

**KATHY HOCHUL**  
Governor

**ANN MARIE T. SULLIVAN, M.D.**  
Commissioner

**MOIRA TASHJIAN, MPA**  
Executive Deputy Commissioner

## **Office of Mental Health Federal Certifications For Block Grants for Community Mental Health Services – CFDA # 93.958**

*The New York State Office of Mental Health (OMH), herein defined as the recipient and pass-through entity, requires the receipt of a signed Federal Certification form from any subrecipient, herein defined as an entity that receives a subaward from a pass-through entity, whose programs are funded with Federal grant funds (excluding Federal entitlement grants, such as Medicaid and Medicare) to ensure that all Federal grant requirements are met. The receipt of the signed certification is required as a condition of receiving payment.*

In accepting an award from the New York State Office of Mental Health, the subrecipient of the federal grant funds agrees to the following terms and conditions:

### **1. Prohibited Uses of Federal Funds**

In accordance with 45 CFR 96.135, federal funds will not be expended:

- a) to provide inpatient services;
- b) to make cash payments to intended recipients of health services;
- c) to purchase or improve land; purchase, construct, or permanently improve (other than minor remodeling) any building or other facility; or purchase major medical equipment;
- d) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;
- e) to provide financial assistance to any entity other than a public or nonprofit public entity; or
- f) to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for AIDS.

### **2. Subcontract Agency Certifications**

Subrecipients of this Federal Grant must ensure the review and execution of an OMH Federal Certifications form by any further subrecipients of funding through their organization **before** any Federal Funding from this grant is dispersed.

The primary subrecipients must acquire and retain the signed certification forms from any further subrecipients and provide a copy to OMH for review and audit. Failure to obtain signed certifications from further subrecipients may result in recovery of grant funding from subrecipient.

### **3. Award Management**

Subrecipients must track this grant separately and distinctly from other federal grant awards or other state or federal funding. The tracking of funds is subject to enhanced reporting

requirements developed by OMH, including general ledger and chart of accounts details to crosswalk expenditures to the Consolidated Fiscal Report and the final Federal Financial Report (FFR).

OMH is required to submit a final FFR within 90 days after the close of the grant period. To ensure that OMH has sufficient time to comply with this requirement, subrecipients shall submit a final expenditure report in the form and format provided by OMH no later than 45 days after the end of the grant period.

#### **4. Certification Regarding Debarment and Suspension**

Consistent with OMB Guidelines to Agencies on Governmentwide Debarment and Suspension for Nonprocurement transactions codified in Parts 180 and 376 of Title 2 of the Code of Federal Regulations, subrecipient certifies to the best of the undersign's knowledge and belief, as an authorized official of subrecipient, that the subrecipient and its principals:

- a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Subrecipient will include, without modification, the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions" in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 2 CFR 180.330.

#### **5. Certification Regarding Program Fraud Civil Remedies Act (PFCRA)**

Subrecipient certifies that he or she is aware that any false, fictitious, or fraudulent statements or claims provided to the State or Federal agencies in connection with this grant, including any applicable applications for funding, expenditure reports or grant close-out documents may subject him or her to criminal, civil, or administrative penalties.

#### **6. Certification Regarding Environmental Tobacco Smoke**

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to

children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where Women, Infants and Children (WIC) coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation or the imposition of an administrative compliance order on the responsible entity.

Subrecipient certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The Public Health Services strongly encourages all grant subrecipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

### **TERMS AND CONDITIONS FROM THE NOTICE OF AWARD (NOA) FOR THE COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT – CFDA # 93.958.**

Subrecipients must comply with all applicable provisions of the NOA, including but not limited to the following:

#### **7. Certification Statement:**

By receiving funds, subrecipient agrees to abide by the statutory requirements of all sections of the Mental Health Block Grant (MHBG) (Public Health Service Act, Sections 1911-1920, and sections 1941-1957) (42 U.S.C. 300x-1-300x-9 and 300x-51-300x-67, as amended), and other administrative and legal requirements as applicable for the duration of the award.

#### **8. Executive Pay:**

The Consolidated Appropriations Act, 2021 (Public Law 116-260), signed into law on December 27, 2020, restricts the amount of direct salary to Executive Level II of the Federal Executive Pay scale. Effective January 3, 2021, the salary limitation for Executive Level II is \$199,300.

For awards issued prior to this change, if adequate funds are available in active awards, and if the salary cap increase is consistent with the institutional base salary, subrecipients may re-budget to accommodate the current Executive Level II salary level. However, no additional funds will be provided to these grant awards.

#### **9. Marijuana Restriction:**

SAMHSA grant funds may not be used to purchase, prescribe, or provide marijuana or treatment using marijuana. See, e.g., 45 CFR 75.300(a) (requiring HHS to ensure that Federal funding is expended in full accordance with U.S. statutory and public policy requirements); 21 U.S.C. 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase, or distribution of marijuana).

## **10. Federal Financial Accountability and Transparency Act (FFATA)**

The award is subject to FFATA reporting: <https://www.fsrs.gov/>

## **11. Mandatory Disclosures:**

Consistent with 45 CFR 75.113, subrecipients must disclose in a timely manner, in writing to the NYS Office of Mental Health and the HHS Office of Inspector General (OIG), all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the HHS OIG.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

## **12. The Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended, and 2 CFR Part 175**

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. SAMHSA may unilaterally terminate this award, without penalty, if a private entity recipient, or a private entity subrecipient, or their employees:

- a) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- b) Procure a commercial sex act during the period of time that the award is in effect; or,
- c) Use forced labor in the performance of the award or subawards under the award. The text of the full award term is available at 2 C.F.R. 175.15(b). See <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf>.

## **13. Certification Regarding Drug-Free Workplace Requirements**

The Drug-Free Workplace Act of 1988 (41 U.S.C. § 701, et seq.) requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. Subrecipient agrees that it will provide a drug-free workplace and will comply with the requirement to notify SAMHSA if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government wide requirements for Drug-Free Workplace for Financial Assistance are found in 2 CFR part 182; HHS implementing regulations are set forth in 2 CFR part 382.400. All subrecipients of NIH grant funds must comply with the requirements in Subpart B (or Subpart C if the subrecipient is an individual) of part 382.

## **14. Certification Regarding Lobbying**

Subrecipients shall comply with the restrictions on lobbying as set forth in 45 CFR part 93. No federal funds provided may be used by a recipient or subrecipient to support lobbying activities to influence proposed or pending federal or state legislation or appropriations.

## 15. Accessibility Provisions:

Federal grant subrecipients must administer their programs in compliance with Federal civil rights law. Subrecipients must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age, and in some circumstances, sex, and religion. This includes ensuring your programs are accessible to persons with limited English proficiency.

The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see <http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html>. Subrecipients of federal grants also have specific legal obligations for serving qualified individuals with disabilities. Please see <http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html>. Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under Federal civil rights laws at <https://www.hhs.gov/civil-rights/index.html> or call 1-800-368-1019 or TDD 1-800-537-7697.

Also note that it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, subrecipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=1&lvlid=6>.

## 16. Audits

Non-Federal subrecipients that expend \$750,000 or more in federal awards during the subrecipient's fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of 45 CFR 75.501(a). Guidance on determining Federal awards expended is provided in 45 CFR 75.502.

Subrecipients are responsible for submitting their Single Audit Reports and the Data Collections Forms (SF-FAC) electronically to the to the Federal Audit Clearinghouse within the earlier of 30 days after receipt or nine months after the FY's end of the audit period. The FAC operates on behalf of the OMB.

For specific questions and information concerning the submission process: Visit the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb> or call FAC the toll-free number: (800) 253-0696.

## ADDITIONAL ASSURANCES FOR NON-CONSTRUCTION PROGRAMS

17. Subrecipient has the legal authority to apply for Federal assistance, and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the projects funded by this grant.
18. Subrecipient will give the awarding agency, the Comptroller General of the United States, and the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standard or federal or state agency directives.

- 19.** Subrecipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- 20.** Subrecipient will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- 21.** Subrecipient will comply, as applicable with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standard for a Merit System of Personnel Administration (5 CFR 900, Subpart F).
- 22.** Subrecipient will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685- 1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to non- discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- 23.** Subrecipient will comply, or has already complied, as applicable with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
- 24.** Subrecipient will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- 25.** Subrecipient will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327- 333), regarding labor standards for federally assisted construction sub agreements.
- 26.** Subrecipient will comply, as applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

- 27.** Subrecipient will comply, as applicable with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetland pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
- 28.** Subrecipient will comply, as applicable, with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- 29.** Subrecipient will assist the awarding agency, as applicable, in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- 30.** Subrecipient will comply, as applicable with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- 31.** Subrecipient will comply, as applicable with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by this award of assistance.
- 32.** Subrecipient will comply, as applicable, with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- 33.** Subrecipient will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
- 34.** Subrecipient will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

**Office of Mental Health Federal Certifications  
For Block Grants for Community Mental Health Services – CFDA # 93.958**

Provider Name:		Provider Code:	
Federal FY:		Federal Award Period:	
FAIN Number:		Document Number:	
OMH Project:		OMH Project Period:	
Reporting Requirements:			

Subrecipients must refer to the Federal Grant Notice of Award, the OMH Federal Certifications form, and the OMH Spending Plan Guidelines to ensure compliance with all terms and conditions set forth by the Federal Government and the NYS Office of Mental Health.

- By checking this box, I certify that the provider listed above has read and will comply with all terms and conditions set forth in the Federal Notice of Award (NOA), the OMH Federal Certifications form, and the OMH Spending Plan Guidelines. Spending Plan Guidelines can be found here: <https://apps.omh.ny.gov/omhweb/spguidelines/>
- By checking this box, I certify that as a subrecipient of this Federal Grant, the provider listed above has reviewed the OMH Federal Certifications form and understands that no Federal Funding shall be released for this project period until this agreement is executed by and received by OMH Central Office.
- By checking this box, I certify that as a subrecipient of this Federal Grant, the provider listed above is responsible for ensuring the review and execution of this Federal Certifications form by any further subrecipients of funding through my organization **before** any Federal Funding from this grant is dispersed. We will acquire the signed certification forms from further subrecipients and will ensure that a copy is sent to the OMH Central Office.
- By checking this box, I certify that the provider listed above will track this grant separately and distinctly from other Federal Grant awards, ensure that OMH receives the Final Expenditure Report for this grant no later than 45 days after the end of the grant period, and comply with any other reporting or audit requirements, such as submitting general ledger and chart of accounts details to OMH upon request.

Agreement to be reviewed and signed by the provider’s Authorized Certifying Official:			
Name:		Title:	
Phone:		Email:	
Signature:		Date:	

Signed certification forms can be sent to OMH Central Office via e-mail to [CBFM-FederalUnit@omh.ny.gov](mailto:CBFM-FederalUnit@omh.ny.gov) or via mail to:  
 Community Budget and Financial Management  
 NYS Office of Mental Health  
 44 Holland Avenue, 7th Floor  
 Albany, New York 12229