

Approval Process for Individual Consulting Contracts with Industry and Other Commercial Entities

RFMH contracts with governmental and non- governmental entities for research and related activities to support the mission of the Office of Mental Health (OMH). Policies and procedures have been established in collaboration with OMH to address specific types of activities (e.g., research involving human subjects) and funding sources (e.g., rules for waivers or partial waivers of indirect costs on certain defined awards). The purpose of this document is to establish procedures by which RFMH will contract with industry (such as pharmaceutical companies) and other commercial entities and their closely affiliated entities for the participation of OMH employees in scientific and/or professional consulting activities. Such interaction and collaboration between OMH and industry is necessary to maximize the value of public investment in research and the transfer of science to practice.

Procedures

1. An OMH employee who has been asked to consult with a commercial sponsor shall complete an Application for Approval of Proposed Consulting Agreement that includes details of the nature and location of the proposed work, the time commitment (including travel) and how the work relates to the mission of the agency and the employee's OMH job duties. All pertinent documentation or correspondence with the sponsor must be attached.
2. The Application shall first be reviewed by the employee's division head/supervisor. The division head/supervisor approves the use of an employee's time for the proposed consulting and confirms that the employee has the required skills to fulfill the requirements of the contract. If approved the Application shall then be referred to the NYSPI (for NYSPI employees) or NKI (for NKI employees) Conflict of Interest Committee. OMH employees who are not employees of NYSPI or NKI shall submit their applications to the NYSPI committee.
3. The Conflict of Interest Committee shall submit a written summary of its conclusions and recommendations to the facility director, who shall, if he or she approves, forward the Application to the OMH Medical Director for final determination. Any application involving the OMH Medical Director shall be reviewed by the Commissioner.
4. If approved, RFMH may negotiate an appropriate contract with the sponsor and advise the employee when the contract has been executed and that the employee may proceed with the engagement.
5. RFMH shall administer the contract funds in accordance with its usual policies and procedures authorizing expenditures as required to meet contract purposes. RFMH may charge its established overhead rate for each contract or may charge a reasonable administrative fee in lieu of overhead.
6. At the conclusion of the work any funds not required for contract specific expenditures shall be held in a Pooled Consulting Account (PCA) credited to the facility at which the employee works and established in accordance with RFMH's Pooled Consulting Accounts Policy. Expenditure of funds from

the PCA shall be in accordance with a budget that has been approved by the Chief Medical Officer and shall be used to provide goods or services for initiatives or projects that will benefit the entire facility or a Department within the facility. The funds may not be used to directly support the projects or initiatives of the person who was responsible for carrying out the consulting service or be otherwise under the control of that person.

Conflict of Interest

Interaction and collaboration between the Office of Mental Health and industry is necessary to maximize the value of public investment in research and the transfer of science to practice. Nonetheless, it is important to conduct such activities in a manner that does not create a conflict of interest or commitment for the employee and promotes public confidence in the appropriate use of State resources. When reviewing applications, the Conflict of Interest Committees shall ensure that the proposed activity is consistent with the State Ethics Law and serves the interests and mission of OMH. If a Committee determines that a proposed activity creates a real or apparent conflict of interest the Committee shall recommend disapproval to the facility director. Examples of activities which would be disapproved in almost every case include, but are not limited to, acting as an expert witness or public advocate for private industry or engaging in or advising on marketing, advertising or other promotional activities for private industry.

As with all activities conducted in a state capacity, if an OMH employee is asked to participate in marketing, advertising, promotional activities, or other activities that are inconsistent or appear to be inconsistent with the employee's state obligations the OMH employee should be cognizant of the potential for an appearance of impropriety and recuse him or herself from such activity. The employee shall notify the appropriate Conflict of Interest Committee of any such recusal within 14 days.

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OMH employees who are uncertain about application of the State ethics rules to a particular situation should seek guidance from OMH Counsel's Office, (518) 474-1331.