. Shifting of funding between programs must have prior approval by ECDMH, and any program funding surpluses will be recovered unless formally granted in writing by the funding agency. Contact your ECDMH Contract Coordinator or the Director of Fiscal Administration for any requests.

The ECDMH will (continue to) audit Cost Reports and return them for incomplete or inaccurate data. We may request backup financial information to validate reporting. The *Certification for Quarterly and Year-End Reports* that is included with your Cost Report submission does not require a signature in ink, but as a result of your submission, you are attesting to the fact that the information included is supported by actual financial reports.

With tighter budget constraints and the fiscal environment that counties operate in, the county requires financial information in a timely and accurate manner. If providers consistently miss deadlines, report inaccurate data, do not report on all programs, and report expenses/revenues at exactly 25%, 50%, 75%, 100% each quarter, etc., ECDMH will more closely monitor their deliverables, specifically Cost Reports.

All expenditures must be in accordance with the Agency's budget as approved by the ECDMH. Any payment made for expenses which are not provided for in the budget will be disallowed. Reimbursement for program costs will not exceed actual costs, less any disallowances. Any such funding adjustments will be applied to a subsequent advance payment.

The Agency is permitted to make certain transfers of funds without the prior approval of the County. Specific instructions regarding the need for prior County approval of transfers are given in Section VII.M. of this manual.

Cost reporting will include the following which is required by Erie County and governed by local and state laws. The County is requiring contract agencies who receive state and county funding to provide information pertaining to the utilization of Minority and Women-Owned Business Enterprises (M/WBE) for professional, technical or other consultant services.

B. County Law

For the purposes of facilitating business with MBE/WBE's and reporting requirements, the following definitions apply:

1. Minority Owned Business Enterprise (MBE) shall mean a business which performs a commercially useful function, at least fifty-one percent (51%) of which is owned by minority group members or in the case of a publicly owned business, at least fifty one percent (51%) of all stock is owned by minority group members, with such ownership certified by the County of Erie and City of Buffalo Joint Certification Committee (JCC). The business enterprise should have and maintain an office in the County of Erie. The following ethnic groups are identified as meeting the MBE requirement: Black – persons having origin from any of the black African racial groups; Hispanic – person of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or

Hispanic origin regardless of race; Asian- Pacific Islander – persons having origins from Far East, Southeast Asia or the Pacific Islands; Asian Indian Subcontinent – persons having origins from the Indian subcontinent; Native Americans or Alaskan Natives - persons having origins in any of the original peoples of North America.

2. Women Owned Business Enterprise (WBE) shall mean a business which performs a commercially useful function, at least fifty-one percent (51%) of which is owned by a woman or women or, in the case of a publicly owned business, at least fifty one percent (51%) of all stock is owned by citizens or permanent resident aliens who are women with such ownership certified by the County of Erie and City of Buffalo Joint Certification Committee (JCC). The business enterprise should have and maintain an office in the County of Erie.

EC Local Law No. 5 (1994) - governs utilization of minority and women-owned firms in procurement of supplies, materials, and equipment exceeding $15,000 and requires 10% MBE and 2% WBE participation.

EC Local Law No. 9 (2005) - governs utilization of minority and women-owned professional, technical, and other consultant services such as in the areas of law, finance, information technology, accounting, and engineering, contracted and paid consultants, and outside of construction projects and requires 15% MBE and 5% WBE participation.

Consistent with NYS Executive Law – Article 15A Division of Minority and Women's Business Development (DMWBD) (https://esd.ny.gov/sites/default/files/ReauthorizedExecutiveLawArticle15A-021120.pdf) and Erie County MBE/WBE Utilization Commitment Act Local Laws No. 5 and No. 9, the County is requiring contract agencies receiving state and county funding to provide information pertaining to the utilization of Minority and Women-Owned Business Enterprises (M/WBE).

C. State Law

NYS Article 15A governs a written agreement or purchase order instrument providing for a total expenditure of more than $25,000 by a contracting agency in return for labor, services, supplies, equipment and or materials or any combination of the foregoing or providing for a total expenditure of more than $100,000 by a contracting agency or by the owner of a state assisted housing project in return for the acquisition, construction, demolition, replacement, major repair, renovation or improvements of real property. The term "services" does not include banking relationships, issuance of insurance policies or contracts or other contracts for the sale of bonds, notes or other securities. The utilization of minority and women owned business enterprises including but not limited to the above services and requires 20% MWBE.

The following are also in the Cost Report:

1. The Cost Report will include a section for reporting expenses associated with the utilization of M/WBE for goods, and/or professional, technical or other consultant services.

2. Net operating costs (minus utilities) should include a combination of the above goods and services totaling twenty percent (20%) M/WBE utilization.

3. Further reporting instructions are included in the Cost Report.

4. A M/WBE vendor list can be found on the Erie County Website: http://www2.erie.gov/eeo/index.php?q=mbe-resource-list

D. Advance Payments to Agencies

Advance payments to an Agency may only be made following the execution of a contract between Erie County and the Agency.

Payments shall be made on invoices submitted to and approved by the ECDMH. Said invoices are required to be on official Agency letterhead and electronically submitted to ECDMH fiscal staff. If a payment is requested for Federal Funds, the federal funding source should be noted on the invoice at a minimum and a detailed cost breakdown should be provided on the invoice and/or in a supporting document attached thereto. Quarterly contract payment requests will be invoiced to the ECDMH and advanced to the Agency based on 25% of the net contract value and may be adjusted for any over advance from prior reporting quarters (within the same contract year only) or for Agency historical spending patterns which have resulted in prior period over payments. The quarter four (Q4) advance will be calculated based on the prior advances year to date and the Q4 year to date forecast as submitted in the Cost Report.

Supplemental advances, as outlined in this Procedure Manual, are allowable based on prior review and approval by the County. The County also reserves the right to modify and/or withhold all or a portion of advance payments to the Agency contingent upon receipt by the County of State, Federal or other revenue streams supporting the contract as designated in the FAS. Supplemental advances and/or requests will be tracked and may be factored into Agency performance reviews.

E. Temporary Payment Withholds

Payments are contingent upon timely and accurate submission of invoices as outlined in this Procedure Manual and of all required contract documentation.

The ECDMH will impose a temporary payment withhold/suspension in the event the Agency fails to comply with the timely submission and approval of valid insurance certifications, required program, service or fiscal documentation, reports or other material. Upon receipt and ECDMH approval of overdue items, the ECDMH will resume payments.

F. Reimbursement after the Quarter - Agencies Not Requiring Cash Advances

An Agency that provides its own daily operating funds will be reimbursed quarterly. A quarterly fiscal report must be submitted consistent with the documentation calendar (see Section VII.K.) together with a properly executed Agency invoice. The invoice amount should be equal to the Agency's net expenditures less the Agency contribution for the quarter.

In an effort to expedite the flow of cash to contract Agencies, payments for all quarters, except the final quarter, will be processed immediately upon receipt of (1) an invoice, and (2) a complete quarterly fiscal report (not needed until Q2). No payments will be made while any fiscal and/or program reports are delinquent. The payments may also be reduced due to previous quarterly current year over-advances, or prior year over-advances. The quarterly fiscal report will be reviewed by the ECDMH after the quarterly payment has been processed and, should disallowances be necessary, the Agency will be so notified and a subsequent payment will be reduced. This review procedure will not apply to the final payment for the

contract period. The final payment for the contract period will be processed after a review and approval of prior quarterly reports as well as the Agency's properly submitted Consolidated Fiscal Report (CFR).

G. Reimbursement of Federal Grant Expenditures (HUD, BJA)

ECDMH will release Federal funds on a monthly basis to Subrecipient agencies following the receipt of the prior month expense report, accompanying invoice, and supporting General Ledger (G/L) documentation from their accounting system. ECDMH will do a review of the supporting G/L document(s) to ensure the expenses reported in the G/L tie to the accompanying expense report and invoice submitted and also that the expenses reported are allowable, allocable, reasonable and consistent. Once approved, ECDMH will process the invoice and forward it to the Comptroller's Office for payment. As the recipient of federal funds, at any time, ECDMH has the right to request further financial data that supports the monthly G/L documents submitted. These records may include, but are not limited to, cash receipts and disbursements journals, accounts receivable and payable subsidiary ledgers, payroll records, employee attendance records, equipment register, purchase orders, and cancelled checks. The collection & review of this more detailed backup documentation will most often occur during the agency's annual site review or at any time deemed appropriate by ECDMH during the grant term.

H. Repayment of Agency Advances

If an agency does not contract with the ECDMH in the subsequent contract cycle (i.e. agency dissolution, discontinuance of services/programs, etc.), the following procedure will be followed for repayment of funds that Erie County advanced to the agency, but which pursuant to the terms of the Contract and funding requirements, must be reimbursed to Erie County ("outstanding debt"):

1. The principal of the outstanding debt is due along with accrued interest up to the time of a repayment Contract being reached by the agency and the ECDMH. The interest rate will be determined by the ECDMH, based on current market conditions.
2. Interest on the outstanding debt will stop accruing upon the agency and ECDMH entering into a repayment plan. Interest will begin to accrue if the agency fails to meet the terms of the repayment plan.

I. Agency Income

Records must be kept of all Agency income. Agencies are required to account for revenues by program category in accordance with instructions contained in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) issued by NYS.
Journals and ledgers must comply with acceptable accounting standards and should be maintained by funding source and program. If the existing accounting system does not provide fiscal information at an acceptable level of detail, subsidiary records and accounts must be established to meet those CFR State Aid Fiscal Reporting system requirements.

Agencies are required to take all appropriate measures to maximize revenue. Agencies are required to maintain documentation that they have applied for and received all forms of third-party reimbursement that may be available for such services or formal notification of refusal. Agencies are also required to maintain documentation that they have sought payment from each client not eligible for third party reimbursement according to a schedule of client fees where such schedule of client fees is required by the Offices of NYS.

Income is reported on the quarterly fiscal/cost report. Gross expenses are reduced by the amount of income to determine net reportable expenses.

For Agencies contracting on a cash basis of accounting, in the event that revenues are earned during the contract period, but received after the expiration of the contract and no successor Contract has been entered into, that revenue will be paid to the County.

J. Voluntary Funds

Voluntary funds are Agency monies typically derived from donations and contributions received from charitable and other organizations such as the United Way, sectarian organizations, and/or townships. Income that is deemed exempt under the NYS Mental Hygiene Law from determining net operating costs may be an additional source of voluntary funds; e.g.: exempt income, exempt long-term sheltered employment (LTSE) revenue.

Voluntary funds may be used to support the current operating costs of an Agency in accordance with the contract and budget negotiated with Erie County. In this situation, the revenues are included on the quarterly fiscal/cost report.

K. Fiscal Reporting

Fiscal reports for the quarters ending June 30th, September 30th and December 31st are to be submitted to the ECDMH consistent with the documentation calendar.

Additional specialty fiscal reports will be submitted by the Agency to the ECDMH as required by the ECDMH in order to satisfy requirements of funders.

Agencies will also need to submit estimated current year final expenditures consistent with the required ECDMH format at the time the Q4 advance invoice is submitted.

The Agency must have on file and available for audit, worksheets which support the amounts allocated to each program category.

L. Year-End Fiscal Reporting

Year-end fiscal reports which display cumulative data for the calendar year contract period consist of two (2) sets of forms: (1) ECDMH Cost Report and (2) Consolidated Fiscal Report (CFR) for applicable Agencies.

1. <u>ECDMH Cost Report:</u>

The Cost Report is an ECDMH required form to be submitted by the agency to the fiscal department. Within the form, the agency will report the gross expenses and revenues associated with each of their programs included in their contract with the ECDMH. The report contains a tab in which the agency fills in the budgeted expenses and revenue for the coming year. Beginning with quarter 2, the agency will fill in the actual gross expenses and revenues for each of their programs. The report is submitted quarterly and the figures reported are on a year-to-date basis.

2. Consolidated Fiscal Report (CFR):

Instructions for completing the CFR schedules are contained in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), issued annually by NYS.

The CFR forms to be submitted are identified on the Consolidated Fiscal Report Document Submission Matrix which is included in the CFR Manual. The CFR is to be uploaded by the Agency within the Consolidated Fiscal Reporting System (CFRS Web) https://omh.ny.gov/omhweb/finance/cfrs.htm in accordance with instructions contained in the CFR Manual. A signed copy of the complete CFR is to be forwarded to the ECDMH at the time the CFR is uploaded to the CFRS Web. If revisions to the CFR are made, all such revisions must be sent to NYS and also to the ECDMH. In addition, starting with the 2025 reporting year, all providers required to submit annual CFRs need to have the e-signing function in place and utilized for all required signatures.

Service providers are required to self-report and certify their compliance with OASAS policy. All providers operating one or more OASAS funded programs are required to accurately complete a Consolidated Fiscal Report (CFR) schedule CFR-5 Transactions with Related Organizations/Individuals. Failure to accurately disclose all financial transactions with related organizations/individuals may result in the denial of provider claims for reimbursement.

M. Transfers within the Approved Budget

It is the Agency's responsibility to spend within budget allocations for the contract year. When unforeseen circumstances necessitate budget reallocations, Agencies should work with the ECDMH to revise the budget in an appropriate and timely manner. Moving funds between programs is not allowed unless approved by ECDMH prior to the expense being incurred and may lead to a disallowance. In order to maximize support for priority populations, unspent funds are subject to reallocation to another provider and/or program.

*Please note the following constraint:
Specific amounts are budgeted for each funding source on the Program Funding Source Detail (PFSD). ECDMH is not responsible for actual gross or net expenditures that exceed these contracted totals; however, ECDMH does make every effort to maximize state aid funding and support providers and priority populations where possible. ECDMH utilizes various reports to track the spending across programs and providers. When persistent underspending occurs within a program, ECDMH may decide to reallocate the funding to another provider and/or program.

N. Cash Disbursement before Year-End by Agencies Using Cash Basis of Accounting

Funds must be expended on or before the ending date of the fiscal year by Agencies operating on a cash basis of accounting. Expenditures after the year-end are not reimbursable under the contract unless the Agency has requested and received specific approval.

O. Audits

If the Agency receives federal funding, the recipient shall comply with all requirements stated in OMB Circular A-133 and the 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal awards, also known as the Super Circular. If an Agency expends $750,000 or

more in all Federal awards combined in its fiscal year, the Agency shall have an independent audit conducted in accordance with the Federal Office of Management and Budget Circular A-133, and shall provide a copy of the audit report to the County within thirty (30) days after the completion of the audit.

The Agency must have an annual audit conducted by an independent accounting firm (refer to CFR manual for requirements) and must provide the County with a copy of the annual audit report, management letter and a plan to address recommendations if sited in the audit report issued by the independent auditors. If the audited financial statements differ from the claimed expenses, the audit must include supplemental information to support the claimed expenses.

The term "Financial Audit" typically encompasses several types of record review including the following:

1. Examination of financial transactions, accounts, and reports to determine whether:
   - **a.** The audited entity is maintaining effective internal control over revenues, expenditures, assets, and liabilities.
   - **b.** The audited entity is properly maintaining accurate accounting records of resources, liabilities, and operations.
   - **c.** The audited entity is complying with the requirements of applicable laws and regulations corresponding to non-profit organizations.

2. Review of Internal Control practices and procedures; recommendations contained in a management letter.

3. Review of financial compliance with contractual terms.

Agencies which operate in the public sector with public funds are also subject to audit by Federal, State, or County units which have a fiscal or operational interest in Agency performance. When any of these entities elects to exercise its right to audit, it will utilize its own protocols and procedures for contacting Agencies and performing audits. If necessary, or upon request, the Department will provide technical advice during outside audits when issues pertaining to County requirements or procedures arise.

P. Agency Records to be Maintained for Auditing Purposes

Agencies are required to maintain complete accounting records for the program under contract with the County. Such records shall be kept separate or identifiable from those relating to other activities of the Agency. These records will include, but not be limited to, cash receipts and disbursements journals, general ledger, general journal, accounts receivable and payable subsidiary ledgers, payroll records, employee attendance records, equipment register, purchase orders, and cancelled checks. In addition, vendor invoices noted with payment check number and account number charged, staff mileage reports, long-distance travel reports supported by appropriate receipts, petty cash vouchers, etc., must also be available for audit. Upon request, the Department will assist the Agency in establishing its accounting system.

Q. Use of Tax Exemption Certificate

Agencies should apply for exemption from State and Federal excise taxes where applicable and NYS Sales Tax. Sales Tax exemption certificates must be filed with all vendors. Sales tax is <u>not</u> a reimbursable expense.

R. Disallowances

1. Disallowances to reimbursement of reported costs will be made in the following instances:

a. Expenditures which are inconsistent with NYS CBR/CFR requirements or those which violate rules regarding the transfer from one expense category to another as defined in Section VII.M.; and

b. Expenditures that are inconsistent with this Manual or with the MHL and the Offices of NYS regulations and policies governing State Aid for locally contracted services.

2. Disallowances will be calculated separately for each program cost center.

3. Disallowances within program cost centers will be allocated among funding sources in that program cost center, including non-funded costs, in the same proportions that each funding source's gross expenses bears to the total gross expenses for the program cost center.

S. Funding Adjustments

Reimbursement by the County for each program will be limited to the least amount of:

1. Eligible Net Operating Costs, less Agency Voluntary Contribution, or
2. The Net Contract Total identified in the Funding Authorization Summary, or
3. Net Expenses approved by NYS less the Agency Voluntary Contribution, or
4. The Contract Funding Ceiling established in accordance with Section VI.B. of this Procedure Manual.

Claim documents will be prepared by Agencies as follows:

1. Agencies will complete their estimated and final claims and CFR in accordance with State requirements and methodology.

2. Chapter 620 funding will be claimed based upon actual program net operating costs and actual Chapter 620 units of service provided up to the budgeted Chapter 620 funding level **or an established contract funding ceiling, whichever is less.**

3. Local Assistance funding will be claimed based upon actual program net operating costs, up to the budgeted funding level or an established contract funding ceiling, whichever is less. For OPWDD, Chapter 620 costs may be claimed as Local Assistance net operating costs, subject to the approval of the NYS OPWDD.

4. For each program that has a voluntary contribution as specified in the Program Funding Source Detail, Erie County funding and Agency voluntary contribution will be claimed based upon actual program net operating costs up to the budgeted level in accordance with the Program Funding Source Detail or an established contract spending ceiling, whichever **is less.**

5. CSS funding will be claimed based upon actual program net operating costs, up to the budgeted funding level or an established contract funding ceiling, whichever is less, and consistent with prevailing CSS reimbursement procedures, requirements, and unit cost **caps.**

6. ACT funding will be claimed based upon actual program net operating costs, up to the budgeted funding level or an established contract funding ceiling, whichever is less, and consistent with prevailing ACT reimbursement procedures, requirements, and **gross cost caps and revenue targets**.

7. Deficit Funding for Legacy slots (former TCM) will be allocated for the purpose of

providing access to those meeting the SPOA eligibility criteria but without Medicaid. This includes capacity to serve at least 15% of the historical NYS OMH Targeted Case Management Model slot capacity. For example, if your NYS OMH slots capacity was 100, the expectation to serve the SPOA determined eligible uninsured population will be at least 15. Allocation of this deficit funding is subject to change based upon availability of funding from OMH, utilization, and emerging system need. Legacy funding will be claimed based upon actual program net operating costs, up to the budgeted funding level or an established contract funding ceiling, whichever is less, and consistent with reimbursement procedures and requirements.

A contract may be amended when an Agency incurs unanticipated additional expenses that are eligible and approvable program expenses, assuming adequate funding is available (at the discretion of ECDMH).

T. General and Non-allowable Costs

The major objectives of the fiscal regulations promulgated by the County are to restrain expenditures which are not directly related to providing client services and to ensure accountability for the expenditure of public funds.

In cases where prior County approval of expenditures is not required, Agencies are expected to exercise fiscal restraint by limiting expenditures to those essential to the service mission of the organization.

An appendix to the NYS CFR and Claiming Manual, "Adjustments to Reported Costs," lists certain items of expense that are considered non-allowable. Please reference that document. Agencies are obligated to be aware of all funder source constraints on allowable costs including but not necessarily limited to the ECDMH, NYS OMH, OASAS and OPWDD, NYS Division of Criminal Justice Services, the United States Department of Housing and Urban Development, the United States Department of Justice, and the Substance Abuse and Mental Health Services Administration.

U. Items Requiring NYS Department of Mental Hygiene Approval

Prior written approval from NYS is required by NYS OMH, OASAS and OPWDD guidelines for certain items. When required, Agencies should request approval through the ECDMH, which will contact the appropriate State office for approval.

1. **Certain purchases of equipment and services**. It is the Agency's responsibility to follow all fiscal and other guidelines pertaining to equipment purchases for those funding authorities not specifically listed herein, but are funded in the contract with the County - i.e. HUD, DCJS, and BJA. The Agency should request approval through the ECDMH consistent with State or Federal requirements. These requirements may be modified by the applicable State or Federal Agency at any time; ECDMH policy and procedure will be consistent with the State or Federal Agency. Agencies should refer to the Procurement Guidelines for All Funders available at https://www3.erie.gov/mentalhealth/information-contract-agencies to determine when approval is needed.

2. **Out-of-state travel**. Approval should be requested well in advance. Approved out-of-state travel must be supported by receipts for transportation, lodging, and any material purchases.

V. Procurement of Equipment / Services

It is the Agency's responsibility to obtain the lowest possible price for all equipment acquisitions and purchases of services including but not necessarily limited to the acquisition, construction, demolition, replacement, major repair, renovation or improvements of real property. The following are minimum requirements:

1. The availability of any usable surplus equipment within the mental health system should be checked. Whenever possible, the use of available surplus equipment should take precedence over the purchase of new equipment.

2. The State and County purchasing contract system utilizes competitive bidding to identify vendors with the lowest prices for a wide range of commonly used equipment. Agencies should check with the Department prior to purchasing equipment to compare State and County contract prices with quotations supplied by regular suppliers.

3. Not-for-profit providers who receive NYS funds have an additional purchasing option when procuring goods and services for program operations. Under NYS State Finance Law (SFL) Section 163, not-for-profit providers may procure commodities and services through NYS Office of General Services (OGS) contracts as "Authorized Users" or "Non-State Agency Purchasers."

4. To determine an organization's eligibility, the "Application for Eligibility to Participate in the NYS Contract Extension Program" Form, which may be found on the OGS website (https://ogs.ny.gov/procurement/ogs-procurement-services-centralized-contract-eligibility-application), should be completed and submitted to OGS Procurement Services. Additional details are included on the form.

5. During the review process, OGS Procurement Services may require additional information or approvals from senior financial management and OGS Procurement Services encourages Chief Financial Officers, Comptrollers and/or Treasurers to submit the applications to expedite the process.

6. For eligible programs, OGS Procurement Services will provide an Authorization Number, or OGS Customer ID, which will enable the entity to utilize the NYS Centralized Contract Portfolio. There is a wide range of services and commodities available through the portfolio, including administrative services, furniture, cars, medical equipment, appliances and computers. Information on these contracts is available through the OGS website (https://ogs.ny.gov/procurement). Search tools are available to navigate the information and the Purchaser Notification Service provides registered entities email notices about contract awards and other important procurement information.

7. Use of OGS contracts by any provider identified as eligible by OGS to utilize the NYS Centralized Contract Portfolio is acceptable in lieu of other procurement approaches as defined in the *Administrative and Fiscal Guidelines for OASAS-Funded Providers*, provided that all related procurement criteria under these contracts, including soliciting bids where applicable, are met.

8. When surplus equipment is unavailable and the equipment item is not covered by State or County purchasing contracts, or in the event of purchases of services, the Agency shall comply with the following requirements for purchasing equipment:

Purchasing Requirements: The Procurement Guidelines for All Funders document, available at https://www3.erie.gov/mentalhealth/information-contract-agencies provides purchasing requirements for equipment and services purchased with Erie County, NYS OMH, OASAS and DCJS, and Federal Funds (HUD and BJA):

1. **Verbal/Telephone Quotes**
   A record of these quotes shall be maintained and shall include the quote date, item to be purchased, vendor name, vendor's representative, and the price quoted.
2. **Written Quotes**
   Written quotes shall be retained and shall include the quote date, item to be purchased, vendor name, vendor's representative, and the price quoted. Quotes received via fax machine qualify as written quotes.
3. **Sole Source Items**
   Goods and services which may be procured from only one source are defined as "sole source" items. There must be, without question, a single supplier of the item or service.
4. **Selection of Vendor**
   The Agency will not be required, in all cases, to select the lowest quote or bid if it is determined that there is good commercial reason not to do so. In the event the lowest bid or quote is not selected, the Agency shall maintain written justification for, and evidence of, this decision.

W. Property Management

Agencies are expected to establish and maintain sound property management systems and practices. The definition of property is any item purchased with contract funds with an expected life of over 1 year regardless of price. Property management systems and practices are to include at a minimum:

1. The assignment of an identification number to each item and affixing a corresponding numbered tag or decal to that property.
2. The maintenance of property management record keeping systems, capable of producing inventory listings by site to record essential information including acquisition date, identification number, funding source, and condition.
3. The agency shall have an inventory and property management policies and procedures in place to include tagging of any tangible property purchased with contract funds to ensure accountability of property. The agency will provide the policies and procedures to the County upon request.
4. Completion of the annual inventory form which can be found on the agency cost report on a tab titled Inventory. Annual submissions are due on July 30 with the second quarter Year to Date (YTD) cost report.
5. The establishment of policies/procedures for reporting missing (lost or stolen) property to appropriate authorities, including law enforcement officials, insurers and other entities having an ownership interest including the County of Erie.
6. Any additional requirements established by NYS, BJA and HUD, as applicable.

X. Surplus or Obsolete Property

To ensure the maximum utilization of available resources, the Agency is requested to periodically assess the future need for the property on hand and to advise the ECDMH of any surplus or obsolete items for which there is no further use. These items will be transferred to another contract Agency, if needed, or to

a County-supervised central storage location. This notification by the Agency may occur at any time of the year at which an item is determined to be no longer useful. However, a review of all property should be made at least annually, at the time the annual physical inventory is taken.

IMPORTANT

NO item of property purchased under contract with the County may be sold, transferred, scrapped, or otherwise disposed of without the written authorization of the ECDMH. An Agency must request authorization in writing from the County to dispose of obsolete property. Once the property has been examined by the appropriate County department and determined to be unusable, the Agency will be notified regarding disposal of the item.

However, used equipment may be traded by OMH and OPWDD service providers for similar items without written authorization if it is part of a purchase that is in accordance with standard purchasing requirements. OASAS service providers must secure NYS approval through the ECDMH prior to trading in any equipment item.

Y. Loss of Property

If an item of property is stolen or intentionally destroyed, the occurrence should be immediately reported to the police, the Agency's insurance carrier, and the ECDMH.

Insurance proceeds which are subsequently received must be reported as income on the Agency's Quarterly Report and final claim per its submitted CFR.

If the property is to be replaced, the usual procedures for the purchase of property must be followed. That is, a budget line must be established and written approval to purchase, if required, must be obtained from the ECDMH, prior to purchasing the item.

Z. Procedure Regarding Certificates of Insurance

During the term of this Contract, the Agency agrees to procure and maintain insurance coverage, as set forth below:

1. Naming the "**County of Erie**" **as additional insured** for **General**, Abuse and Molestation, **Auto**, **Excess/Umbrella**, and Cyber Liability policies
   Abuse Liability policies.
2. **Waiver of Subrogation** must be indicated inside the insurance table for the following policies: **General**, **Auto**, **Excess**, and **Abuse & Molestation** Liability policies.
3. **All policies** shall name the "**County of Erie" as Certificate Holder** and satisfy the following requirements:
   a. **Commercial General Liability** with a minimum combined single limit of bodily injury and property damage of $1,000,000 per occurrence and general aggregate of $2,000,000, including premises and operations, products and completed operations, independent contractors, contractual liability (sufficient to cover all liability assumed under contracts with the County) and personal injury liability.
   b. **Automobile Liability** with a minimum combined single limit of liability for bodily injury and property damage of $1,000,000 each occurrence, and shall include owned, hired and non-owned autos.

c. **Excess "Umbrella" Liability** with a minimum liability of $1,000,000.

d. **Professional Liability** with a minimum limit of liability of $5,000,000 aggregate.

e. **Abuse and Molestation** coverage related to the ECDMH contract requires:

- **i.** Coverage shall be included for actual or alleged incidents of Abuse and Molestation on an Occurrence Form;
- **ii.** Coverage can be provided via endorsement to the General Liability policy or as a standalone policy;
- **iii.** County of Erie shall be listed as an Additional Insured for all ongoing and completed operations on a Primary and Non-Contributory Basis;
- **iv.** **Required Limits shall depend on the total contract value with Erie County Department of Mental Health** and can be met via a combination of both Primary and Excess/Umbrella Liability policies; and
- **v.** Coverage amount is based on the following at the time of the agency's insurance renewal Limits:
  - **Tier 1 – Contracts from $0 to $999,999** with Limits no less than $1 Million per occurrence;
  - **Tier 2 – Contracts between $1,000,000 to $2,999,999** with Limits no less than $3 Million per occurrence; and
  - **Tier 3 – Contracts $3,000,000 and higher** with Limits no less than $5 Million per occurrence.

f. **Property Insurance:** Providing sufficient coverage as to contents within agency's facility, replacement cost coverage shall be maintained, naming **County of Erie as Loss Payee** or **Additional Insured** in the event of damaged, lost or stolen property.

g. **Cyber Liability:** Required if agency has access to the County's computer network and/or if agency receives protected health information (as defined by HIPAA – *See* Section 10(H) in your 2027 Initial Contract) from the County, and naming **County of Erie as Additional Insured**.

i. Coverage amount is based on the following at the time of the agency's insurance renewal Limits:
  - **Tier 1** – **Contracts from $0 to $999,999** with limits no less than $1,000,000 per occurrence, or
  - **Tier 2** – **Contracts between $1,000,000 to $2,999,999** with limits no less than $3,000,000 per occurrence, or
  - **Tier 3** – **Contracts $3,000,000 and higher** with limits no less than $5,000,000 per occurrence.

h. **Workers' Compensation and Employers' Liability:** Providing statutory coverage in compliance with the Workers' Compensation Law of the State of New York.

i. **Disability Benefits:** Providing statutory coverage in compliance with the NYS Disability Benefits Law.

The Agency shall provide a Certificate of Insurance as evidence of such coverage(s) on the County of Erie Standard Insurance Certificate or its equivalent.

VIII. SERVICE STANDARDS AND REPORTING REQUIREMENTS

A. Standards for Service Activity

The contract between the ECDMH and the Agency establishes a projection for expected volume of services related to the number of persons to be served and historical utilization. Contracted service volume also establishes the program gross and net unit of service costs. The ECDMH seeks to achieve consistent expectations and establish standards for gross unit costs and staffing patterns in contracted programs.

The service guidelines delineated in this Section are minimum expectations for output, indirectly related to staffing. Service impact and quality are addressed in other Sections of this Procedure Manual.
Changes in State/Local planning priorities that impact upon service capacity will be considered in determining contracted units of service.

NYS or Federal Agencies may specify unit of service projections are also guided by gross unit of service cost ceilings by funding source. Where the application of service standards contained in this Manual result in unit costs that exceed State or Federal unit of service ceilings, the State or Federal unit of service ceilings shall take precedence.

Except as provided above, Agencies are expected to adhere to maintenance of effort regarding contracted service levels in accordance with this Section that includes non-funded services.

B. Service Reporting

The ECDMH utilizes the service reporting structures and processes established by the NYSNYS OMH, NYSNYS OASAS, in addition to any program, performance outcome and personnel information as specified in ClearPoint.

IX. ADDITIONAL GUIDELINES

A. Mental Health Advance Directives

The Agency is encouraged to establish mechanisms to ensure that individuals served are afforded the opportunity to develop an advance directive as defined by the NYSNYS OMH. The Agency shall ensure that the individuals served are afforded the opportunity of choice of auspice to assist in development of such advance directive.

B. Mental Health Assisted Outpatient Treatment and Diversion

The Agency shall establish mechanisms to ensure priority access by individuals, referred to the provider, who are high-risk individuals or who are enrolled in or being evaluated by an Assisted Outpatient Treatment ("AOT"- Kendra's Law) program established pursuant to Section 9.60 of the Mental Hygiene Law. The Agency shall cooperate with the ECDMH, or their authorized representatives, in
ensuring priority access by such individuals, and in the development, review, and implementation of treatment plans for such individuals. Any and all related information, reports, and data which may be requested by the County shall be furnished by the Agency. Any requests for clinical records, from persons

or entities authorized pursuant to Section 33.13 or 33.16 of the Mental Hygiene Law, and other interpretations, rules or regulations that may be issued in connection with individuals who are the subject of, or under consideration for, a petition for an order authorizing AOT shall be given priority attention and responded to without delay.

Agencies accepting and providing treatment inclusive of, but not necessarily limited to, medication management and/or psychiatric treatment to those individuals enrolled in AOT whose court order is subject to renewal are required to provide a Board-certified physician to complete the renewal evaluation, prepare a treatment plan, and when a hearing is required provide court testimony and associated testimony preparation in accordance with the requirements and deadlines of the Court.

C. Corporate Compliance

All agencies are required to electronically submit the Corporate Compliance Plan Certification to the County certifying whether or not the Agency is required to have a Corporate Compliance Plan. The agency will email the completed document to their assigned Contract Coordinator. The agency must sign the Corporate Compliance Plan Certification and shall further agree to ensure that if required to have a formal Corporate Compliance Plan, will do so and comply with standards set forth by the NYS Office of the Medicaid Inspector General (OMIG). If required to have a Corporate Compliance Plan, the Agency shall provide the name of the Agency's Corporate Compliance Officer and provide a copy of the Corporate Compliance Plan to the County upon request. Failure to provide evidence of an active corporate compliance program will be grounds for payment suspension until such time that the requirements of this part are met to the satisfaction of the County.

D. Single Point of Access (SPOA)

The Provider agrees to participate in the Single Point of Access (SPOA) established in the county in which the provider operates programs, according to the terms of the county.

1. The SPOA process is designed to assist counties in managing their most intensive services, and to facilitate better coordination of services.
2. The SPOA process is intended to be a collaborative one in which the county and service providers share responsibility for ensuring that individuals with the greatest risk/need are given priority access to the most appropriate services in support of their recovery.
3. Counties have the right to monitor admissions by provider, and take action should a provider show a pattern of inappropriate admission decisions. Inappropriate decisions would include a rejection of entire categories of individuals, and determinations based solely on an individual's history without consideration of current clinical condition and additional supports that the county can make available.

The Agency is expected to cooperate fully with the SPOA to ensure services are designed and delivered in a manner consistent with the goals of mitigating risk, recovery, community integration and family reunification. The Agency will provide data and management reports as requested by the ECDMH in a timely manner. The Agency will share personally identifiable information consistent with the operation of the SPOA.

The Agency will work cooperatively with the ECDMH and other Departments of the County wherever necessary and possible to ensure the provision of the highest quality of care.

The Agency will participate in SPOA sponsored events and meetings. The Agency will also participate in meetings and activities focused on service coordination including data driven decision making, triage and referral and utilization management to respond to fiscal and system level changes.

Please see the SPOA Guidance Document for further details at:
https://www3.erie.gov/mentalhealth/information-contract-agencies.

E. Continuity of Operations Plan (COOP)

The agency agrees to have an agency-wide emergency preparedness plan. The agency is required to work with the Mental Health Emergency Disaster Response Coordinator to develop a comprehensive Continuity of Operations Plan (COOP) which allows for the continuation of the mission essential functions of agencies during any emergency or incident that may disrupt typical day-to-day or normal operations. The agency further agrees to review and update their COOP annually and track the changes accordingly.

The development of this plan should include representatives from across your agency as well as those from the public and private sectors as needed. The plan should also follow any guidelines outlined by the Erie County Mental Health Emergency Disaster Response Coordinator. All agencies shall submit a current Disaster Preparedness Plan with their annual Erie County Department of Mental Health (ECDMH) contract submission. ECDMH may review submitted plans and request updates or revisions as necessary.

In addition to development of an emergency preparedness plan, the County requires each agency to complete the Disaster Preparedness Contact Listing and Continuity of Operations Plan (COOP) Participation Attestation. This document will be provided by your Contract Coordinator and should be completed annually along with other required contracting documents prior to the contract year. The agency should email the completed form containing the contact information for all agency essential personnel and location of all consumer residences to the assigned Contract Coordinator. This document should be updated if staffing changes occur during the contract term. The Agency should communicate these changes to the assigned Contract Coordinator in a timely fashion.

The agency also agrees to cooperate with any workgroups, meetings, drills, or other participation requests from the County. Once the plan is completed, it should be shared with and reviewed by a wide audience within the Agency, especially those who have direct responsibility for carrying out specific tasks and roles identified.

In an emergency that necessitates the opening of the Emergency Operations Center by Erie County, agencies should stay abreast of the situation and based on the circumstances remain in contact with the Erie County Mental Health Emergency Disaster Response Coordinator.

F. Dual Recovery Reform/Integrated Treatment

Providers of treatment services will work with ECDMH and the Director of Dual Recovery and Community Integration to reform the current dual recovery system to reframe the integration of health, mental health, chemical dependency and intellectual/developmental disabilities services by identifying research informed practices, developing fidelity measures and standardizing service performance measures.