

Title 20. Miscellaneous Boards and Commissions.

Chapter 40. Mental Health Trust Authority.

Article

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Article 1. Fiscal Matters Generally.

Section

- 10. Development of mental health budget recommendations to board
- 20. Authority consideration and action on budget recommendations
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- 40. Guiding principles

20 AAC 40.010. Development of mental health budget recommendations to board.

(a) The authority will use a two-year budget cycle for the authority's budget recommendations under AS 47.30.046. The first year of that budget cycle is the state's fiscal year that ends in an even-numbered year.

(b) The authority will invite each planning board and other agencies that serve the needs of beneficiaries as the authority considers appropriate to collaborate with the authority in developing budget recommendations to the board to meet the mental health needs of the state for the upcoming budget cycle. Recommendations will be developed for meeting both operating and capital needs to be paid, subject to appropriations, for the following:

(1) base adjustments to the state's general fund appropriations for the comprehensive program between

(A) the various appropriations authorized in the mental health budget appropriation bill; and

(B) the legislature's general fund appropriations that affect beneficiaries, but are not included in the mental health budget appropriation bill;

(2) other changes to the mental health budget appropriation bill, including

expenditures from the mental health trust settlement income account.

(c) Repealed __/__/__.

(d) The participants in the collaboration process may break their efforts into smaller or multiple collaboration groups, as appropriate, to develop budget recommendations for individual focus areas.

(e) Early in the calendar year before the second year of a budget cycle begins, the authority will again invite the planning boards and such other agencies that serve the needs of beneficiaries as the authority considers appropriate to meet with the authority and evaluate whether and how the authority's budget recommendations for that second year should be changed. (Eff. 10/24/2004, Register 172; am __/__/__, Register__)

Authority: AS 47.30.031 AS 47.30.046 AS 47.30.056
AS 47.30.036 AS 47.30.051

20 AAC 40.020. Authority consideration and action on budget recommendations.

(a) The board will consider the budget recommendations made to the board under 20 AAC 40.010 in light of the authority's guiding principles adopted by reference in 20 AAC 40.040 and the board's understanding of

- (1) the mental health needs of the state; and
- (2) current issues affecting beneficiaries.

(b) When the board considers the budget recommendations submitted under 20 AAC 40.010, the board will determine whether and to what extent those recommendations should be incorporated into the authority's budget recommendations to the governor and legislature. The

authority will then finalize its budget recommendations and submit those budget recommendations as required under AS 47.30.046. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 47.30.031 AS 47.30.046 AS 47.30.056
AS 47.30.036 AS 47.30.051

20 AAC 40.030. Grant program. (a) The authority will annually determine the total amount of money from the mental health trust settlement income account established by AS 37.14.036 available for grants in support of the mental health program under AS 37.14.041 and AS 37.14.045. The authority will allocate that total amount between

- (1) MHTAAR money; and
- (2) authority administrative money; and
- (3) authority grants.

(b) The purposes and amounts of expenditures of MHTAAR money available for expenditure for a particular fiscal year are determined by approval of the board and inclusion in the mental health budget appropriations bill enacted for that year.

(c) Authority administrative money is money used to meet necessary administrative expenses as described in AS 37.14.041 (a)(6) and AS 47.30.056(a)(2).

(d) Authority grants are grants made under 20 AAC 40.200 - 20 AAC 40.270. The purposes and amounts of authority grants are determined by the authority as provided in 20 AAC 40.200 - 20 AAC 40.270.

(e) The authority will consider, as applicable, the guiding principles adopted by reference

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in 20 AAC 40.040 when taking actions associated with grants under this chapter. (Eff.

10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.040. Guiding principles. The *Guiding Principles*, adopted by the board on May 12, 2009, are adopted by reference. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

Editor's note: The May 12, 2009 *Guiding Principles* adopted by reference in 20 AAC 40.040, are available for review on the Alaska Mental Health Trust Authority's Internet website at <http://www.mhtrust.org>, and at the office of the Alaska Mental Health Trust Authority, 3745 Community Park Loop, Suite 200, Anchorage, Alaska 99508.

Article 2. MHTAAR Money.

Section

- 100. Administration and operation of MHTAAR Money
- 110. Proposals arising in the legislative budget process

20 AAC 40.100. Administration and operation of MHTAAR money. (a) Subject to the requirements of this section, a designated agency shall administer and operate an award of MHTAAR money in accordance with the administrative and operational procedures and requirements generally applicable to that agency.

(b) Unless expressly authorized by the authority in writing, a designated agency may not use MHTAAR money to supplant the agency's own budgetary or financial obligations.

(c) Before the authority authorizes access to payment of MHTAAR money to a designated agency, the authority will

- (1) prepare a written statement of the authority's intent for the use of the money;
- (2) make any inquiry that it considers necessary to establish that the agency has sufficient experience and the organizational capacity to carry out the purposes for which the money was authorized; and

(3) establish written reporting and evaluation requirements for the money.

(d) The authority will not authorize payment of MHTAAR money to a designated agency until the agency has agreed, in writing, that the agency will

- (1) adhere to and implement the authority's statement of intent for the money;

(2) not use the money in a manner that deviates from the authority's statement of intent for the money without first receiving written approval from the authority;

(3) not use MHTAAR money to supplant the agency's own budgetary or financial obligations;

(4) provide any information to the authority that the authority may request to show that the authority's statement of intent for the money is being carried out, including reports on the progress and current status of the project; and

(5) accept a reduction of the money, including possible termination of the payment of money, if the money is used in a manner that does not comply with the requirements of this section or the purpose of the award.

(e) The authority may reduce or terminate a grant of MHTAAR money and cut off further payment if the designated agency, without prior written approval from the authority, operates the project in a manner that does not comply with the applicable requirements of this section. (Eff. 10/24/2004, Register 172; am __/__/__, Register)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.110. Proposals arising in the legislative budget process. (a)

Notwithstanding 20 AAC 40.010 - 20 AAC 40.040, this section applies to any proposal for financing a particular purpose or project that arises from negotiations between the authority and the governor or the legislature in the course of the legislative budget process. These proposals typically arise under short timelines and require a quick response by the authority.

(b) In considering whether to approve a proposal described in (a) of this section, the authority will seek information about the proposal that is reasonably available within the time constraints applicable to the authority's decision.

(c) In deciding whether and in what amount to approve a proposal described in (a) of this section, the authority will consider the proposal in light of its consistency with the purposes of the trust, the authority's guiding principles adopted by reference in 20 AAC 40.040, and the authority's other priorities. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

Article 3. Authority Grants.

Section

- 200. Scope and applicability of 20 AAC 40.200 - 20 AAC 40.270
- 205. Eligibility for authority grants
- 210. Small projects grants
- 215. Expenditure of small projects grants
- 220. Competitive grants
- 225. Notice of application process for competitive grants
- 230. Submission of competitive grant application
- 235. Review of competitive grant applications
- 240. Criteria for review of competitive grant applications
- 245. Notification of award of competitive grant
- 250. Designated grants
- 255. Partnership grants
- 260. Emergency grants
- 265. Expenditure of emergency grants
- 270. Release of grant payments

20 AAC 40.200. Scope and applicability of 20 AAC 40.200 - 20 AAC 40.270.

(a) The provisions of 20 AAC 40.200 - 20 AAC 40.270 apply to grants of money by the authority that is not MHTAAR money. The source of money for these authority grants is the mental health trust settlement income account. The amounts and purposes of authority grants will be determined by the authority from time to time.

(b) Authority grants are made under 20 AAC 40.200 and 20 AAC.40.270. Authority grants include small projects grants, competitive grants, designated grants, partnership grants, emergency grants, and other general authority grants. (Eff. 10/24/2001, Register 172; am 5/11/2012, Register 202; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.205. Eligibility for authority grants. (a) Unless otherwise provided in 20 AAC 40.200 - 20 AAC 40.270 and any specific limitations on eligibility the authority establishes for a particular grant, any entity, including a government agency, with an interest in serving beneficiaries or otherwise advancing the mission of the authority is eligible to receive an authority grant. An individual is not eligible for an authority grant.

(b) Before a native entity may receive an authority grant, the entity must submit to the authority a resolution approved by the entity's governing body that waives the entity's sovereign immunity from suit with respect to claims by the authority or the state arising out of activities related to the grant.

(c) Repealed __/__/__. (Eff. 10/24/2004, Register 172: am __/__/__, Register ___)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.210. Small projects grants. (a) Subject to the provisions of this section and 20 AAC 40.215, the authority will make one-time small projects grants of up to \$20,000 for beneficiary-related purposes.

(b) The purpose of small projects grants is to provide for innovation or for enhancements in an existing activity or project, but not to maintain or create an ongoing program with trust money.

(c) An application for a small projects grant must be submitted on a form or in a format

prescribed by the authority. The board will set a schedule for applications for small projects grants.

(d) The authority staff shall return an application that requests a grant in excess of \$20,000 that does not state the amount requested, or that does not state how a requested amount will be spent. The authority staff shall provide a written explanation of the reason the application is being returned.

(e) Repealed __/__/__.

(f) The authority staff shall evaluate the applications, and prepare a summary of each application and a written recommendation to the board for the award of the grant. After reviewing the application summary and the recommendation of the authority staff, the board will either approve or deny an application. If the board approves an application, the board will determine the amount of the grant award.

(g) The authority will notify each applicant for a small projects grant in writing of its decision to approve or deny the application as soon as practical after the decision is made. (Eff. 10/24/2004, Register 172; am 5/11/2012, Register 202; am __/__/__, Register__)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

Editor's note: Application information is available at the office of the Alaska Mental Health Trust Authority, 3745 Community Park Loop, Suite 200, Anchorage, Alaska 99508. Application information is also posted on the authority's web site. The Internet address for the Alaska Mental Health Trust Authority is <http://www.mhtrust.org>.

20 AAC 40.215. Expenditure of small projects grants. (a) Unless otherwise provided in the grant, a small projects grant under 20 AAC 40.210 is awarded in the fiscal year in which it is approved, but is available for payment for 12 months after the date of award, unless that period is extended by the written agreement between the authority and the grantee.

(b) If the full grant award has not been expended under a small projects grant within the agreed project term, the authority will inform the grantee in writing that money under the grant will no longer be available after a specific date. The authority will also inform the grantee that the grantee must respond in writing by a stated date if the grantee desires that the grant money remain available until that specific date given by the authority. If the grantee does not timely respond, the authority may close the grant. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.220. Competitive grants. (a) The provisions of 20 AAC 40.220 - 20 AAC 40.245 apply to the award of competitive grants by the authority.

(b) If the authority decides to award an authority grant by competitive means, the authority will determine the purpose and amount of the grant. The authority will also determine whether to establish any specific limitations on eligibility for the grant and any other special qualifications or criteria that must be met by the grant recipient. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.225. Notice of application process for competitive grants. (a) The authority will give notice of the availability of a competitive grant by

(1) posting on the authority's web site and on the Alaska Online Public Notice System established under AS 44.62.175; and

(2) any other method the authority may consider appropriate for a particular grant.

(b) In a notice provided under (a) of this section, the authority will include the following information:

(1) the purpose and anticipated amount of the grant;

(2) the categories of recipients that are eligible to apply for the grant;

(3) any special qualifications or criteria that must be met by the successful grantee;

(4) whether the grant is a single or multiple year grant;

(5) as applicable, whether the grant project will be fully paid by the authority or will require that the grantee contribute a portion of the costs of the project from other sources;

(6) the appropriate method and instructions for application;

(7) the deadline by which an applicant must submit an application to be considered for the grant. (Eff. 10/24/2004, Register 172; am __/__/__, Register__)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

Editor's note: The Internet address for the Alaska Mental Health Trust Authority is <http://www.mhtrust.org>. The Internet address for the Alaska Online Public Notice System is <http://aws.state.ak.us/OnlinePublicNotices/>.

20 AAC 40.230. Submission of competitive grant application. (a) Unless otherwise stated in the grant notice given under 20 AAC 40.225, an application for a competitive grant must be submitted on a form or in a format prescribed by the authority. To be considered for a competitive grant, an applicant must include in the grant application the information requested in the application instructions. The authority will consider grant applications received on or before the date provided in the grant notice.

(b) If a grant project requires that the successful grantee contribute a portion of the costs of the project from another source, the applicant must acknowledge and agree to that requirement in the grant application and identify each proposed source of those contributions.

(c) A not-for-profit entity must submit documentation supporting its nonprofit status with its application.

(d) Upon request of the authority, the applicant must submit documentation supporting information and statements contained in the application. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

Editor's note: Application information is available at the office of the Alaska

Mental Health Trust Authority, 3745 Community Park Loop, Suite 200, Anchorage, Alaska 99508. Application information is also posted on the authority's web site. The Internet address for the Alaska Mental Health Trust Authority is <http://www.mhtrust.org>.

20 AAC 40.235. Review of competitive grant applications. (a) No later than 10 working days after the deadline for submission of an application for a competitive grant, the authority will provide copies of properly completed and timely applications to each interested planning board or other beneficiary-related agency, as appropriate, for comment. Any comment or ranking by an interested planning board or other beneficiary-related agency must be in writing and must be submitted to the authority no later than 20 working days after receipt of copies of the grant applications from the authority.

(b) No later than 40 working days after the application submission deadline for a competitive grant, the authority staff shall review the applications and any comments on the applications or rankings received from a planning board or beneficiary-related agencies under (a) of this section. As part of the review process, the authority staff may request an applicant to provide additional information in support of its application. In reviewing the applications, the authority staff shall consider the criteria set out in 20 AAC 40.240 and any additional qualifications or criteria set out in the grant notice issued under 20 AAC 40.225.

(c) After reviewing the applications under (b) of this section, the authority staff shall make a recommendation to the board. At the next appropriate scheduled meeting the board will

make a decision on the award of grants and the amount of each grant.

(d) A decision of the board under (c) of this section will be to

(1) approve the grant application recommended by the authority staff;

(2) approve the grant application recommended by the authority staff, subject to acceptable revisions being made in the amount of the grant, the applicant's proposed grant project budget, or the proposed services or activities to be provided; or

(3) disapprove the grant application recommended by the authority staff and

(A) direct the authority staff to re-evaluate all applications and submit a new recommendation under (c) of this section; or

(B) determine that the grant project is to be re-noticed under 20 AAC 40.225 for new applications or canceled.

(e) If the board's decision is to approve the grant subject to revisions as described in (d)(2) of this section, the authority will negotiate with the applicant for necessary revisions in the applicant's proposed grant project budget or proposed services and activities. (Eff. 10/24/2004, Register 172; am __/__/__, Register__)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.240. Criteria for review of competitive grant applications. In addition to qualifications and criteria described in the grant notice issued under 20 AAC 40.225 and any applicable criteria established by law, the authority will use the following criteria, as applicable, in reviewing an application for a competitive grant:

(1) the extent to which the proposed services would provide a direct benefit to one or more beneficiary groups;

(2) the applicant's management and financial capabilities, including the applicant's ability to implement and carry out the grant project in accordance with 20 AAC 40.300 – 20 AAC 40.415;

(3) the applicant's previous experience and results in providing the same or similar services in an effective manner;

(4) whether the applicant's proposed grant project budget is complete, understandable, and appears likely to achieve the purposes of the grant in a cost effective manner;

(5) the feasibility and appropriateness of the applicant's plan for providing services, including accessibility of services to clients;

(6) demonstrated support of the applicant by each community in which services would be provided;

(7) if the applicant has previously been awarded a grant by the authority,

(A) the applicant's prior performance as a grantee; and

(B) the status of audits and the resolution of audit exceptions, if any, for any other grant awarded by the authority. (Eff. 10/24/2004, Register 172; am __/__/__,

Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.245. Notification of award of competitive grant. (a) After the board makes a decision on the applications for a competitive grant under 20 AAC 40.235(d), the authority will send to each applicant for that grant

(1) a notice of intent to award the grant to the successful applicant contingent upon necessary revisions, if any, if the board decides to award the grant;

(2) a notice of grant denial to all unsuccessful applicants; or

(3) a notice of cancellation of the grant proposal request if the board decides not to award the grant to any applicant.

(b) At least 10 working days after issuance of a notice of intent to award the grant under (a)(1) of this section and after any necessary revisions to the successful applicant's grant proposal are negotiated, the authority will issue a notice of grant award to the successful applicant. In the notice of grant award, the authority will state

(1) the amount of money that is available for the grant; and

(2) the terms and conditions of the grant, including the duration of the grant and the period over which grant money may be spent.

(c) The grantee must sign the notice of grant award issued under (b) of this section to indicate acceptance of and agreement to comply with the terms and conditions of the grant project, including the applicable provisions of 20 AAC 40.300 – 20 AAC 40.415. The signed notice of grant award constitutes a contract between the authority and the grantee.

(d) A notice of grant award issued under (b) of this section is a final decision of the authority. A person adversely affected by the decision may appeal to the superior court in

accordance with the Alaska Rules of Appellate Procedure. (Eff. 10/24/2004, Register 172; am 5/11/2012, Register 202; am __/__/__, Register____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.250. Designated grants. (a) If the board identifies a specific purpose or need that is consistent with the purposes and goals of the comprehensive program, the board may award an authority grant to one or more designated recipients to provide money to serve that purpose or need.

(b) A proposal for a designated grant under this section may be initiated by the board, a board committee, the authority staff, a beneficiary-related agency, or a mental health service provider.

(c) The board will determine the amount and term of a designated grant awarded under this section.

(d) Unless otherwise specified in the grant, a designated grant under this section is subject to the terms and conditions for authority grants set out in 20 AAC 40.300 - 20 AAC 40.415.

(e) A decision of the board to make a designated grant under this section is a final decision of the authority. A person adversely affected by the decision may appeal to the superior court in accordance with the Alaska Rules of Appellate Procedure. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.255. Partnership grants. (a) The board may set aside money for the purpose of paying for activities to be undertaken in partnerships with other entities to expand or enhance the quality, quantity, or range of services for beneficiaries or non-beneficiaries who may receive services paid for by the trust under 20 AAC 40.560. Appropriate uses of these partnership grants include

- (1) leveraging other money;
- (2) increasing facility or service capacity;
- (3) enhancing relationships within the mental health service system;
- (4) providing technical assistance to beneficiary-related agencies, mental health service providers, and other entities concerned with the needs or well-being of beneficiaries;
- (5) conducting beneficiary-related research;
- (6) encouraging policy or systems changes within the mental health service system; and
- (7) expanding opportunities for beneficiaries or beneficiary organizations.

(b) Within the amount set aside by the board under (a) of this section, the board will

- (1) identify appropriate opportunities for partnerships with other entities eligible for authority grants under 20 AAC 40.205;
- (2) determine the appropriate recipients and purposes of partnership grants; and
- (3) determine the amount, term, and other conditions of each partnership grant.

(c) Except as specifically provided in the grant, a partnership grant under this section is

not subject to the terms and conditions for authority grants set out at 20 AAC 40.300 - 20 AAC 40.415.

(d) With the prior approval of the board, a partnership grant under this section may be administered directly by the authority.

(e) A decision of the board on a partnership grant under this section is a final decision of the authority. A person adversely affected by the decision may appeal to the superior court in accordance with the Alaska Rules of Appellate Procedure. (Eff. 10/24/2004, Register 172; am 5/11/2012, Register 202; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.260. Emergency grants. (a) Subject to the provisions of this section and 20 AAC 40.265, the authority may make an emergency grant to a beneficiary-related agency, mental health service provider, or other entity that provides a significant part of its services to beneficiaries. Emergency grants are

(1) a one-time source of money to provide a bridge while securing other financial sources to maintain mental health-related services or programs or to replace property or equipment lost in an emergency;

(2) used to provide direct services to beneficiaries; and

(3) except in unusual circumstances, not used to replace lost grants or money from other sources.

(b) To qualify for consideration as an emergency grant under this section, a grant request

(1) may not have been submitted to the authority as part of a budget recommendation under 20 AAC 40.100;

(2) may not have been part of a request submitted to the legislature by the authority;

(3) may not be the result of mismanagement by the applicant; and

(4) must reflect needs that are unique to the applicant and are not representative of broader issues affecting other entities that are similar to the applicant.

(c) A request for an emergency grant may be submitted at any time. The request must be submitted in writing. Information that must be provided by the applicant includes

(1) the nature and cause of the emergency situation;

(2) the reasons that the request could not be addressed by the authority within its regular budgeting process;

(3) the results of efforts made by the applicant to identify other sources of money for the emergency situation; and

(4) any corrective action to be taken by the applicant to avoid similar emergency situations in the future.

(d) No later than five working days after receipt of a request for an emergency grant, the authority staff shall review the grant request to determine if it addresses an emergency and is not the result of mismanagement by the applicant. If the authority staff determines that the request does not address an emergency, the authority staff shall notify the applicant of the reason. If the authority staff determines that the request addresses an emergency, the authority staff shall notify

the following of the request:

- (1) the board's executive committee
- (2) appropriate planning boards;
- (3) other appropriate state agencies.

(e) In addition to a copy of the emergency grant request, the authority staff shall provide the staff's analysis of the request to the executive committee.

(f) No later than 10 working days after an initial determination by authority staff that the grant request addresses an emergency and is not the result of mismanagement by the applicant, the executive committee will conduct a meeting to determine whether the request qualifies for consideration as an emergency grant under (a) and (b) of this section. The authority staff shall provide notice of the meeting to the applicant and each appropriate planning board and state agency. The meeting may be held by teleconference.

(g) If the Executive committee determines after the meeting under (f) of this section that a request does not qualify for consideration as an emergency grant under (a) and (b) of this section or is otherwise not consistent with the purposes of the trust, the authority staff shall inform the applicant in writing.

(h) If the executive committee determines after the meeting under (f) of this section that a request qualifies for consideration as an emergency grant under (a) and (b) of this section and is otherwise consistent with the purposes of the trust, a decision to grant or deny the request shall be made as follows:

1) if the amount requested by the applicant is \$50,000 or less, the executive committee will approve or disapprove the request and establish the amount of the grant as the committee determines is in the best interest of the trust and its beneficiaries.

(2) if the amount requested by the applicant is more than \$50,000, the authority staff shall forward the executive committee's determination to the full board for consideration; unless a special meeting is scheduled earlier for that purpose, the board will consider the request at its next regular scheduled meeting and decide to approve or disapprove the request and establish the amount of the grant as the board determines is in the best interest of the trust and its beneficiaries.

(i) A decision of the board's executive committee under (h)(1) of this section may be appealed to the full board in accordance with 20 AAC 40.910.

(j) A decision of the board under (h)(2) of this section is final decision of the authority. A person adversely affected by the decision may appeal to the superior court in accordance with the Alaska Rules and Appellate Procedure. (eff. 10/24/2004, Register 172; am __/__/__, Register

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.265. Expenditure of emergency grants. Unless otherwise provided in the grant, a grantee may only spend money from an emergency grant in the fiscal year in which the emergency exists. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.270. Release of grant payments. (a) The authority may withhold payment under an authority grant until the grantee provides any documentation or other confirmation requested by the authority of information and statements submitted by the grantee either in the grant application or otherwise in support of the grant or implementation of the grant.

(b) With the prior approval of the board, the authority may retain a stated amount from an authority grant to pay the authority's out-of-pocket administrative costs incurred in connection with the grant. (Eff. 10/24/2004, Register 172; am __/__/__, Register__)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

**Article 4. General Terms and Conditions
Applicable to Authority Grants.**

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- 405. Changes in approved grant project
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- 415. Protest of grant decisions

20 AAC 40.300. Scope and applicability of 20 AAC 40.300 - 20 AAC 40.415. Except as otherwise provided in a grant agreement or this chapter, the provisions of 20 AAC 40.300 - 20 AAC 40.415 apply to authority grants awarded under 20 AAC 40.200 - 20 AAC 40.270. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056

AS 47.30.031

20 AAC 40.305. Grant duration. The authority will establish the term of a specific grant in the grant document. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.310. Accounting requirements. A grantee shall, with respect to the financial records and accounts of the grant project, use generally accepted accounting practices and maintain those records and accounts in a manner that permits them to be audited. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.315. Payment. (a) The authority will specify in the grant document the schedule by which payments under the grant are made. To receive a payment, the grantee must submit to the authority any documentation required by this chapter or in the grant document, along with a payment request made on a form provided by the authority.

(b) A grantee shall reimburse the authority for an advance payment made to the grantee to the extent that the grantee does not expend or encumber the payment before the end of the grant period. A grantee shall notify the authority in writing no later than 30 calendar days after the end of the grant term of an outstanding obligation against the grant. For the purposes of this subsection, an encumbrance must relate to a cost the payment of which is reflected in the grant

project budget.

(c) The authority may withhold one or more grant payments if the grantee

(1) fails timely to submit a report required for the grant by this chapter or the grant document;

(2) uses grant money to pay a cost that is not permitted under the grant; or

(3) is otherwise not in compliance with the applicable provisions of this chapter or the requirements of the grant document. (Eff. 10/24/2004, Register 172; am __/__/__,

Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

Editor's note: Application forms are available at the office of the Alaska Mental Health Trust Authority, 3745 Community Park Loop, Suite 200, Anchorage, Alaska 99508.

Application forms are also posted on the authority's web site. The Internet address for the Alaska Mental Health Trust Authority is <http://www.mhtrust.org>.

20 AAC 40.320. Allowable costs. (a) Subject to (b) - (d) of this section, a grantee may use money received under a grant to pay for costs associated with the grant only if the cost is reflected in the budget of the grant project.

(b) A grantee must obtain the prior approval of the authority in writing before paying a cost associated with the grant that is not reflected in the budget of the grant project.

(c) If doing so is specified in the grant agreement or in the budget for the grant project, a

grantee may pay for indirect costs of the grant project in accordance with an indirect-cost rate that has been agreed upon between the federal government and the grantee as an accurate reflection of the cost of the items included under that rate. In computing the amount of the grant allocated to indirect costs, the authority will accept the grantee's indirect-cost rate most recently negotiated with the federal government at the time of the award of the grant. An amount allocated for indirect costs in a grant is considered part of the grant and not an addition to it. An increase or decrease in the grantee's federal indirect-cost rate made after the grant award does not affect the amount of the grant. A grantee shall make available to the authority upon request all federal audit data relating to indirect costs of the grant project paid by the federal government.

(d) A grantee that does not have a federally approved indirect-cost rate may include administrative costs in the grantee's proposed grant project budget as direct costs. The grantee shall document the proposed costs in its justification narrative for the proposed grant project budget.

(e) A grantee may not use grant money to supplant the grantee's own budgetary or financial obligations. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.325. Administrative policies of grantees. (a) A grantee with more than six employees must have written policies relating to employee compensation and benefits, employee leave, employee relocation costs, use of consultants and consultant fees, training, including orientation for new employees, nepotism, and conflicts of interest. The grantee shall apply these

policies consistently in the administration of the grant project without regard to the source of the money used for the purposes to which the policies relate. The authority may require a grantee to submit these policies to the authority.

(b) A grantee that is a not-for-profit entity must establish and adhere to a written policy stating that an employee of the grantee may not be a member of the grantee's governing board.

(Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.330. Subcontracts. (a) A grantee may enter into a subcontract for the performance of an activity required by a grant only if the grantee

(1) remains administratively and financially responsible for the activity and is responsible for the performance of the subcontractor; and

(2) provides written notice to the authority of intent to enter into a subcontract at least five business days before entering into the subcontract.

(b) A subcontract must be in writing and must include the subcontractor's agreement

(1) to provide the grantee and the authority, or a representative of the grantee or the authority, with reasonable access to the books, documents, papers, and records of the subcontractor if either the grantee or the authority determines that access to this information is necessary for the purposes of an audit; and

(2) to comply with the applicable provisions of 20 AAC 40.300 – 20 AAC 40.415 and the grant. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.335. Purchasing practices and procedures. A grantee shall apply uniform purchasing practices and procedures for the procurement of goods, equipment, and services. The authority may require a grantee to submit these practices and procedures to the authority. (Eff.

10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.340. Property management. (a) A grantee shall maintain accurate property records as well as effective inventory, control, and maintenance procedures for non-expendable personal property acquired with the grant. Records must include the following information:

(1) a description of the property and the manufacturer's serial number or other identification number;

(2) the grant project under which the property was acquired;

(3) the acquisition date and cost of the property;

(4) the percentage of the total cost of the property paid by the grant;

(5) the location, use, and condition of the property and the date on which that information was recorded;

(6) if the grantee disposes of the property, the disposition of the property, including the date of its disposal and its sales price or the method used to determine its fair market value at disposition.

(b) A grantee shall maintain a control system to ensure adequate safeguards to prevent loss, damage, or theft of non-expendable personal property of the grant project. A grantee shall provide for the investigation and full documentation of a loss, damage, or theft of non-expendable personal property of the grant project.

(c) Repealed __/__/__. (Eff. 10/24/2004, Register 172; am 5/11/2012, Register 202; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.345. Grant income. (a) A grantee shall report grant income to the authority on a form or in a format prescribed by the authority.

(b) A grantee shall use grant income, including the grantee's share of proceeds from the sale of assets of the grant project, to further the objectives of the grant project

(1) as specified in the terms of the grant; or

(2) with approval from the authority in writing. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

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20 AAC 40.350. Methods for making contributions. (a) If a grant requires that the grantee contribute a portion of the project costs from other sources, the authority will specify in the grant either the amount of the required contribution or the proportion of the project cost that the grantee must provide from other sources. In the grant, the authority may also specify the timetable for the grantee to provide those contributions.

(b) The authority may require a grantee to verify that the grantee has provided required contributions and may withhold payments under the grant if those contributions are not timely provided. Unless another form of verification is permitted by the grant, provision of required contributions must be verified by a person certified or licensed as a public accountant under AS 08.04. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.355. Permissible contributions. (a) Subject to (b) of this section, a grantee may contribute any of the following to satisfy the contribution requirements of a grant:

- (1) cash, other than cash received as a grant from the authority;
- (2) real or personal property, including the use of real or personal property;
- (3) personal services.

(b) To qualify as a contribution under (a) of this section, a contribution must be

- (1) used for a purpose that is an allowable cost under 20 AAC 40.320;
- (2) verifiable from the grantee's records of the grant project; and
- (3) in the determination of the authority, necessary and reasonable for proper and

efficient accomplishment of the objectives of the grant project. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.360. Value of contributions. (a) The authority will accept the following methods of determining the value of contributions made under 20 AAC 40.355:

(1) for real property, the grantee must determine the value of the contribution by using

(A) the fair rental value of the real property, or of that part of the real property used by the grant project, during use of the real property for the grant project; or

(B) if the real property is developed and the grantee elects not to use the method described in (A) of this paragraph, the amount of depreciation of the building or structure, or part of the building or structure used for the grant project that is located on the real property during use of the building or structure by the grant project, using the straight-line method of depreciation with an assumed life of the building or structure of 20 years;

(2) for personal property, the grantee must determine the value of the contribution by using

(A) the fair market value of the personal property; or

(B) if the fair market value of the personal property is greater than \$1,000, the fair rental value of the personal property; and

(3) for personal services, the grantee must determine the value of the contribution by using the prevailing rate of pay for similar services in the area in which the grant project is located.

(b) A grantee shall maintain records of any personal services that are used to satisfy the contribution requirements of the grant. A grantee shall also maintain records of the methods used by the grantee to determine the value of contributions made to the grant project. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.365. Audit requirements. (a) For an audit conducted by the authority, the grantee and any subcontractor of the grantee shall provide the auditor with reasonable access to the books, documents, papers, and records of the grantee or subcontractor. The auditor is a representative of the authority.

(b) When an audit report prepared under (a) of this section questions a cost or financial transaction incurred or recorded by the grantee or subcontractor, the grantee shall, within 30 calendar days after receiving written notice of the audit report, submit to the authority a response to the questions in the report. If the grantee fails to respond to the audit report or if the authority determines that the response does not adequately explain or justify a questioned cost or transaction, the authority may require the grantee to refund to the authority the amount of grant money used to pay the questioned cost or to otherwise correct a questioned transaction. The grantee shall refund the amount in accordance with procedures specified by the authority.

(c) In addition to an audit conducted under (a) of this section and unless otherwise provided in the grant, a grantee and each subcontractor of the grantee under 20 AAC 40.330, except a subcontractor who is an individual, shall have a fiscal audit of the grantee's or subcontractor's operations, as applicable, under the grant program performed at least once every two years. However, the authority may accept a state or federal audit as a substitute for an audit required by this subsection. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.370. Retention of records. The grantee and a subcontractor of a grantee shall retain grant and subcontract records, including records of the receipt and disposition of grant income, for a period of at least three full calendar years after closure of the grant. If an audit is in progress or audit findings, litigation, or claims that involve the records are pending three years after closure of the grant, the grantee or the subcontractor shall continue to retain those records until at least one calendar year after all those matters are concluded. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.375. Equal employment opportunity. (a) A grantee shall post in conspicuous places, accessible to employees and applicants for employment, at the location of the grantee's grant project, notices setting out the provisions of AS 18.80.220.

(b) A grantee shall state, in solicitations or advertisements for employees to work on a

grant project, that the grantee is an equal opportunity employer and that all qualified applicants will be considered for employment without regard to race, religion, color, national origin, age, physical handicap, sex, or marital status.

(c) A grantee shall include the requirements of this section in the grantee's contracts and shall require compliance with those provisions in contracts entered into by the grantee's subcontractors. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.380. Civil rights of clients. A grantee shall

(1) comply fully with 42 U.S.C. 2000d, as amended through October 24, 2004, and 42 U.S.C. 12101 - 42 U.S.C. 12213 (Americans with Disabilities Act of 1990), as amended through October 24, 2004;

(2) inform and instruct staff members concerning obligations under the statutes referred to in (1) of this section; and

(3) upon request, make available to the authority information relating to the grantee's compliance with the statutes referred to in (1) of this section. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.385. Confidentiality. In a grant project to which federal or state requirements for confidentiality apply, the authority will establish procedures for preserving that

confidentiality before the authority awards the grant. The authority will include the procedures as part of the terms of the grant. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.390. Grantee compliance with applicable law. (a) In addition to satisfying the applicable requirements of 20 AAC 40.375 - 20 AAC 40.385, in order to receive an authority grant and continue to operate under that grant, a grantee must conduct its activities and operations in accordance with all other applicable state and federal law, including applicable wage and hour requirements, requirements for exemption from taxation under applicable tax codes, and requirements to attain and maintain the legal status that the grantee represents that it has.

(b) The authority may at any time request a grantee to demonstrate through appropriate documentation that the grantee is in compliance with (a) of this section.

(c) Failure of a grantee to comply with (a) of this section is grounds for suspension or termination of the grant under 20 AAC 40.410. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.395. Grantee reports and evaluation. (a) A grantee shall submit to the authority, in a format established by the authority, grant project performance reports, financial

reports, and evaluations of the grantee's management and operation of the grant project. The grantee shall prepare the reports and evaluations in accordance with written instructions provided by the authority. The grantee shall submit the required reports and evaluations in accordance with the reporting schedule set out in the grant agreement.

(b) If a grantee fails to submit complete and timely reports and evaluations as required by the written instructions described in (a) of this section, the authority may withhold grant payments under 20 AAC 40.315 or suspend or terminate the grant under 20 AAC 40.410. (Eff. 10/24/2004, Register 172; am 5/11/2012, Register 202; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.400. Authority monitoring and evaluation. (a) The authority may monitor and evaluate the performance and progress of a grant project.

(b) When it is cost-efficient or otherwise effective to do so, the authority may enter into a contract to provide for monitoring and evaluation of a grant project under (a) of this section.

(Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.405. Changes in approved grant project. (a) The scope and nature of activities for which grant money may be expended, and other terms and requirements of a grant project may not be changed without prior written approval of the authority. A request for approval of a change in the terms or requirements of a grant project must be submitted to the

authority in writing and must describe the requested change and explain the reason for it. The authority will notify the grantee of its decision in writing no later than 20 working days after receipt of the request.

(b) The appointment of the director of a grant project and any other key personnel specified by the authority in the grant award, including any changes in those positions during the term of the grant, are subject to prior written approval of the authority. The grantee shall immediately notify the authority in writing of any change in the director of a grant project or any other key personnel, including an absence due to incapacity that is expected to or does exceed three months, and, if applicable, advise the authority that the grantee desires to terminate the grant project because of the change. Any change is subject to the approval of the authority. The authority will notify the grantee in writing of any objections to the change.

(c) If a grantee informs the authority under (b) of this section that the grantee desires to terminate the grant project, the authority will provide the grantee with instructions for doing so. If the grantee does not desire to terminate the grant project, replacement of the director or other key personnel is subject to prior written approval of the authority. If the grantee is unable to recruit a qualified candidate who is approved by the authority and the grantee is otherwise unable to assure performance of the duties of the position, the authority may terminate the grant.

(d) Subject to (e) of this section, a grantee may reallocate money between budget categories within the total grant project budget to meet unanticipated expenditures necessary to the successful continuation or completion of the grant project, if the expenditures are authorized under the terms of the grant. A grantee must

(1) receive prior written approval from the authority before reallocating an amount that exceeds 10 percent of a budget category established in the grant that is affected by the reallocation or \$2,500, whichever is less; and

(2) notify the authority within 15 calendar days after reallocating an amount not subject to (1) of this subsection.

(e) The grantee shall notify the authority of an increase or decrease in the total amount of the grant project budget from all sources within 30 calendar days after the increase or decrease.

(Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.410. Suspension and termination of a grant. (a) If a grantee fails to comply with the terms of the grant or of 20 AAC 40.300 - 20 AAC 40.415, the authority may suspend or terminate the grant. The authority will give the grantee written notice of the grantee's failure to comply at least 15 calendar days before a suspension or termination of the grant takes effect. In the notice, the authority will state the reasons for the suspension or termination and the effective date of the suspension or termination.

(b) If a grant is suspended under (a) of this section, a grantee may not use grant money to pay an obligation incurred during the period of the suspension. However, the grantee may pay an obligation incurred before the period of suspension, if the grantee obtains the approval of the authority and if payment of the obligation would otherwise be allowed under 20 AAC 40.300 – 20 AAC 40.415 and the terms of the grant.

(c) A suspension under this section remains in effect until

(1) the grantee takes corrective action and gives assurance of the corrective action that the authority considers satisfactory;

(2) the grantee successfully protests or appeals the suspension; or

(3) the authority or grantee terminates the grant.

(d) If the authority terminates a grant under this section, the authority will make arrangements that the authority considers necessary for managing the grant before the effective date of a termination and for closing the grant upon termination.

(e) The authority may terminate a grant before the end of the grant period, in whole or in part, with the consent of the grantee.

(f) A grantee may terminate a grant, in whole or in part, before the end of the grant period upon 30 calendar days written notification to the authority stating the reasons for the termination, the effective date, and the portion of the grant to be terminated, if the termination is partial.

(g) A grantee may not incur any new obligation to be paid with money from a suspended or terminated grant or the terminated portion of a grant after receiving notice of the suspension or termination. The grantee shall make a reasonable effort to cancel the grantee's outstanding obligations that, but for the suspension or termination, would be payable, in whole or in part, with money from the grant. To the extent that the grantee is not able to cancel a properly incurred obligation, the authority may provide for payments to the grantee to satisfy that part of an obligation that, but for the suspension or termination, would be payable with money from the

grant.

(h) If a grant is terminated under this section by either the authority or the grantee, the grantee shall, no later than 30 calendar days after the effective date of the termination, repay to the authority the unexpended portion of any advance payments received under the grant from the authority. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

20 AAC 40.415. Protest of grant decisions. An applicant for a grant or a grantee may protest the following decisions of the authority in accordance with 20 AAC 40.900:

(1) a final decision denying an application for a small projects grant under 20 AAC 40.210;

(2) a determination under 20 AAC 40.260(d) that a request for an emergency grant does not qualify for consideration as an emergency or is otherwise not consistent with the purposes of the trust;

(3) a determination under 20 AAC 40.260(g) that a request for an emergency grant is not for an emergency for which support by the trust may be appropriate;

(4) a decision to withhold a grant payment under 20 AAC 40.315 or 20 AAC 40.350;

(5) a decision to require a refund of grant money under 20 AAC 40.365;

(6) a decision under 20 AAC 40.405 denying a requested change in an approved grant project;

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(7) a decision to suspend or terminate a grant under 20 AAC 40.410. (Eff.

10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.045 AS 47.30.051 AS 47.30.056
AS 47.30.031

Article 5. Beneficiaries of the Trust.

Section

- 500. Adoption by reference
- 510. Beneficiaries of the trust
- 520. People with mental illness
- 530. People with developmental disabilities
- 540. People with alcoholism
- 550. People with Alzheimer's disease or related dementia
- 560. Services to non-beneficiaries
- 590. Definitions

20 AAC 40.500. Adoption by reference. (a) The *DSM-5* is adopted by reference for the purposes of 20 AAC 40.500 - 20 AAC 40.590.

(b) The *ICD-10-CM* is adopted by reference for the purposes of 20 AAC 40.500 - 20 AAC 40.590. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

Editor's note: Copies of the *DSM-5* and the *ICD-10-CM*, adopted by reference in 20 AAC 40.500, are available for review at the offices of the Alaska Mental Health Trust Authority, 3745 Community Park Loop, Suite 200, Anchorage, Alaska 99508.

20 AAC 40.510. Beneficiaries of the trust. (a) A person in one or more of the groups listed in AS 47.30.056(b) and as more specifically described in AS 47.30.056(d) - (g) and 20 AAC 40.520 - 20 AAC 40.550 is a beneficiary of the trust.

(b) In addition to persons described in (a) of this section, a person shall also be considered a beneficiary of the trust if, due to either a general medical condition such as a brain injury or a substance-induced disorder, the person can be diagnosed using the *DSM-5* or the *ICD-*

10-CM with a disorder comparable to a disorder that would qualify a person as a beneficiary under (a) of this section.

(c) A beneficiary may receive mental health services and shall be given a priority in the delivery of those services if the beneficiary's condition qualifies under AS 47.30.056(c)(1). (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

20 AAC 40.520. People with mental illness. (a) Subject to (b) of this section, people with mental illness are persons who can be diagnosed using the *DSM-5* with a disorder comparable to those listed at AS 47.30.056(d)(1) - (8) or with an equivalent disorder using the *ICD-10-CM*.

(b) In addition to persons described in (a) of this section, people with mental illness include persons with conditions that support a *DSM-5* diagnosis of "other conditions that may be a focus of clinical attention" or a comparable *ICD-10-CM* diagnosis, even though the condition is not due to a mental disorder described in AS 47.30.056(d)(1) - (8), AS 47.30.056(d)(10), or (a) of this section. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

20 AAC 40.530. People with developmental disabilities. (a) Subject to (b) of this section, people with developmental disabilities are persons who

(1) can be diagnosed using the *DSM-5* with a mental disorder usually first

diagnosed in infancy, childhood, or adolescence that is comparable to a disorder listed at AS 47.30.056(e)(1) - (6);

(2) can be diagnosed using the *ICD-10-CM* with diseases of the nervous system, congenital malformations, deformation, or chromosomal abnormalities; or

(3) meet the definition of "person with a developmental disability" at AS 47.80.900 or are developmentally delayed within the meaning of AS 47.20.290(4).

(b) In addition to persons described in (a) of this section, people with developmental disabilities include persons with conditions that support a *DSM-5* diagnosis of "other conditions that may be a focus of clinical attention" or a comparable *ICD-10-CM* diagnosis, even though that condition is not due to a neurologic or mental disorder described in AS 47.30.056(e)(1) - (6) or (a) of this section. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

20 AAC 40.540. People with alcoholism. (a) Subject to (b) of this section, people with alcoholism are persons who can be diagnosed using the *DSM-5* with an alcohol-induced disorder comparable to those listed in AS 47.30.056(f)(1) - (6) or with a comparable disorder using the *ICD-10-CM*.

(b) In addition to persons described in (a) of this section, people with alcoholism include persons with conditions that support a *DSM-5* diagnosis of "other conditions that may be a focus of clinical attention" or a comparable *ICD-10-CM* diagnosis, even though that condition is not due to an alcohol-induced disorder described in AS 47.30.056(f)(1) - (6) or (a) of this section.

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(Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

20 AAC 40.550. People with Alzheimer's disease or related dementia. (a) Subject to (b) of this section, people with Alzheimer's disease or related dementia are persons who

(1) can be diagnosed using the *DSM-5* with delirium, dementia, amnestic, or other cognitive disorders comparable to those listed in AS 47.30.056(g)(1) - (4) or with a comparable disorder using the *ICD-10-CM*; or

(2) as a result of adult onset cognitive impairment that is progressive and degenerative in nature, require

(A) supervision and cueing from other individuals in order adequately and routinely to perform activities of daily living; or

(B) protection from the consequences of their impaired judgment, of fluctuations in their decision-making capacity, or of their frequent impulsive, inappropriate, or disruptive behavior when this behavior poses health or safety hazards to themselves or to others.

(b) In addition to persons described in (a) of this section, people with Alzheimer's disease or related dementia include persons with conditions that support a *DSM-5* diagnosis of "other conditions that may be a focus of clinical attention" or a comparable *ICD-10-CM* diagnosis, even though that condition is not due to a mental disorder described in AS 47.30.056(g)(1) - (4) or (a) of this section. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

20 AAC 40.560. Services to non-beneficiaries. A person who is not a beneficiary of the trust under 20 AAC 40.510 may receive mental health services paid for by the trust if the comprehensive program provides for those services or if providing those services is otherwise consistent with the authority's guiding principles, adopted by reference in 20 AAC 40.040. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

20 AAC 40.590. Definitions. As used in 20 AAC 40.500 - 20 AAC 40.590,

(1) "*DSM-5*" means the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, published in 2013 by the American Psychiatric Association, and adopted by reference in 20 AAC 40.500(a);

(2) "*ICD-10-CM*" means the *International Classification of Diseases, 10th Revision, Clinical Modification*, published in 2015, and adopted by reference in 20 AAC 40.500(b);

(3) "people with alcoholism" has the meaning given "chronic alcoholics suffering from psychoses" in AS 47.30.056(f);

(4) "people with Alzheimer's disease or related dementia" has the meaning given "senile people who as a result of their senility suffer major mental illness" in AS 47.30.056(g);

(5) "people with developmental disabilities" has the meaning given "persons who

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have an intellectual disability a developmental disability, or both" in AS 47.30.056(e);

(6) "people with mental illness" has the meaning given "the mentally ill" in AS 47.30.056(d). (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.056

Editor's note: Copies of the *DSM-5* and the *ICD-10-CM*, adopted by reference in 20 AAC 40.500, are available for review at the offices of the Alaska Mental Health Trust Authority, 3745 Community Park Loop, Suite 200, Anchorage, Alaska 99508.

Article 6. Administration of the Trust.

Section

- 600. Management of trust assets
- 610. Allocation of trust land revenues between principal and income
- 620. Contributions to the trust

20 AAC 40.600. Management of trust assets. The *Asset Management Policy Statement*, adopted by the board on January 28, 2015, sets out the board's policies and practices for management of trust assets and accounts. The *Asset Management Policy Statement* is adopted by reference. (Eff. 10/24/2004, Register 172; am 5/11/2012, Register 202; am __/__/__, Register __)

Authority: AS 37.14.031 AS 37.14.041 AS 47.30.031
AS 37.14.036

Editor's note: The *Asset Management Policy Statement*, adopted by reference in 20 AAC 40.600, is available for review at the office of the Mental Health Trust Authority, 3745 Community Park Loop, Suite 200, Anchorage, Alaska 99508 and is posted on the authority's website at <http://www.mhtrust.org>.

20 AAC 40.610. Allocation of trust land revenues between principal and income. Revenues received from the management of trust land will be allocated between principal and income as follows:

- (1) to principal,
 - (A) 100 percent of

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- (i) land sale revenues;
- (ii) royalties on coal, oil, gas, materials, and minerals; and
- (iii) revenues from perpetual easements; and

(B) 85 percent of revenues from timber sales;

(2) to income,

(A) 100 percent of

- (i) interest from land sale contracts;
- (ii) bonus bids; and
- (iii) rents; and

(B) 15 percent of revenues from timber sales. (Eff. 10/24/2004, Register

172; am __/__/__, Register __)

Authority: AS 37.14.031 AS 47.30.031

20 AAC 40.620. Contributions to the trust. (a) Unless otherwise specifically provided in the document or instrument providing for a contribution to the trust, the authority will determine the appropriate account in which to deposit the contribution.

(b) The authority may decline to accept any contribution to the trust.

(c) In this section, "contribution" includes gifts and bequests. (Eff. 10/24/2004, Register

172; am __/__/__, Register __)

Authority: AS 37.14.031 AS 37.14.041 AS 47.30.031
AS 37.14.036

Article 7. Real Property Assets.

Section

- 700. Real property development accounts
- 710. Requests for use of trust land at less than fair market value
- 720. Authority consultation with trust land office
- 730. Confidentiality

20 AAC 40.700. Real property development accounts. (a) From time to time, the board may determine that it is in the interest of the trust and its beneficiaries to use receipts from the management of trust land to

- (1) acquire for the trust new trust land; or
- (2) improve or develop existing trust land.

(b) The board will make a decision under (a) of this section in accordance with the applicable provisions of the *Asset Management Policy Statement* adopted by reference in 20 AAC 40.600.

(c) If the board decides under (a) of this section to acquire new trust land or to improve or develop existing trust land, the authority will establish a development account for the purpose of monitoring and accounting for the receipts used and the costs incurred by the trust to carry out that acquisition, improvement, or development project.

(d) The authority will maintain a development account established under (c) of this section until the project for which the account was established has been completed. (Eff.

10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.007 AS 37.14.009 AS 47.30.031

20 AAC 40.710. Requests for use of trust land at less than fair market value. (a)

This section applies to a beneficiary, or an organization acting on behalf of a beneficiary, who wants to be granted the use of trust land under 11 AAC 99.110 and wants to pay less than fair market value for that use.

(b) A request for approval to use trust land at less than fair market value must be submitted to the authority in writing and must include the following information:

(1) the name of the beneficiary or the organization acting on behalf of a beneficiary;

(2) contact information for the beneficiary or organization, including address, telephone number, and, as applicable, fax number and e-mail address;

(3) a description of the property sufficient to identify the property's location and the area or portion of the property sought to be used;

(4) an explanation of the purpose for which the property is sought to be used, with special emphasis on the manner in which its use by the beneficiary or organization furthers the authority's purpose to ensure a plan for an integrated, comprehensive mental health program;

(5) the period of time for which use of the trust land is sought;

(6) the rate proposed to be paid for use of the trust land.

(c) The authority staff shall review the request and determine whether sufficient information has been provided by the applicant to make a recommendation on the request. If the authority staff determines that insufficient information has been provided, the authority staff shall return the request to the applicant, along with an explanation of the additional information that is

necessary. If the authority staff determines that sufficient information has been provided to make a recommendation, the authority staff shall request that the trust land office determine whether the land is suitable for the use proposed by the applicant and the estimated fair market value of that use. After being advised of the land's suitability for the proposed use and the estimated fair market value of the use by the trust land office, the authority staff shall inform the board's resource management committee of those determinations and make a recommendation to the committee for appropriate action on the request.

(d) After receiving a recommendation from the authority staff under (c) of this section, the board's resource management committee will consider the request and make a recommendation to the full board to

- (1) approve the request as presented;
- (2) approve the request, subject to modification;
- (3) deny the request; or
- (4) return the recommendation to the authority staff for additional information.

(e) If the board's resource management committee recommends approval of a request under (d) of this section, the authority will give public notice of the request and the committee's recommendation in the manner provided under 11 AAC 99.050(a). The board will consider a recommendation of the board's resource management committee under (d) of this section at the board's next regular meeting that occurs at least 30 calendar days after that public notice is first published.

(f) In deciding whether to approve a request for the use of trust land under this section,

the board will consider

(1) whether and to what extent that use is consistent with the authority's plan for a comprehensive program;

(2) the applicant's ability to implement and carry out the purposes for which the land is to be used;

(3) the extent of any economic or other benefit to beneficiaries as a result of the proposed use of the land;

(4) the extent of any likely economic impact to the trust as a result of approving use of the land at less than fair market value;

(5) comments received from the public regarding the proposed use; and

(6) the nature and extent of any administrative burden on the authority or the trust land office to oversee the land or activities on the land.

(g) If the board approves a request for use of trust land under this section, the authority will forward that approval to the trust land office for consideration under 11 AAC 99.110.

Approval of a use of trust land under this section is not a disposal of land as that term is defined in 11 AAC 99.990.

(h) A decision of the board under (g) of this section is a final decision of the authority. A person adversely affected by the decision may appeal to the superior court in accordance with the Alaska Rules of Appellate Procedure. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 37.14.007 AS 37.14.009 AS 47.30.031

20 AAC 40.720. Authority consultation with trust land office. For the purpose of consultation with the trust land office under 11 AAC 99, unless otherwise specifically provided by the board by resolution, any such consultation must involve either the board's resource management committee or the full board. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.007 AS 37.14.009 AS 47.30.031

20 AAC 40.730. Confidentiality. Information determined to be confidential by the chief executive officer will be made available to the trust land office upon request, subject to the requirement that the material must remain confidential after receipt. (Eff. 10/24/2004, Register 172; am __/__/__, Register __)

Authority: AS 37.14.007 AS 37.14.009 AS 47.30.031

Article 8. Miscellaneous Provisions.

Section

- 900. Grant protest procedures
- 910. Appeals
- 920. Grievances regarding services not provided
- 990. Definitions

20 AAC 40.900. Grant protest procedures. (a) A person may seek review of a decision described in 20 AAC 40.415 only by filing a protest with the chief executive officer under this section. In order to be considered under this section, a protest must assert that the decision being protested was

- (1) based on a material error of fact by the authority;
- (2) made by the authority without following applicable procedures; or
- (3) made by the authority contrary to applicable
 - (A) statutes or regulations;
 - (B) terms of a specific grant; or
 - (C) authority policy or procedure.

(b) The chief executive officer must receive a protest within no later than 30 calendar days after

- (1) the earliest date that the authority mailed or delivered the decision being protested to the protester; or
- (2) the date that the authority conveyed the decision to the protester if the authority did not put the decision in writing.

(c) A protest is not effective unless it is submitted in writing, is signed by the protester or

the protester's representative, and includes

(1) a reference to any grant or grant application number under which the decision was made;

(2) a copy of the decision being protested, if written, or, if either the decision was not written or a copy of the decision is not available to the protester, a summary description of the decision;

(3) a detailed statement of the factual and legal basis of the protest, as applicable, including a statement of the facts alleged to be in dispute and a copy of any relevant documents, and a statement of the remedy requested;

(4) citation to the statute, regulation, terms of the grant, or authority policy or procedure upon which the protest is based;

(5) the address of the protester or the protester's representative to whom any notice or decision concerning the protest is to be mailed or delivered; and

(6) a reference, by grant or grant application number, if applicable, to any other affected grant or application.

(d) The chief executive officer may reject a protest that does not satisfy the requirements of (a) of this section. If the chief executive officer rejects a protest under this subsection, the chief executive officer shall inform the protestor of the reason for the rejection in writing.

(e) The proper and timely filing of a protest under this section stays the decision being protested until the protest is decided unless the chief executive officer determines in writing that it is contrary to the best interest of the authority or the trust to stay the decision beyond the date

of that determination or another stated date.

(f) The chief executive officer shall mail or deliver a written decision on the protest to the protester or the protester's representative no later than 15 calendar days after the protest is filed unless the protester agrees, in writing, to a longer period. If the chief executive officer does not mail or deliver a decision to the protester or the protester's representative within 15 calendar days, the protest is denied.

(g) The chief executive officer may delegate the functions of the chief executive officer under this section to another employee of the authority who was not involved in the decision being protested. If the decision being protested was made by the chief executive officer, the chair of the board, or another board member designated by the board chair, shall exercise the functions of the chief executive officer under this section.

(h) The protester may appeal an adverse decision on the protest in accordance with 20 AAC 40.910. A decision subject to this section but not timely protested in accordance with this section is not subject to appeal under 20 AAC 40.910. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.051

20 AAC 40.910. Appeals. (a) This section applies to an appeal of

(1) a decision on a protest under 20 AAC 40.900; and

(2) a decision of the board's executive committee on an application for an

emergency grant under 20 AAC 40.260(h)(1).

(b) The authority must receive an appeal within 30 calendar days after

(1) the earliest date that the chief executive officer or the chief executive officer's designee mailed or delivered the decision being appealed to the appellant or the appellant's representative; or

(2) the date that is 15 calendar days after the protest was filed, if a decision on the protest was not mailed or delivered to the appellant or the appellant's representative by that date.

(c) An appeal must be in writing, must be signed by the appellant or the appellant's representative, and must include

(1) a reference to any grant or grant application number under which the decision was made;

(2) a copy of the decision being appealed;

(3) a detailed statement of the factual and legal basis of the appeal, including a statement of the facts alleged to be in dispute and a copy of the relevant documents, and a statement of the remedy requested;

(4) the address of the appellant or the appellant's representative to whom any notice or decision concerning the appeal is to be mailed or delivered;

(5) a reference, by grant or grant application number, if applicable, to any other affected grant or grant application; and

(6) if a material fact is disputed and a hearing is desired, a request for a hearing.

(d) The proper and timely filing of an appeal under this section stays the decision being appealed until the appeal is decided unless the board determines in writing that it is contrary to

the best interest of the authority or the trust to stay the decision beyond the date of that determination or another stated date.

(e) The board will decide the appeal. The board may appoint a committee of the board or a review officer to assist the board with the appeal. A person appointed as a review officer may not have any prior direct involvement in the decision being appealed.

(f) A hearing on the appeal will be held if the board or, as applicable, the committee or review officer determines that material facts are in dispute. The board, committee, or review officer, as applicable, may

(1) with the agreement of the appellant, review the appellant's appeal on the basis of the written submissions of the appellant and the grant agency, without a hearing, even though material facts are in dispute;

(2) upon the agreement of the appellant, for good cause shown, or as is otherwise in the interest of the state, extend the time set for the hearing;

(3) arrange for the hearing to be held by teleconference.

(g) In a hearing under this section,

(1) as applicable, the board will or the committee or review officer shall,

(A) at least 20 calendar days before the hearing or a lesser time as agreed to by the board, committee, or review officer and the parties, provide to the appellant and the chief executive officer written notice of the time and place for the hearing;

(B) upon the prior request of a person with a mental or physical disability who is either the appellant, the appellant's representative, or an interested person, provide

reasonable accommodation for that person in procedures or facilities to permit the person to participate in the hearing;

(2) as applicable, the chair of the board or of the committee or the review officer shall regulate the order of testimony and presentation of the appeal;

(3) interested persons may attend, give testimony, or submit written statements;

(4) formal rules of evidence do not apply; however, testimony must be given under oath; and

(5) the hearing must be recorded and will be transcribed at the request and expense of the person requesting the transcript.

(h) The appellant has the burden to prove by a preponderance of the evidence that the appellant is entitled to the remedy requested.

(i) If a committee or review officer is appointed to assist the board under (e) of this section, the committee or review officer, as applicable, shall provide a written recommendation on the appeal to the board. The board may

(1) accept the recommendation of the committee or review officer;

(2) reject the recommendation of the committee or review officer and remand the recommendation back to the committee or review officer, as applicable, with instructions; or

(3) issue a written decision based on the appeal record.

(j) The authority will mail or deliver to the appellant or the appellant's representative a copy of any decision or order the board issues on the appeal.

(k) The decision of the board on the appeal is a final administrative decision of the

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authority that may be appealed to the superior court under the Alaska Rules of Appellate Procedure. (Eff. 10/24/2004, Register 172; am __/__/__, Register____)

Authority: AS 47.30.031 AS 47.30.051

20 AAC 40.920. Grievances regarding services not provided. At each regular meeting of the board, the board will provide an opportunity on its meeting agenda for aggrieved persons or groups who believe they have not received services that should be provided by the trust to inform the board of their grievances and to request redress from the authority. (Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031 AS 47.30.051 AS 47.30.056

20 AAC 40.990. Definitions. Unless the context indicates otherwise, in this chapter

(1) "approval" means a written agreement or permission to proceed, signed by an authorized representative of the authority, in response to a written request from the grantee or applicant for approval of a proposed action;

(2) "authority" means the Alaska Mental Health Trust Authority established under AS 47.30.011; "authority" includes, as applicable, the board, a duly authorized committee of the board, and a duly authorized member of the staff of the Alaska Mental Health Trust Authority;

(3) "authority grant" means a grant described at 20 AAC 40.030(d);

(4) "authority staff" means the officers and employees of the Alaska Mental Health Trust Authority other than the board;

(5) "beneficiary" means a person described in 20 AAC 40.510;

(6) "beneficiary group" refers to the individual groups of persons in need of mental health services described at AS 47.30.056(b);

(7) "beneficiary-related agency" means a planning board or other agency of the state, including the authority, or of a political subdivision of the state that has responsibilities for the provision of mental health services to persons in one or more beneficiary groups;

(8) "board" means the board of trustees of the Alaska Mental Health Trust Authority established under AS 47.30.016;

(9) "client" means a person receiving mental health services from a recipient of a grant made by the authority;

(10) "comprehensive program" means the integrated comprehensive mental health program described at AS 47.30.056;

(11) "consumer" means a person receiving mental health services;

(12) "designated agency" means the state agency designated to receive an MHTAAR grant under a mental health budget appropriation bill;

(13) "direct cost" means a cost associated with a particular cost objective that is identified specifically with the grant;

(14) "duly authorized" means authorized to perform a particular act by the bylaws of the board, by board action, or by this chapter;

(15) repealed __/__/__;

(16) "fair market value" has the meaning given in AS 38.04.910(3);

(17) "fiscal year" means the fiscal year for the state as provided in AS 37.05.920;

(18) "grant" means an award of financial or direct assistance by the authority under this chapter for a proposed activity or service;

(19) "grant income" means income earned by a grant project during the grant period; "grant income" includes proceeds from the sale of products or services such as testing or computer time, payments received for medical or hospital services, fees received for personal services, proceeds from the sale of assets of the grant project, and royalties from copyrights or publications;

(20) "grant period" means the time period for which a grant has been awarded;

(21) "grant project" means the project for which a grant has been awarded;

(22) "grant project budget" means the financial expenditure plan for a grant project approved by the authority; "grant project budget" includes money awarded by the authority for the grant project and any other financing sources used by the grantee for the grant project;

(23) "grantee" means the legally accountable entity that receives a grant;

(24) "indirect cost" means a cost that, because it is incurred for common or joint objectives, is not readily subject to treatment as a direct cost;

(25) "mental health budget appropriation bill" means the bill making appropriations for the state's annual implementation plan in support of the comprehensive program enacted for a particular fiscal year under AS 37.14.005;

(26) "mental health service system" means the system of governmental boards

and agencies, sources of money, and mental health service providers through which mental health services are delivered to consumers in the state;

(27) "mental health service provider" means a person, agency, or other organization that

(A) provides mental health services to consumers; and

(B) is recognized by one or more beneficiary-related agencies as providing necessary and appropriate mental health services to consumers;

(28) "mental health services" means services provided under or in furtherance of the comprehensive program;

(29) "MHTAAR" means mental health trust authority authorized receipts;

(30) "MHTAAR money" means a grant of money from the mental health trust settlement income account to a state agency in the form of a transfer of money that has been authorized under a mental health budget appropriation bill;

(31) "native entity" has the meaning given "tribal organization" in 25 U.S.C. 450b(l); "native entity" does not include a regional or village corporation as defined in or established under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act);

(32) "non-expendable personal property" means

(A) an article of tangible personal property that is complete in itself, is of a durable nature, has an expected useful life of more than one year, and has a value of \$300 or more; and

(B) intangible personal property, such as patents, inventions, and

copyrights;

(33) "not-for-profit entity" means an entity no part of the income or profit of which is distributable to its members, directors, or officers;

(34) "personal property" means property other than real property;

(35) "planning board" means, as applicable, the Advisory Board on Alcohol and Drug Abuse established under AS 44.29.100, the Alaska Commission on Aging established under AS 47.45.200, the Alaska Mental Health Board established under AS 47.30.661, or the Governor's Council on Disabilities and Special Education established under AS 47.80.030;

(36) "political subdivision of the state" means a borough or city organized under AS 29 or a school district under AS 14.12.010;

(37) "real property" means land, land improvements, and structures and appurtenances located on land other than moveable machinery and equipment;

(38) "true lease" means a lease other than one under which

(A) ownership of the property is transferred, under the terms of the lease, to the lessee by the end of the lease term;

(B) an option to buy the property at a price less than the fair market value of the property is in the lease;

(C) the lease term is 75 percent or more of the estimated economic life of the property; or

(D) the present value of the total payments made by the lessee under the lease is 90 percent or more of the fair market value of the property less the amount of

investment tax credits to be retained by the lessor under 26 U.S.C. 38 during the term of the lease; the valuation date for purposes of this subparagraph is the date of the lease agreement or the date of a commitment to enter into a lease agreement, whichever is earlier.

(39) "trust land" has the meaning given "Alaska mental health trust land" in 11 AAC 99.990;

(40) "trust land office" means the unit within the Department of Natural Resources required by AS 44.37.050;

(41) "working day" means a day other than Saturday, Sunday, or a state holiday.
(Eff. 10/24/2004, Register 172; am __/__/__, Register ____)

Authority: AS 47.30.031