



AT THE SOUTHERN NEVADA HEALTH DISTRICT

**SOUTHERN NEVADA COMMUNITY HEALTH CENTER  
POLICY AND PROCEDURE**

<b>DIVISION:</b>	Administration	<b>NUMBER(s):</b>	CHCA-###
<b>PROGRAM:</b>	FQHC	<b>VERSION:</b>	1.0X
<b>TITLE:</b>	Legislative Mandate Review Policy	<b>PAGE:</b>	1 of 11
		<b>EFFECTIVE DATE:</b>	<a href="#">Click or tap here to enter text.</a>
<b>DESCRIPTION:</b>	To establish procedures for ensuring compliance with legislative mandates.	<b>ORIGINATION DATE:</b>	New
<b>APPROVED BY:</b>		<b>REPLACES:</b>	New
<b>FQHC CHIEF OPERATIONS OFFICER:</b>			
	_____ Date		
<b>DISTRICT HEALTH OFFICER:</b>			
	_____ Date		
	Fermin Leguen MD, MPH		

**I. PURPOSE**

To establish procedures for ensuring compliance with legislative mandates, including mandates in Department of Health and Human Services appropriations acts, and applicable Health Resources and Services Administration guidance.

**II. SCOPE**

This policy applies to all Southern Nevada Community Health Center operations.

**III. POLICY**

**A. Procurement Standards for Federal Awards**

1. 2 CFR Part 200; 45 CFR Part 75. Code of Federal Regulations (CFR) Title 2 Part 200 and Title 45 Part 75 contain the uniform administrative requirements, cost principles and audit requirements for federal awards. Any procurement awarded with federal (grant) funds will comply with 2 CFR 200 or 45 CFR 75 as applicable.

2. 2 CFR 200, Sections 317-326, Procurement Standards. Sections 200.317 through 200.326 contain the procurement standards. The following procurement standards apply to federally funded procurements.
  - a. 200.317, Procurements by states
  - b. 200.318, General procurement standards
  - c. 200.319, Competition
  - d. 200.320, Methods of procurement to be followed
  - e. 200.321, Contracting with small and minority businesses, women's business enterprises and labor surplus area firms
  - f. 200.322, Procurement of recovered materials
  - g. 200.323, Contract cost and price
  - h. 200.324, Federal awarding agency or pass-through entity review
  - i. 200.325, Bonding requirements
  - j. 200.326, Contract provisions
3. 2 CFR 200 Section 330, Subrecipient and Contractor Determination. Every contract awarded will have a subrecipient determination on file. A purchase order will be awarded to a supplier, and not a subrecipient.
4. 2 CFR 200, Sections 420-475; 45 CFR 75, Sections 420-475, General Provisions for Selected Items of Cost. These sections provide principles to be applied in establishing the allowability of certain items involved in determining cost. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost.

5. 2 CFR 200, Appendix II, Contract Provisions for Non-Federal Entity Contracts under Federal Awards. The following clauses covered under this section will be included with any procurement using federal funding, including purchase orders.
  - a. Remedies. Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation-adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
  - b. Termination. All federally funded contracts \$10,000 or more must address termination for cause and for convenience by the non-federal entity including the manner by which it will be affected and the basis for settlement.
  - c. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
  - d. Davis-Bacon Act. As amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award

a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti- Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non- federal entity must report all suspected or reported violations to the federal awarding agency.

- e. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by a non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- f. Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- g. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- h. Energy Efficiency. Contractor will comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
- i. Debarment and Suspension. (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235),
- j. Debarment and Suspension. The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Furthermore, each of contractor's vendors and sub-contractors will certify that to the best of its respective knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
- k. Byrd anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with

obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

#### **IV. PROCEDURE**

##### **A. Statement**

1. Southern Nevada Community Health Center herein referred as Health Center, recognizes that as a recipient of Federal funds, they are responsible for compliance with all applicable laws, regulations, and provisions of contracts and grants. This includes understanding and adhering to allowances and/or restrictions to use of Federal funds.
2. Appropriate fiscal oversight will be maintained for all Grants and awards. With respect to Federal funding and the requirements on restrictions to limitations on use of Federal funds as mandated by the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Division B, Pub. L. 115-245 the health center assures oversight and monitoring for compliance via grants management. The health center will comply with all requirements under the program compliance manual. The health center will also comply with all requirements under 45 CFR Part 75 Subpart E: Cost Principles and/or 2 Code of Federal Regulations (CFR) Part 200 (Subparts A – F). In addition, the health center will comply with all requirements under HRSA Grants Policy Bulletin 2020-04.

##### **B. Responsibility**

The grant accountant and controller are responsible to ensure that no Federal funds are used for mandated limitations/restrictions.

##### **C. Implementation**

1. **Mandatory Disclosures**  
Any violation of federal criminal law involving fraud, bribery and gratuity violations potentially affecting the award will be disclosed in writing to HHS within 14 days of discovery. This notification will be the responsibility of the ED and the Board Chair.
2. **Salary Limitation (Section 202)**  
None of the funds appropriated in this title shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II. The Executive Level II salary is currently set at \$203,700, as of January 2022.

3. Gun Control (Section 210)

None of the funds made available in this title may be used, in whole or in part, to advocate or promote gun control.

4. Anti-Lobbying (Section 503)

a. No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111-148 shall be used, other than for formal and recognized executive legislative relationships, for publicity or propaganda purposes, 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. No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111-148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity 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 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) shall 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.

5. Health Center shall not use federal grant funds, other than for normal and recognized executive legislative relationships, for the following:
  - a. For publicity or propaganda purposes
  - b. 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.
  - c. Health Center shall no use federal grant funds to pay the salary or expenses of any employee or agent of Health Center 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.
  - d. 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.
6. Acknowledgement 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, Health Center shall clearly state:

  - a. The percentage of the total costs of the program or project which will be financed with Federal money
  - b. The dollar amount of Federal funds for the project or program
  - c. Percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.



7. Restrictions on Abortions, and Exceptions to these Restrictions
  - a. Health Center 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 coverage of abortions) that fall within the Hyde amendment exceptions.
  - b. 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).
8. Ban on Funding Human Embryo Research - Health Center shall not use federal grant funds for:
  - a. The creation of human embryos for research purposes.
  - b. 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)).
9. Limitations on the Use of Grant Funds for the Promotion of Legalization of Controlled Substances
  - a. Health Center 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.
  - b. Restriction on Distribution of Sterile Needles (Section 526) Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug: Provided, That 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.

10. Restriction of Pornography on Computer Networks

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

11. Confidentiality Agreements

Health Center 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.

12. Procedure

SNHD, will review HRSA's Legislative Mandates annually for the passage of a new HHS Appropriations Act or issuance of HRSA guidance regarding the Legislative Mandates and ensure SNHD's policies and procedures are updated as necessary. Any modifications to SNHD's legislative mandates policies and procedures will require review and approval by the Board of Directors.

## V. REFERENCES

1. Department of Defense and labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Division B, Pub. L. 115- 245
2. HRSA Grants Bulletin: 2022-05E, April 14, 2022
3. 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).
4. Hyde Amendment
5. Consolidated Appropriations Act, 2019  
<https://www.congress.gov/resources/display/content/Appropriations+for+Fiscal+Year+2019>
6. Controlled Substances Act, Section 202  
<https://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>
7. 45 CFR Part 75 Subpart E: Cost Principles  
<https://www.govinfo.gov/content/pkg/CFR-2017-title45-vol1/xml/CFR-2017-title45-vol1-part75.xml>
8. 2 Code of Federal Regulations (CFR) Part 200 (Subparts A – F)  
<https://www.govinfo.gov/app/details/CFR-2014-title2-vol1/CFR-2014-title2-vol1-part200>
9. HRSA Grants Policy Bulletin 2020-04.  
[https://protect-us.mimecast.com/s/n\\_JSCmZ6L0Fz60KCGLwwD?domain=hrsa.gov](https://protect-us.mimecast.com/s/n_JSCmZ6L0Fz60KCGLwwD?domain=hrsa.gov)

**VI. DIRECT RELATED INQUIRIES TO**

FQHC Operations Manager

**HISTORY TABLE**

**Table 1: History**

<b>Version/Section</b>	<b>Effective Date</b>	<b>Change Made</b>
Version 0		First issuance

**VII. ATTACHMENTS**

Not Applicable