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Sponsor:	Kelly Hearne: DIR, GRANTS
Section:	GA-Grants
Manuals:	

GA-020-020 Legislative Mandates Restricting the Use of Federal Grant Funds

I. Purpose

The purpose of this policy and the associated procedures is to provide safeguards to ensure Broward Health Department compliance with the Legislative Mandates.

II. Definitions

The words and acronyms defined in this Policy shall have the meanings set forth in the Code regardless of whether they are capitalized, unless:

- I. The context in which they are used clearly requires a different meaning; or
- II. A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.

For purposes of this Policy, the below terms shall have the following meanings associated with them:

"Broward Health Department" means any office, department, entity, or DBA of North Broward Hospital District that accepts Federal Awards from any Federal Agency including, but not limited to, Broward Health, Community Health Services, and Children's Diagnostic & Treatment Center.

"Federal Agency" means any executive department, Federal Government corporation, Federal Government controlled corporation, or other establishment within HHS that provides Federal Awards including, but not limited to, HRSA, Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA), National Institutes of Health (NIH), and Substance Abuse and Mental Health Services Administration (SAMHSA).

"Federal Award" means, depending on the context, either: (1) The Federal financial assistance or the cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal Agency or indirectly from a Pass-Through Entity, as described in 45 C.F.R. § 75.101; or (2) An instrument setting forth the terms and conditions which can be a grant agreement, cooperative agreement, other agreement for assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

"Federal Program" means (1) all Federal Awards that are assigned a single number in the Catalog of Federal Domestic Assistance (CFDA); (2) all Federal Awards to non-Federal entities from the same Federal Agency

made for the same purpose; or (3) a cluster of programs as defined in 45 C.F.R. § 75.2.

“Authorizing Official (AO).” The individual, named by the applicant organization, who is authorized to act for the applicant and to assume the obligations imposed by the Federal laws, regulations, requirements, and conditions that apply to grant applications or grant awards.

“The Hyde Amendment” is a statutory provision included as part of the annual Appropriations Act which prohibits health centers from using federal funds to provide abortions (except in cases of rape or incest, or where a woman suffers from a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed).

“Executive Level II” The Consolidated Appropriations Act, 2021 (Public Law 116-260), signed into law on December 27, 2020, restricts the amount of direct salary that may be paid to an individual under a Department of Health and Human Services (HHS) grant, cooperative agreement, or applicable contract to a rate no greater than Executive Level II of the Federal Executive Pay Scale. Effective January 2021, the Executive Level II salary level is \$199,300 (formerly \$197,300 in 2020)

III. Policy

Broward Health Department is committed to compliance with all applicable laws and regulations. The Consolidated Appropriations Act includes provisions that restrict grantees from using their federal grant funds to support certain defined activities. These limitations are commonly referred to as the “Legislative Mandates.” The current Legislative Mandates, which remain in effect until a new Appropriations Act is passed, include the following:

a. Salary Limitation

Broward Health Department shall not use federal grant funds to pay the salary of an individual at a rate in excess of Executive Level II.

b. Gun Control

Broward Health Department shall not use federal grant funds to advocate or promote gun control.

c. Anti-Lobbying

A. Broward Health Department shall not use federal grant funds, other than for normal and recognized executive legislative relationships, for the following:

i. For publicity or propaganda purposes; or

ii. For the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

B. Broward Health Department shall not use federal grant funds to pay the salary or expenses of any employee or agent of Broward Health Department for activities designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than

for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

C. The prohibitions in subsections A and B include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

Acknowledgment of Federal Funding

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, Broward Health Department shall clearly state:

- I. the percentage of the total costs of the program or project which will be financed with Federal money.
- II. the dollar amount of Federal funds for the project or program; and the percentage and
- III. dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Restrictions on Abortions, and Exceptions to these Restrictions

Broward Health Department shall not use federal grant funds for any abortion or for health benefits coverage that includes coverage of abortion. These restrictions shall not apply to abortions (or health benefits coverage of abortions) that fall within the Hyde Amendment exceptions.

Ban on Funding of Human Embryo Research

Broward Health Department shall not use federal grant funds for

- I. the creation of human embryos for research purposes
- II. research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

Limitations on Use of Grant Funds for Promotion of Legalization of Controlled Substances

Broward Health Department shall not use federal grant funds to promote the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act.

Restriction of Pornography on Computer Networks

Broward Health Department shall not use federal grant funds to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

Restriction on Funding ACORN

Broward Health Department shall not provide any federal grant funds to the Association of Community Organizations for Reform Now ("ACORN"), or any of its affiliates, subsidiaries, allied organizations, or successors.

Restriction on Distribution of Sterile Needles

Broward Health Department shall not use federal grant funds to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. Such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with State and local law.

Confidentiality Agreements

Broward Health Department shall not require its employees or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

IV. Procedure

Review and Updates of this Policy and Procedure (P&P)

The authorized official shall review this P&P upon the passage of a new HHS Appropriations Act or issuance of HRSA guidance regarding the Legislative Mandates and shall ensure this P&P is updated as necessary. As Appropriations Acts are generally enacted annually, this P&P will generally require annual review. Any modifications to this P&P will require review and approval by Broward Health Department Board of Commissioners.

Legislative Mandates Training

The authorized official shall ensure that the Finance staff receive training regarding the Legislative Mandates and the procedures set forth in this P&P.

Compliance Program

Broward Health Corporate Compliance Audit and Monitoring Departments shall ensure compliance with applicable laws by utilizing auditing and monitoring practices to detect criminal or other improper conduct by Broward Health Workforce Members.

Financial Management

The Authorizing Official shall ensure that Broward Health Department financial management systems and procedures are structured to ensure that no federal grant funds are used for purposes that are impermissible under this P&P. As necessary, the CFO may establish cost centers/accounts for the accumulation and segregation of such costs. The CFO may use any practical means to do so, consistent with Broward Health Department financial management policies (including by establishing appropriate cost centers and associated accounts to accumulate and segregate the following costs where necessary). Through this process, Broward Health Department will adhere to the Legislative Mandates restrictions on use of federal funds for:

- I. "Lobbying" or other "advocacy" activities that may meet the definitions of the applicable Legislative Mandate sections (as well as 45 C.F.R. § 75.450) (including certain advocacy relating to gun control, legalization of controlled substances, consumer products, and other advocacy).
- II. Payment of a salary (or associated fringe benefits) at a rate in excess of the Executive Level II pay scale.
- iii. Abortions or health benefits coverage that includes coverage of abortion (this restriction shall not apply

to abortions (or health benefits coverage of abortions) that fall within the Hyde Amendment exceptions).

- iv. Activities related to distribution of sterile needles for hypodermic injection of any illegal drug
 - I. Human embryo research; and
 - II. Business transactions with (including the funding of) the Association of Community Organizations for Reform Now (“ACORN”).

Acknowledgment of Federal Funding

All statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, will be reviewed and approved by the Broward Health Department Authorizing Official. The Authorizing Official shall ensure that such written material include the following:

*“Broward Health Department (**name of specific site**), (**Project Description, Project #**). “This project is/was supported by (**Funding Agency**) under grant number (XXX) titled (XXX). (**Award Amount**) and that is (XXX%) financed with nongovernmental sources.”*

Restriction of Pornography on Computer Networks

Broward Health Department computer network is and shall remain configured to block the viewing, downloading, and exchange of pornography. The Authorizing Official, in collaboration with the Broward Health Information technology Department, shall ensure appropriate information technology assets and support are made available to ensure continued compliance.

Confidentiality Agreements

Broward Health Corporate Administration shall review any and all confidentiality agreements entered into between Broward Health Department and its employees and/or contractors and, prior to execution, shall confirm that such agreements do not prohibit or otherwise restrict the employee/contractor from lawfully reporting waste, fraud, or abuse to:

- I. federal law enforcement or other federal investigative personnel, or
- II. other representatives of federal departments and agencies.

V. Related Policies

GA-004-345 Compliance Audit and Monitoring

VI. Regulatory Standards and references

Consolidated Appropriations Act, 2021

Controlled Substance Act, 21 U.S.C. § 812N/A

VII. Interpretation and Administration

Administration and Interpretation of this policy is the responsibility of the Broward Health Department Authorizing Official.

Attachments

Grants Policy Bulletin, Legislative Mandates in Grants Management for FY 2021

Approval Signatures

Step Description	Approver	Date
	David Clark: SVP, OPERATIONS	05/2021
	Kelly Hearne: DIR, GRANTS	05/2021

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