

## INTRODUCTION

### MARYLAND GOVERNOR'S GRANTS OFFICE

Historically Maryland has successfully obtained federal funding. However, increasing competition with other states for decreased federal grant funds prompted Governor Ehrlich to establish the Governor's Grants Office in February 2004. His directives to the office are to efficiently increase Maryland's market share of federal funds and to broaden Maryland's funding base, particularly in the areas of transportation, environment and homeland security.

The office is *proactively and aggressively* working with each State agency grant contact to coordinate all State funding activity. The office fast-tracked **four cornerstones** to build a State grants management foundation, *ensuring significant increases in future federal and foundation funding to Maryland:*

- **Measurement and Tracking;** baseline federal fund measurement to gauge future increases in funds flowing into the State by agency;
- **Training for Success;** intensive, systematic training of all State agency contacts responsible for grant program management and grant financial administration;
- **Information Dissemination;** increase awareness of funding opportunities to all potential grant-seekers throughout the State, including local governments, non-profits, community groups and constituents; and
- **Relationship Building;** concerted, focused efforts to build productive relationships between State agency grant contacts and federal agency points of contact, facilitating early identification of grant opportunities, increasing awards, and broadening the State's funding base by partnering with foundations and by seeking federal procurements.

This workshop is specifically designed to **Train for Success** by using real life examples and engaging in a variety of individual and team exercises for maximum learning. Additional resource materials have been provided for your future reference.

You can contact the Governor's Grants Office by visiting our website: [www.gov.state.md.us/grants](http://www.gov.state.md.us/grants) or call 410.974.5090.

**The Governor's Grants Office wishes you continued success!**

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**UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND  
COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS**

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**Subpart E-Entitlements [Reserved]****Subpart A-General****§ \_\_.1 Purpose and scope of this part.**

This part establishes uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

**§ \_\_.2 Scope of subpart.**

This subpart contains general rules pertaining to this part and procedures for control of exceptions from this part.

**§ \_\_.3 Definitions.**

As used in this part:

"Accrued expenditures" mean the charges incurred by the grantee during a given period requiring the provision of funds for: (1) Goods and other tangible property received; (2) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

"Accrued income" means the sum of: (1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

"Acquisition cost" of an item of purchased equipment means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

"Administrative" requirements mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from "programmatic" requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

"Awarding agency" means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.

"Cash contributions" means the grantee's cash outlay, including the outlay of money

contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals. When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

"Contract" means (except as used in the definitions for "grant" and "subgrant" in this section and except where qualified by "Federal") a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

"Cost sharing or matching" means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

"Cost-type contract" means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

"Equipment" means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

"Expenditure report" means: (1) For non-construction grants, the SF-269 "Financial Status Report" (or other equivalent report); (2) for construction grants, the SF-271 "Outlay Report and Request for Reimbursement" (or other equivalent report).

"Federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

"Government" means a State or local government or a federally recognized Indian tribal government.

"Grant" means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

"Grantee" means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

"Local government" means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing

Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

"Obligations" means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

"OMB" means the United States Office of Management and Budget.

"Outlays (expenditures)" mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

"Percentage of completion method" refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's cost incurred.

"Prior approval" means documentation evidencing consent prior to incurring specific cost.

"Real property" means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

"Share," when referring to the awarding agency's portion of real property, equipment or supplies, means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted-not the value of third-party in-kind contributions.

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

"Subgrant" means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of "grant" in this part.

"Subgrantee" means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

"Supplies" means all tangible personal property other than equipment as defined in this part.

"Suspension" means depending on the context, either (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

"Termination" means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. Termination does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) Withdrawal of the unobligated balance as of the expiration of a grant; (3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

"Terms of a grant or subgrant" mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

"Third party in-kind contributions" mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

"Unliquidated obligations" for reports prepared on a cash basis mean the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

"Unobligated balance" means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

**§ \_\_.4 Applicability.**

- (a) *General.* Subparts A - D of this part apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of § \_\_.6, or:
- (1) Grants and subgrants to State and local institutions of higher education or State and local hospitals.
  - (2) The block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grants for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under Title V, Subtitle D, Chapter 2, Section 583- the Secretary's discretionary grant program) and Titles I-III of the Job Training Partnership Act of 1982 and under the Public Health Services Act (Section 1921), Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant and Part C of Title V, Mental Health Service for the Homeless Block Grant).
  - (3) Entitlement grants to carry out the following programs of the Social Security Act:
    - (i) Aid to Needy Families with Dependent Children (Title IV-A of the Act, not including the Work Incentive Program (WIN) authorized by section 402(a)19(G); HHS grants for WIN are subject to this part);
    - (ii) Child Support Enforcement and Establishment of Paternity (Title IV-D of the Act);
    - (iii) Foster Care and Adoption Assistance (Title IV-E of the Act);
    - (iv) Aid to the Aged, Blind, and Disabled (Titles I, X, XIV, and XVI-AABD of the Act); and (v) Medical Assistance (Medicaid) (Title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B).
  - (4) Entitlement grants under the following programs of The National School Lunch Act:
    - (i) School Lunch (section 4 of the Act),
    - (ii) Commodity Assistance (section 6 of the Act),
    - (iii) Special Meal Assistance (section 11 of the Act),
    - (iv) Summer Food Service for Children (section 13 of the Act), and
    - (v) Child Care Food Program (section 17 of the Act).
  - (5) Entitlement grants under the following programs of The Child Nutrition Act of 1966:
    - (i) Special Milk (section 3 of the Act), and
    - (ii) School Breakfast (section 4 of the Act).
  - (6) Entitlement grants for State Administrative expenses under The Food Stamp Act of 1977 (section 16 of the Act).
  - (7) A grant for an experimental, pilot, or demonstration project that is also supported by a grant listed in paragraph (a)(3) of this section;
  - (8) Grant funds awarded under subsection 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L.96-422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits;
  - (9) Grants to local education agencies under 20 U.S.C. 236 through 241-1(a), and 242 through 244 (portions of the Impact Aid program), except for 20 U.S.C. 238(d)(2)(c)

- and 240(f) (Entitlement Increase for Handicapped Children); and
- (10) Payments under the Veterans Administration's State Home Per Diem Program (38 U.S.C. 641(a)).
- (b) *Entitlement programs.* Entitlement programs enumerated above in § \_\_.4(a) (3) through (8) are subject to subpart E.

### **§ \_\_.5 Effect on other issuances.**

All other grants administration provisions of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with this part are superseded, except to the extent they are required by statute, or authorized in accordance with the exception provision in § \_\_.6.

### **§ \_\_.6 Additions and exceptions.**

- (a) For classes of grants and grantees subject to this part, Federal agencies may not impose additional administrative requirements except in codified regulations published in the *Federal Register*.
- (b) Exceptions for classes of grants or grantees may be authorized only by OMB.
- (c) Exceptions on a case-by-case basis and for subgrantees may be authorized by the affected Federal agencies.

## **Subpart B-Pre-Award Requirements**

### **§ \_\_.10 Forms for applying for grants.**

- (a) *Scope.*
- (1) This section prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying for grants. This section is not applicable, however, to formula grant programs which do not require applicants to apply for funds on a project basis.
- (2) This section applies only to applications to Federal agencies for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged to avoid more detailed or burdensome application requirements for subgrants.
- (b) *Authorized forms and instructions for governmental organizations.*
- (1) In applying for grants, applicants shall only use standard application forms or those prescribed by the granting agency with the approval of OMB under the Paperwork Reduction Act of 1980.
- (2) Applicants are not required to submit more than the original and two copies of preapplications or applications.
- (3) Applicants must follow all applicable instructions that bear OMB clearance numbers. Federal agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OMB to the extent required under the Paperwork Reduction Act of 1980. For any standard form, except the SF-424 facesheet, Federal agencies may shade out or instruct the applicant to disregard any line item that is not needed.
- (4) When a grantee applies for additional funding (such as a continuation or supplemental award) or amends a previously submitted application, only the affected

pages need be submitted. Previously submitted pages with information that is still current need not be resubmitted.

### **§ \_\_.11 State plans.**

- (a) *Scope.* The statutes for some programs require States to submit plans before receiving grants. Under regulations implementing Executive Order 12372, "Intergovernmental Review of Federal Programs," States are allowed to simplify, consolidate and substitute plans. This section contains additional provisions for plans that are subject to regulations implementing the Executive Order.
- (b) *Requirements.* A State need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations.
- (c) *Assurances.* In each plan the State will include an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. For this assurance and other assurances required in the plan, the State may:
  - (1) Cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions,
  - (2) Repeat the assurance language in the statutes or regulations, or
  - (3) Develop its own language to the extent permitted by law.
- (d) *Amendments.* A State will amend a plan whenever necessary to reflect: (1) New or revised Federal statutes or regulations or (2) a material change in any State law, organization, policy, or State agency operation. The State will obtain approval for the amendment and its effective date but need submit for approval only the amended portions of the plan.

### **§ \_\_.12 Special grant or subgrant conditions for "high-risk" grantees.**

- (a) A grantee or subgrantee may be considered "high risk" if an awarding agency determines that a grantee or subgrantee:
  - (1) Has a history of unsatisfactory performance, or
  - (2) Is not financially stable, or
  - (3) Has a management system which does not meet the management standards set forth in this part, or
  - (4) Has not conformed to terms and conditions of previous awards, or
  - (5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.
- (b) Special conditions or restrictions may include:
  - (1) Payment on a reimbursement basis;
  - (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
  - (3) Requiring additional, more detailed financial reports;
  - (4) Additional project monitoring;
  - (5) Requiring the grantee or subgrantee to obtain technical or management assistance; or
  - (6) Establishing additional prior approvals.
- (c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:
  - (1) The nature of the special conditions/restrictions;
  - (2) The reason(s) for imposing them;

- (3) The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions, and
- (4) The method of requesting reconsideration of the conditions/restrictions imposed.

### **Subpart C-Post-Award Requirements**

#### **Financial Administration**

#### **§ \_\_.20 Standards for financial management systems.**

- (a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to-
  - (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
  - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.
- (b) The financial management systems of other grantees and subgrantees must meet the following standards:
  - (1) *Financial reporting.* Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.
  - (2) *Accounting records.* Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.
  - (3) *Internal control.* Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
  - (4) *Budget control.* Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
  - (5) *Allowable cost.* Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.
  - (6) *Source documentation.* Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.
  - (7) *Cash management.* Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances

and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

- (c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

#### **§ \_\_.21 Payment.**

- (a) *Scope.* This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.
- (b) *Basic standard.* Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR Part 205.
- (c) *Advances.* Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.
- (d) *Reimbursement.* Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.
- (e) *Working capital advances.* If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section, and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee's actual cash disbursements.
- (f) *Effect of program income, refunds, and audit recoveries on payment.*
  - (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
  - (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.
- (g) *Withholding payments.*

- (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless-
    - (i) The grantee or subgrantee has failed to comply with grant award conditions or
    - (ii) The grantee or subgrantee is indebted to the United States.
  - (2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with § \_\_.43(c).
  - (3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.
- (h) *Cash depositories.*
- (1) Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.
  - (2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement.
- (i) *Interest earned on advances.* Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.

**§ \_\_.22 Allowable costs.**

- (a) *Limitation on use of funds.* Grant funds may be used only for:
- (1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and
  - (2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.
- (b) *Applicable cost principles.* For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

For the costs of a-	Use the principles in-
State, local or Indian tribal government.	OMB Circular A-87.
Private nonprofit organization other than an (1) institution of higher education, (2) hospital,	OMB Circular A-122.

or (3) organization named in OMB Circular A-122 as not subject to that circular.	
Educational institutions	OMB Circular A-21.
For-profit organization other than a hospital and an organization named in OMB Circular A-122 as not subject to that circular.	48 CFR Part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

**§ \_\_.23 Period of availability of funds.**

- (a) *General.* Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.
- (b) *Liquidation of obligations.* A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.

**§ \_\_.24 Matching or cost sharing.**

- (a) *Basic rule: Costs and contributions acceptable.* With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:
- (1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.
  - (2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.
- (b) *Qualifications and exceptions-*
- (1) Costs borne by other Federal grant agreements. Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.
  - (2) General revenue sharing. For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.
  - (3) Cost or contributions counted towards other Federal costs-sharing requirements. Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.
  - (4) Costs financed by program income. Costs financed by program income, as defined in § \_\_.25, shall not count towards satisfying a cost sharing or matching requirement

- unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in § \_\_.25(g).)
- (5) Services or property financed by income earned by contractors. Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.
  - (6) Records. Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.
  - (7) Special standards for third party in-kind contributions
    - (i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.
    - (ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.
    - (iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:
      - (A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or
      - (B) A cost savings to the grantee or subgrantee.
    - (iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.
- (c) *Valuation of donated services-*
- (1) Volunteer services. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.
  - (2) Employees of other organizations. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.

- (d) *Valuation of third party donated supplies and loaned equipment or space.*
- (1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.
  - (2) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.
- (e) *Valuation of third party donated equipment, buildings, and land.* If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:
- (1) Awards for capital expenditures. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching,
  - (2) Other awards. If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:
    - (i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost-sharing or matching.
    - (ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in § \_\_.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.
- (f) *Valuation of grantee or subgrantee donated real property for construction/acquisition.* If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.
- (g) *Appraisal of real property.* In some cases under paragraphs (d), (e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.

### **§ \_\_.25 Program income.**

- (a) *General.* Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal

property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

- (b) *Definition of program income.* Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final financial report.
- (c) *Cost of generating program income.* If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.
- (d) *Governmental revenues.* Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.
- (e) *Royalties.* Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See § \_\_.34.)
- (f) *Property.* Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of §§ \_\_.31 and \_\_.32.
- (g) *Use of program income.* Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.
  - (1) *Deduction.* Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.
  - (2) *Addition.* When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.
  - (3) *Cost sharing or matching.* When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.
- (h) *Income after the award period.* There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

**§ \_\_.26 Non-Federal audit.**

- (a) *Basic rule.* Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501–7507) and Federal agency implementing regulations. The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.
- (b) *Subgrantees.* State or local governments, as those terms are defined for purposes of the Single Audit Act of 1984, that receive Federal financial assistance and provide \$25,000 or more of it in a fiscal year to a subgrantee, shall:
- (1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;
  - (2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A–110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;
  - (3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;
  - (4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and
  - (5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.
- (c) *Auditor selection.* In arranging for audit services, § \_\_.36 shall be followed.

**Changes, Property, and Subawards****§ \_\_.30 Changes.**

- (a) *General.* Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.
- (b) *Relation to cost principles.* The applicable cost principles (see § \_\_.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.
- (c) *Budget changes*
- (1) Nonconstruction projects. Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a non-

- construction award:
- (i) Any revision which would result in the need for additional funding.
  - (ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.
  - (iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).
- (2) Construction projects. Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.
  - (3) Combined construction and non-construction projects. When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from non-construction to construction or vice versa.
- (d) *Programmatic changes.* Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:
- (1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).
  - (2) Need to extend the period of availability of funds.
  - (3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.
  - (4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of § \_\_.36 but does not apply to the procurement of equipment, supplies, and general support services.
- (e) *Additional prior approval requirements.* The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.
- (f) *Requesting prior approval.*
- (1) A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.
  - (2) A request for a prior approval under the applicable Federal cost principles (see § \_\_.22) may be made by letter.
  - (3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

### § \_\_.31 Real property.

- (a) *Title.* Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.
- (b) *Use.* Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purpose, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.
- (c) *Disposition.* When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:
  - (1) *Retention of title.* Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
  - (2) *Sale of property.* Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.
  - (3) *Transfer of title.* Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

### **§ \_\_.32 Equipment.**

- (a) *Title.* Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.
- (b) *States.* A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.
- (c) *Use.*
  - (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.
  - (2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other

- programs or projects supported by the awarding agency. User fees should be considered if appropriate.
- (3) Notwithstanding the encouragement in § \_\_.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.
  - (4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.
- (d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:
- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
  - (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
  - (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.
  - (4) Adequate maintenance procedures must be developed to keep the property in good condition.
  - (5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- (e) *Disposition.* When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:
- (1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.
  - (2) Items of equipment with a current per-unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.
  - (3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.
- (f) *Federal equipment.* In the event a grantee or subgrantee is provided federally-owned equipment:
- (1) Title will remain vested in the Federal Government.
  - (2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.
  - (3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

- (g) *Right to transfer title.* The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third party named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:
- (1) The property shall be identified in the grant or otherwise made known to the grantee in writing.
  - (2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow § \_\_.32(e).
  - (3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

### **§ \_\_.33 Supplies.**

- (a) *Title.* Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.
- (b) *Disposition.* If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

### **§ \_\_.34 Copyrights.**

The Federal awarding agency reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

- (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
- (b) Any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with grant support.

### **§ \_\_.35 Subawards to debarred and suspended parties.**

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

### **§ \_\_.36 Procurement.**

- (a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.
- (b) *Procurement standards.*
  - (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

- (2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
  - (i) The employee, officer or agent,
  - (ii) Any member of his immediate family,
  - (iii) His or her partner, or
  - (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.
- (4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.
- (6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- (8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- (9) Grantees and subgrantees will maintain records sufficient to detail the significant

history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

- (10) Grantees and subgrantees will use time and material type contracts only-
    - (i) After a determination that no other contract is suitable, and
    - (ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.
  - (11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.
  - (12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:
    - (i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
    - (ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.
- (c) *Competition.*
- (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of § \_\_.36. Some of the situations considered to be restrictive of competition include but are not limited to:
    - (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
    - (ii) Requiring unnecessary experience and excessive bonding,
    - (iii) Noncompetitive pricing practices between firms or between affiliated companies,
    - (iv) Noncompetitive awards to consultants that are on retainer contracts,
    - (v) Organizational conflicts of interest,
    - (vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and
    - (vii) Any arbitrary action in the procurement process.
  - (2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection

- criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:
    - (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
    - (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
  - (4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.
- (d) *Methods of procurement to be followed.*
- (1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
  - (2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in § \_\_.36(d)(2)(i) apply.
    - (i) In order for sealed bidding to be feasible, the following conditions should be present:
      - (A) A complete, adequate, and realistic specification or purchase description is available;
      - (B) Two or more responsible bidders are willing and able to compete effectively and for the business; and
      - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
    - (ii) If sealed bids are used, the following requirements apply:
      - (A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them

- sufficient time prior to the date set for opening the bids;
- (B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
  - (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
  - (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - (E) Any or all bids may be rejected if there is a sound documented reason.
- (3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
  - (ii) Proposals will be solicited from an adequate number of qualified sources;
  - (iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
  - (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
  - (v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
- (i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
    - (A) The item is available only from a single source;
    - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
    - (C) The awarding agency authorizes noncompetitive proposals; or
    - (D) After solicitation of a number of sources, competition is determined inadequate.
  - (ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data,

and the evaluation of the specific elements of costs and profits, is required.

- (iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.
- (e) *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.*
- (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
  - (2) Affirmative steps shall include:
    - (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
    - (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
    - (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
    - (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
    - (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
    - (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.
- (f) *Contract cost and price.*
- (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
  - (2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
  - (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices

- are consistent with Federal cost principles (see § \_\_.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.
- (4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.
- (g) *Awarding agency review.*
- (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
  - (2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
    - (i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
    - (ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
    - (iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or
    - (iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
    - (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
  - (3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.
    - (i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
    - (ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.
- (h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately

protected. If such a determination has not been made, the minimum requirements shall be as follows:

- (1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
  - (2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
  - (3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- (i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.
- (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
  - (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
  - (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
  - (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)
  - (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
  - (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
  - (7) Notice of awarding agency requirements and regulations pertaining to reporting.
  - (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
  - (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

- (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
- (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). [53 FR 8048, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19642, Apr. 19, 1995]

### **§ \_\_.37 Subgrants.**

- (a) *States.* States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:
  - (1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;
  - (2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;
  - (3) Ensure that a provision for compliance with § \_\_.42 is placed in every cost reimbursement subgrant; and
  - (4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.
- (b) *All other grantees.* All other grantees shall follow the provisions of this part which are applicable to awarding agencies when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. Grantees shall:
  - (1) Ensure that every subgrant includes a provision for compliance with this part;
  - (2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and
  - (3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.
- (c) *Exceptions.* By their own terms, certain provisions of this part do not apply to the award and administration of subgrants:
  - (1) Section \_\_.10;
  - (2) Section \_\_.11;
  - (3) The letter-of-credit procedures specified in Treasury Regulations at 31 CFR Part 205, cited in § \_\_.21; and
  - (4) Section \_\_.50.

### **Reports, Records, Retention, and Enforcement**

**§ \_\_.40 Monitoring and reporting program performance.**

- (a) *Monitoring by grantees.* Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.
- (b) *Nonconstruction performance reports.* The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.
- (1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.
  - (2) Performance reports will contain, for each grant, brief information on the following:
    - (i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.
    - (ii) The reasons for slippage if established objectives were not met.
    - (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
  - (3) Grantees will not be required to submit more than the original and two copies of performance reports.
  - (4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.
- (c) *Construction performance reports.* For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.
- (d) *Significant developments.* Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:
- (1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
  - (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

- (e) *Federal agencies may make site visits as warranted by program needs.*
- (f) *Waivers, extensions.*
  - (1) Federal agencies may waive any performance report required by this part if not needed.
  - (2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

### **§ \_\_.41 Financial reporting.**

- (a) *General.*
  - (1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:
    - (i) Submitting financial reports to Federal agencies, or
    - (ii) Requesting advances or reimbursements when letters of credit are not used.
  - (2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.
  - (3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decisionmaking purposes.
  - (4) Grantees will not be required to submit more than the original and two copies of forms required under this part.
  - (5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.
  - (6) Federal agencies may waive any report required by this section if not needed.
  - (7) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.
- (b) *Financial Status Report*
  - (1) Form. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all non-construction grants and for construction grants when required in accordance with § \_\_.41(e)(2)(iii) of this section.
  - (2) Accounting basis. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.
  - (3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than

- quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.
- (4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.
- (c) *Federal Cash Transactions Report*
- (1) Form.
- (i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.
- (ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.
- (2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.
- (3) Cash in hands of subgrantees. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.
- (4) Frequency and due date. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.
- (d) *Request for advance or reimbursement*
- (1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)
- (2) Reimbursements. Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)
- (3) The frequency for submitting payment requests is treated in § \_\_.41(b)(3).
- (e) *Outlay report and request for reimbursement for construction programs.*
- (1) Grants that support construction activities paid by reimbursement method.
- (i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in § \_\_.41(d), instead of this form.

- (ii) The frequency for submitting reimbursement requests is treated in § \_\_.41(b)(3).
- (2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance.
  - (i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by § \_\_.41(b) (3) and (4).
  - (ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in § \_\_.41(d).
  - (iii) The Federal agency may substitute the Financial Status Report specified in § \_\_.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.
- (3) Accounting basis. The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § \_\_.41(b)(2).

#### **§ \_\_.42 Retention and access requirements for records.**

- (a) *Applicability.*
  - (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:
    - (i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or
    - (ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.
  - (2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see § \_\_.36(i)(10).
- (b) *Length of retention period.*
  - (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.
  - (2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.
  - (3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.
- (c) *Starting date of retention period*
  - (1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for

- that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.
- (2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.
  - (3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.
  - (4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
    - (i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
    - (ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
- (d) *Substitution of microfilm.* Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.
- (e) *Access to records*
- (1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.
  - (2) Expiration of right of access. The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained.
- (f) *Restrictions on public access.* The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

### § \_\_.43 Enforcement.

- (a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:
- (1) Temporarily withhold cash payments pending correction of the deficiency by the

- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,
  - (3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,
  - (4) Withhold further awards for the program, or
  - (5) Take other remedies that may be legally available.
- (b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.
- (c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:
- (1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
  - (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- (d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see § \_\_.35).

#### **§ \_\_.44 Termination for convenience.**

Except as provided in § \_\_.43 awards may be terminated in whole or in part only as follows:

- (a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or
- (b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either § \_\_.43 or paragraph (a) of this section.

#### **Subpart D-After-The-Grant Requirements**

##### **§ \_\_.50 Closeout.**

- (a) *General.* The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.
- (b) *Reports.* Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:

- (1) Final performance or progress report.
  - (2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable).
  - (3) Final request for payment (SF-270) (if applicable).
  - (4) Invention disclosure (if applicable).
  - (5) Federally-owned property report: In accordance with § \_\_.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.
- (c) *Cost adjustment.* The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.
- (d) *Cash adjustments.*
- (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.
  - (2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

#### **§ \_\_.51 Later disallowances and adjustments.**

The closeout of a grant does not affect:

- (a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;
- (b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
- (c) Records retention as required in § \_\_.42;
- (d) Property management requirements in §§ \_\_.31 and \_\_.32; and
- (e) Audit requirements in § \_\_.26.

#### **§ \_\_.52 Collection of amounts due.**

- (a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:
  - (1) Making an administrative offset against other requests for reimbursements,
  - (2) Withholding advance payments otherwise due to the grantee, or
  - (3) Other action permitted by law.
- (b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an over-due debt in accordance with the Federal Claims Collection Standards (4 CFR Chapter II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

#### **Subpart E-Entitlements [Reserved]**

## **GLOSSARY**

**Accrual Basis** - An accounting method whereby revenues and expenses are identified with specific periods of time, such as a month or year, and are recorded when they are earned or incurred without regard to the date of receipt or payment of cash; distinguished from cash basis.

**Accrued Expenditures** - The charges incurred by the recipient during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, subrecipients, subcontractors, and other payees, and (3) other amounts becoming owed under programs for which no current service or performance is required, such as annuities, insurance claims, and other benefit payments.

**Accrued Income** - The sum of: (1) earnings during a given period from services performed by the recipient and from goods and other tangible property delivered to purchasers; and (2) amounts becoming owed to the recipient for which no current service or performance is required by the recipient.

**ACF** - Administration for Children and Families.

**Acquisition Cost** - The net invoice price of property or supplies including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices. It does not include costs for rental of property or alteration and rental of real property.

**Additive Alternative** - One of the three uses of program income that is generated under a grant to be added to funds committed to the project by the Federal awarding agency and recipient and used to further eligible project or program objectives. (See "Deductive Alternative" and Cost Sharing or Matching Alternative.)

**Administrative Procedure Act (APA) of 1946** - The statute (5 U.S.C. § 551 et seq.) establishing various procedures for agencies, including the procedures for notifying and allowing the public the opportunity for administrative review and comment on proposed Federal agency rulemaking.

**Administrative Requirements** - The general business management practices that, are common to the administration of all grants, such as financial accountability, reporting, equipment management, and retention of records.

**Advance** - A payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before cash disbursements are made by the recipient or through the use of predetermined payment schedules. Most advance payments are processed through the Payment Management System (PMS), the Department's centralized grants payment system. Advance payments are made to recipient organizations upon their requests before cash disbursements are made by them on their assistance programs.

**Alert List** - A list circulated within the Department primarily to alert grants administration staff of recipients designated as "high-risk," or "at-risk."

**Allocable Cost** - A cost is allocable to a particular cost objective (i.e., a specific function, grant project, service, department, or other activity) in accordance with than relative benefits received. A cost is allocable to a Government award where it is, treated consistently with other costs incurred for the same purpose in like circumstances and (1) is incurred specifically for the award, (2) benefits both the award and other work and can be distributed in reasonable proportion to the benefits received; or (3) is necessary to the overall operation of the organization.

**Allocation** - The process of assigning a cost, or a group, of costs, to one or more cost objectives, in reasonable and realistic proportion to the benefit provided or other equitable relationship.

**Allotment** - A process whereby the Federal agency calculates each recipient's share by applying the statutory formula applicable to a mandatory grant program.

**Allowable Cost** - A cost incurred by a recipient that is: (1) reasonable for the performance of the award; (2) allocable; (3) in conformance with any limitations or exclusions set forth in the Federal cost principles applicable to the organization incurring the cost or in the Notice of Grant Award as to types or amount of cost items; (4) consistent with internal regulations, policies and procedures that apply uniformly to both Federally-financed and other activities of the organization; (5) accorded consistent treatment; (6) determined in accordance with generally accepted accounting principles, and (7) not included as a cost in any other Federally-financed grant (unless specifically authorized)

**Alteration and Renovation** - The work required to change the interior arrangements or other physical characteristics of an existing facility or installed equipment so that it may be more effectively used for the project. Alteration and renovation may include work referred to as

*Source: <http://www.knownet.hhs.gov/grants/orientDR/glossary.htm>*

improvements, conversion, rehabilitation, remodeling, or modernization, but is distinguished from construction and large scale permanent improvements.

**Alternative Dispute Resolution** - A process whereby mediation and other techniques are used to avoid or resolve disputes, Alternative dispute resolution is intended to reduce cost, delay and contentiousness in the resolution as well as prevent disputes from escalating to levels requiring more formal or judicial resolution.

**Amended Application** - A revised application submitted by an applicant.

**Amount Received for Trade-in** - The amount that would have been paid for the replacement equipment without a trade-in, minus the amount paid with the trade-in. The term refers to the actual difference, not necessarily the trade-in value shown on an invoice.

**AOA** - Administration on Aging.

**Applicable Credit** - Those receipts that offset or reduce direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; insurance refunds; and adjustments, of overpayments or erroneous charges.

**Application** - Generally, a request for financial support of a project or activity submitted to HHS on specified forms and in accordance with instructions provided by the HHS awarding office.

**Apportionment** - The means whereby the Office of Management and Budget divides the total available appropriation into segments, usually quarterly, and in a that segment available to the Federal agency for obligation.

**Appropriation Act** - The statute that provides the authority for Federal agencies to incur obligations and to make payments out of the U.S. Treasury for specified purposes.

**Approval or Authorization of the Awarding or Cognizant Federal Agency** – The documentation evidencing written consent for a recipient to incur a specific cost, or take other actions that require prior approval. If costs or other actions are specifically identified in a grant application, approval of the application constitutes such authorization. If the costs are covered by a State/local-wide cost allocation plan or an indirect cost proposal, approval of the plan or the indirect cost rate constitutes the Approval.

**Approval List/Funding List** - A list sent by the program office to the Grants Management Officer, showing which grant applications on the list are approved for funding and in what order.

*Source: <http://www.knownet.hhs.gov/grants/orientDR/glossary.htm>*

**Approved Budget** - The recipient's financial expenditure plan, including any revisions approved by the awarding office, for carrying out a grant-supported project or activity. The approved budget includes Federal funds and may require non-Federal participation, the amount of which is specified on the initial award document and on any subsequent revised or amended award notice.

**ASPE** - The Office of the Assistant Secretary for Planning and Evaluation in the Office of the Secretary.

**Assistance Instrument or Assistance Award** - A grant or cooperative agreement,

**Assurance** - A certification by an applicant, normally included with the application or State plan, that it will abide by a particular requirement if awarded a federal grant.

**Audit Resolution** - The action to resolve audit findings and recommendation including management and systems deficiencies and monetary findings (i.e. questioned costs).

**Authorizing Legislation** - The statutory authority establishing a Federal program, either indefinitely or for a specified period of time. Authorizing legislation is a prerequisite for appropriations.

**Automatic Carryover** - Under expanded authorities for research grants, the authority that is delegated to the recipient to move unobligated balances remaining at the end of any budget period to a subsequent budget period which thereby increases authorized expenditures. (See "Expanded Authorities.")

**Award** - Financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form; of money or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies or insurance; direct payments of any kind to individuals; and contracts which are required to be entered into and administered under procurement laws and regulations.

**Awarding Agency** - Any department, agency, commission, or instrumentality in the executive branch of the Federal Government that makes awards to eligible recipients, In general, the Operating Divisions (OPDIVS) of the Department, the Office of the Assistant Secretary for Planning and Evaluation (ASPE), and the Office of the Inspector General (OIG), and any subcomponents thereof, are authorized to award and administer HHS grants.

*Source: <http://www.knownet.hhs.gov/grants/orientDR/glossary.htm>*

**Block Grant** - A type of mandatory grant where the recipients (normally States) have substantial authority over the type of activities to support, with minimal Federal - administrative restrictions. The basic premise is that States should be free to target resources and design administrative mechanisms to provide services to meet the needs of their citizens

**Budget Period** - The intervals of time into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. Budget periods are usually 12 months long but may be shorter or longer, if appropriate.

**Capital Expenditure** - The cost of an asset, including the cost to put it in place. Capital expenditure for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it was acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the recipient organization's regular accounting practices.

**Carryover Balance** - Unobligated funds of the recipient from a previous funding period under a grant that are authorized for use to cover allowable costs in a current funding period.

**Cash Basis** - A basis of keeping accounts in contrast to the accrual basis, whereby revenue and expense are recorded on the books of account when received aid, respectively, without regard to the period in which they are earned or incurred.

**Cash Contribution** - The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

**Cash Management Improvement Act** (CMIA) of 1990 - A law (Pub. L. 101-453 (1990); 31 U.S.C. §§ 3335, 6501, and 6503.) which regulates the timing of cash flow and payment of interest on accounts between States and the Federal Government.

**CASHLINE** - An Electronic Funds Transfer (EFT) payment system which allows a recipient organization using any touch-tone telephone to dial directly into the Payment Management System's "Voice Response" computer and request Federal cash on its assistance program as frequently as disbursements (outlays) are made. The case is then electronically deposited into the recipient organization's account the next business day.

**Catalog of Federal Domestic Assistance** (CFDA) - A catalog published twice a year which describes domestic assistance programs administered by the Federal Government. This

*Source: <http://www.knownet.hhs.gov/grants/orientDR/glossary.htm>*

governmentwide compendium of Federal programs lists projects, services, and activities which provide assistance or benefits to the American public.

**Categorical Grant** - A grant having a specifically defined purpose.

**Change of Recipient Institution** - A process whereby the legal and administrative responsibility for a grant-supported project or activity is transferred from one legal entity to another before the expiration date of the approved project period. (See "Replacement Recipient.")

**Change of Principal Investigator** - A process, usually initiated by the grantee, whereby the approved principal investigator is replaced.

**Change of Scope** - A process, usually initiated by the grantee, whereby the objectives or specific aims identified in the approved grant application are significantly changed.

**Chief Grants Management Officer/Chief Grants Officer** - A Grants Officer within an awarding agency who is the principal Grants Officer in the agency. Generally, the Chief Grants Officer will have the authority to appoint and exercise line authority over one or more Grants Officers.

**Closed-ended Grant** - A type of mandatory grant where the award constitutes an upper limit on the amount of funds the Federal Government may pay for program activities. (See "Entitlement or Open-ended Grant.") Examples of closed-ended grants are (1) Grants for State and community programs on aging (Title III of the Older Americans Act); and (2) Child welfare services (Title IV-B of the Social Security Act).

**Closeout** - The process by which the awarding office determines whether all applicable administrative actions and all work required by the grant have been completed by the recipient and the awarding agency for a project or other specified period.

**Code of Federal Regulations** (CFR) - The codified regulations of the Federal Government containing a codification of the final agency regulations published in the Federal Register. The primary Departmental grants administration regulations are found in Title 45 CFR Part 74, "Grants and Agreements (including Subgrants) with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations" and 45 CFR Part 92, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Other significant regulations related to grants administration include 45 CFR Part 16, "Procedures of the Departmental Grant Appeals Board," Part 76, "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)," and Part 95, "General Administration - Grant Programs (Public Assistance and Medical Assistance)."

*Source: <http://www.knownet.hhs.gov/grants/orientDR/glossary.htm>*

**Co-funding** - An agreement by two or more awarding agencies to jointly participate in the support of an assistance award.

**Cognizant Agency** - The Federal agency which, on behalf of all Federal agencies, is responsible for: reviewing, negotiating, and approving cost allocation plans, indirect cost rate and similar rates; monitoring non-Federal audit reports; conducting Federal audits as necessary; and resolving cross-cutting audit findings.

**Commercial or For-Profit Organization** - An organization, institution, corporation or other legal entity that is organized or operated for the profit or benefit of its shareholders or other owners.

**Common Accounting Number** (CAN) - A number used in Federal financial transactions to facilitate tracking through the Federal accounting system. It contains accounting, organizational, geographical, and other data elements.

**Common Rule** - A process whereby Federal agencies issue essentially identical regulations under the direction of OMB. These regulations may be modified by an agency to reflect variations in statutory requirements. Examples of common administrative regulations include the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," which implements OMB Circular A-102 guidance to Federal agencies (45 CFR Part 92 for HHS); and :Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)," (45 CFR Part 76 for HHS)

**Communication Cost** - The cost incurred for telephone services, local and long distance telephone calls, telegrams, facsimile transactions, postage and the like.

**Competing Continuation Application** - A request for assistance to extend for one or more additional budget periods a project period that would otherwise expire. Competing continuation applications compete with other competing continuation, competing supplemental, and new applications for funds.

**Competing Continuation Award** - An award of financial assistance which adds funds to a grant and extends one or more budget periods beyond the currently established project period.

**Competitive Segment** - The initial project period recommended for support (up to five years) or each extension of a project period resulting from the award of a competing continuation grant.

**Competition or Competitive Review Process** - A process normally followed under discretionary grant programs whereby applications are reviewed by an independent/objective review panel and

*Source: <http://www.knownet.hhs.gov/grants/orientDR/glossary.htm>*

evaluated against established review criteria and scored and rated accordingly. As a result, usually the applications with the highest scores and rating receive grants.

**Complementary Funding** - Separate funding by two or more awarding agencies of individual projects or activities that relate to each other.

**Completion Date** - The date on which all work under an award is completed or the date on the award document, or any supplement or amendments thereto, on which Federal sponsorship ends (i.e. the end of a project period).

**Conflict of Interest** - Any action by a reviewer in the grants review or awarding process which would affect, or could appear to affect, the reviewer's financial interest, or would cause the reviewer's impartiality in the grants process to be questioned. Specific situations include, but are not limited to, the following: a reviewer may not participate in the review or award of a specific grant application in which any of the following has a financial interest: (1) the reviewer, the reviewer's spouse, parent, child, or partner; (2) any organization in which the reviewer, the reviewer's spouse, parent, child, or partner serves as officer, director, trustee, partner or is otherwise similarly associated; (3) any organization in which the reviewer, the reviewer's spouse, parent, child, or partner is negotiating for or has an arrangement concerning prospective employment or other similar association; or (4) any organization in which the reviewer, the reviewer's spouse, parent, child, or partner has an interest with respect to any pending grant application competing under the same program as any other grant application to be reviewed by the same committee or group of field researchers.

**Consortium Grant** - A grant to one institution in support of a project in which any programmatic activity is carried out through a collaborative arrangement between or among the recipient institution and one or more other institutions or organizations which are separate legal entities, administratively independent of the recipient. The involvement of the non-recipient (collaborating) institutions is that of actually performing a portion of the programmatic activity.

**Construction** - A project, supported through a discretionary grant or a Cooperative agreement, to support the initial building or large scale modernization or permanent improvement of a facility.

**Consultant** - A person who is engaged to give professional advice or services for a fee, but is not acting as an employee. The term includes paid guest speakers.

**Contract** - An award instrument used for the acquisition, by purchase, lease, or barter, of property or services. | |

**Cooperative Agreement** - An award instrument of financial assistance where "substantial involvement" is anticipated between the HHS awarding agency and the recipient during performance of the contemplated project or activity. "Substantial involvement" means that the recipient can expect Federal programmatic collaboration or participation in managing the award.

**Cost Allocation Plan** - Any of the following may, subject to approval, be considered cost allocation plans for recipients that are governmental units (i.e., State or local governments or Indian Tribal governments):

(1) "Central service cost allocation plan" means the documentation identifying, accumulating, and allocating or billing the allowable costs of services provided by a governmental unit on a centralized basis to its departments/agencies as described in OMB Circular A-87.

(2) "Public assistance cost allocation plan" means the documentation identifying, accumulating, and distributing the allowable costs of services provided by a public assistance agency/department in support of all Federal financial assistance programs administered or supervised by that agency/department as described in OMB Circular A-87.

(3) "Indirect cost rate proposal" means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate as described in OMB Circular A-87.

**Cost Analysis** - The breakdown and verification of cost data, including evaluating specific elements of costs and examining them to determine the necessity, reasonableness, and allocability of the costs reflected in the budget and their allowability pursuant to the applicable cost principles.

**Cost Center** - An identifiable department or area within a recipient's organization that has been assigned an account number in the recipient's accounting system for the purpose of accumulating costs.

**Cost Objective** - A function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which provision is accumulate those costs.

**Cost Principles** - The principles as set out in applicable statutes, regulations, grantor instructions, Office of Management and Budget Circulars and generally accepted accounting rules used for determining allowability, reasonableness and allocability of costs applicable to grants, contracts and other agreements.

**Cost Sharing or Matching** - The value of allowable third party in-kind contributions and the allowable costs of a federally assisted project or program not borne by the Federal Government.

**Cost Sharing or Matching Alternative** – An alternative use of program income whereby income accrued during the period of grant support may be used to satisfy a cost sharing or matching requirement. (See "additive Alternative" and "deductive Alternative.")

**Cost-type Contract** - A contract in which the contractor or subcontractor is paid on the basis of the allowable costs it incurs, with or without a fee.

**Currently Effective Research Patient Care Rate** - The rate established by a hospital for use in reimbursing hospital costs for research patient care.

**Currently Effective Indirect Cost Rate** - The rate authorized by the cognizant Federal agency for reimbursing indirect costs under HHS grants.

**Debarment and Suspension under Executive Orders 12549 and 12689** - The actions taken by a debarring official in accordance with Federal agency regulations implementing Executive Orders 12549 -- in HHS, Title 45 CFR Part 76 "Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)" -- to exclude a person or organization from participating in grants and other assistance awards. If debarred or suspended, the person or organization may not receive assistance funds (under a grant, cooperative agreement, or subgrant) for a specified period of time. Suspensions are temporary actions (no more than 18 months) preparatory to debarment, when immediate action is needed to protect the Government's interest. Debarments are generally three years in duration. Debarments and suspensions carried out under the Executive Orders are separate actions from suspension imposed by an awarding agency. (See "Suspension.")

**Debt Collection** - The process of collecting funds owed by recipients to the Federal Government generally as a result of formal disallowances taken by an authorized official of the awarding agency.

**Debt Instrument** - A document used to record a legal obligation of one party to pay a financial obligation to another in accordance with predetermined terms and conditions.

**Deductive Alternative** - One of the three alternatives for the use of program income which offsets allowable costs of the project or program. If there is a cost-sharing or matching requirement, costs borne by the income may not count toward satisfying that requirement. (See "Additive Alternative" and "Cost Sharing or Matching Alternative. ")

**Deferral** - For certain mandatory grants, a temporary suspension of payment on public assistance grants by HHS pending receipt of additional information relating to allowability of a recipient's cost. For discretionary grants, the term may indicate that applications are approved but not funded or held for a later review cycle.

**Delinquent Federal Debt** - Regarding assistance awards, any Federal debt for which the applicant has not made payment in a timely manner.

**Demonstration Project** - A project, supported through a grant or a cooperative agreement, generally to establish or demonstrate the feasibility of new methods or new types of services.

**Denial of Refunding** - A denial of a noncompeting continuation award under the project period system of funding. (See "Withholding of Support.")

**Departmental Appeals Board** - The administrative board responsible for final Departmental resolution of certain disputes arising under HHS assistance programs. The Board provides an impartial adjudicatory hearing process for appealing certain final written decisions which adversely affect a recipient. Its jurisdiction is specified in 45 CFR Part 16, "Procedures for HHS Grant Appeals Board."

**Deviation or Exception** - A departure from a regulatory or policy requirement. With respect to defining a class deviation versus an individual deviation, an individual deviation represents a deviation being sought for one grant only that arises on a case-by-case basis. A class deviation involves more than one grant for which the same type of deviation action is being requested.

**Direct Costs** - Those costs that can be specifically identified with a particular project, program, or activity.

**Disallowance Letter** - The formal letter issued to a recipient by an authorized official advising of specific costs that have been determined to be unallowable. Where appropriate, the letter also informs the recipient of its appeal rights.

**Disallowed Cost or Disallowance** - A charge to a grant that the Federal awarding agency determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

**Discretionary Grant** - A grant that permits the Federal Government, according to specific authorizing legislation, to exercise judgment ("discretion") in selecting the applicant/recipient organization, through a competitive grant process. Types of activities commonly supported by discretionary grants include demonstration, research, training, service, and construction projects or programs. Discretionary grants are sometimes referred to as "project grants."

**Document Number or Obligation Document Number** - The number of an initial obligation document to which all follow-up documents (payments, refunds, etc.) will be related by the accounting system.

**Eligibility** - The status an entity must possess in order to be considered for a grant.

**Employer Identification Number** (EIN) - (1) for individuals, the social security number; (2) for organizations, the unique number assigned by the Internal Revenue Service.

**Entitlement or Open-ended Grant** - A type of mandatory grant where there is no upper limit on the amount of funds the Federal Government will pay for allowable services and activities. Open-ended grants are often referred to as "open-ended entitlement grants" because the Federal Government pays a statutorily-required share of costs without dollar limits. The principal entitlement grants of the Social Security Act of 1935 (42 U.S.C. 301 et seq.) are: (1) Child

Support Enforcement and Establishment of Paternity (Title IV-D of the Act); (2) Foster Care and Adoption Assistance (Title IV-E of the Act); and, (3) Medical Assistance (Medicaid) (Title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B).

**Equipment** - The tangible nonexpendable personal property (including exempt property) charged directly to an award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

**Estimate Report** - In the public assistance programs, States report a quarterly estimate of their anticipated expenditures for the next period. Quarterly awards are based on these estimates, plus various adjustments. States also submit budget projections for future years, which are used for Federal budget formulation.

**Excess Property** - The property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

**Executive Order** - An order issued by the President of the United States which has the full force and effect of law on the Executive Branch of the Federal Government.

**Executive Order 12372** (Intergovernmental Review of Federal Programs) - The process under which State and local officials review certain proposed Federal financial assistance (usually in the form of grant applications). The objectives of the process are to increase State flexibility to design a consultation process and select the programs it wishes to review, increase the ability of State and local elected officials to influence Federal decisions, and compel Federal officials to be more responsive to State concerns. For those states that participate in the process, a single State official or organization is designated for coordination of the review process and to send official State process comments and recommendations to Federal agencies. These State officials or organizations are referred to as State Single Points of Contact (SPOCs). (45 CFR Part 1.00, "Intergovernmental Review of Department of Health and Human Services Programs and Activities," is HHS's implementation of the Executive Order.)

**Exempt Property** - The tangible personal property acquired, in whole or part, with Federal funds, where the awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government.

**Expanded Authorities** - The waiver for certain recipient actions which otherwise require awarding office prior approval and the provision of additional authorities for carryover of unobligated balances, extension of budget/project period, preaward costs, and use of program income provided to certain research grants.

**Expenditure Report** - (1) for nonconstruction grants, the Financial Status Report; (2) for construction grants, the Outlay Report and Request for Reimbursement for Construction Programs; and (3) all other OMB-approved program-specific expenditure reports.

**Extension** - The extension of a project period.

**External Implementation** - An awarding agency issuance which applies GPD, or other grant-related policies, directly to recipients.

**Fair Market Value** - The price that a prudent person would pay for property, services, or other assets at a particular time under free market conditions in the conduct of competitive business.

**Federal Acquisition Regulation (FAR)** - The codification of uniform policies and procedures for acquisition by all executive agencies of the Federal Government except those statutorily exempted. (48 CFR Chapter 1.)

**Federal Cash Transaction Report** - A standard form, PMS 272, used to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

**Federal Demonstration Partnership (FDP)** - A formal collaboration of Federal research agencies and research institutions to increase the productivity and reduce the administrative burden of federally supported research and education. The FDP currently consists of 65 research institutions, 14 Federal agencies and 5 affiliates.

**Federal Financial Participation (FFP)** - The Federal share of some mandatory grants under which the awarding agency is required to pay a specified percent of the program costs.

**Federal Funds Authorized** - The total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of recipient unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

**Federal Grant and Cooperative Agreement Act of 1977** - The Act (31 U.S.C. 6301 et seq.) which establishes guidelines for distinguishing Federal assistance relationships from Federal procurement relationships. It clarifies the difference between acquisition and assistance and requires the use of grants or cooperative agreements for the provision of general financial assistance whereas contracts are used to acquire goods or services for the direct benefit and use of the government.

**Federal Medical Assistance Percentage (FMAP)** - The percentage of a State's Medicaid expenditures, other than administrative and selected other items of cost, which the Federal Government will pay. The percentage varies by State in accordance with a statutory formula.

**Federal Share** - The amount, generally expressed as a percentage of total project costs, of financial, property, or other direct assistance provided by the Government to an eligible recipient to accomplish a public purpose of support or stimulation authorized by statute. The Federal and non-Federal share are so noted on the Notice of Grant Award.

**Federally-recognized Indian Tribal Government** - The governing body of any Indian tribe, band, nation, or other organized group or community including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.)] certified

by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

**Field Reader** - A person selected to review grant applications during a competitive review process. Field readers may function the same as independent review group members except that they do not meet to discuss applications and their evaluations are submitted by mail.

**Final Indirect Cost Rate** - A permanent rate established after the actual direct costs for a given fiscal year of the organization are known and the actual amount of indirect costs applicable to Federally-sponsored programs have been determined. This type of rate is not subject to subsequent adjustment.

**Final Research Patient Care Rate** - A permanent rate established for hospitals after the actual costs and charges of a given fiscal year of the hospital are known. Final rates are not subject to subsequent adjustment.

**Financial Status Report (FSR)** - A standard, Federal Government form, SF-269 (long form) or SF-269A (short form), used to monitor the financial progress of the grant and show the status of funds in non-construction programs. Both forms provide data by grant budget period and contain information on total outlays (Federal and recipient shares) and unobligated recipient balances. The long form is used for grants that involve cost sharing/matching or program income. The short form may be authorized for use in grants that do not have these types of financial activity.

**Fixed Indirect Cost Rate** - A permanent rate that has the same characteristics as a predetermined rate. However, unlike a predetermined rate, the difference between the estimated costs used to establish the fixed rate, and the actual costs of the period covered by the rate, is "carried forward" as an adjustment to the rate computation of a subsequent period.

**Flow Down/Flow Thru Provisions** - The rules governing whether, and how, grant terms apply to subgrants.

**Foreign Institution** - An institution located in a country other than the United States and its territories that is subject to the laws of that country, irrespective of the citizenship of the proposed investigator.

**Funding Period** - The period of time when Federal funding is available for obligation by the recipient.

**Government** - A State or local government or Federally-recognized Indian tribal government or any subdivision thereof. The term does not include institutions of higher education and hospitals.

**Grant** - Financial assistance (including cooperative agreements) in the form of money, or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: any Federal procurement subject to the Federal Acquisition Regulation (FAR); technical assistance (which provides services instead of money); or assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct payments of any kind to individuals.

**Grant-Approved Project/Activities** - Those activities specified or described in a grant application, plan, or other document that are approved by the HHS awarding office for funding, or changes which may be proposed by the grantee and subsequently approved by the HHS awarding office Grants Officer. For purposes of this definition, it does not matter whether Federal funding constitutes all or only a portion of the financial support necessary to carry out such activities.

**Grant File** - The official file of a particular grant that contains all significant documents and correspondence related to the award.

**Grantee** - See "[Recipient](#)."

**Grants Administration Manual (GAM)** - The HHS internal manual setting forth guidance and administrative requirements and procedures for managing grants and cooperative agreements awarded by agencies of the Department. It is being replaced, over time, by Departmental Grants Policy Directives. Eventually, only the OPDIVs that make awards will maintain their own GAM(s).

**Grants Management Officer (GMO)/Grants Officer** - The individual designated to serve as the HHS official responsible for the business management aspects of a particular grant(s) or cooperative agreements. The GMO serves as the counterpart to the business officer of the recipient organization. In this capacity, the GMO is responsible for all business management matters associated with the review, negotiation, award, and administration of grants and interprets grants administration policies and provisions. He/she works closely with the program or project officer who is responsible for the scientific, technical, and programmatic aspects of the grant.

**Grants Management Specialist** - A Federal staff member who oversees the business and other non-programmatic aspects of one or more grants and/or cooperative agreements. These activities include, but are not limited to, evaluating grant applications for administrative content and compliance with regulations and guidelines, negotiating grants, providing consultation and technical assistance to recipients, post-award administration and closing out grants.

**Grants Policy Directives (GPDS)** - The primary source of Departmental policies affecting all HHS assistance programs. GPDs are the highest level of internal policy issuance within the Department and are issued solely as an instrument of internal grants management guidance for HHS staff. GPDs will eventually replace the HHS Grants Administration Manual (GAM).

**Guaranteed/insured Loans** - Those programs under which the Federal Government arranges to indemnify a lender against part or all of any defaults by those responsible for repayment of loans.

**HCFA** - Health Care Financing Administration.

**Health and Human Services Acquisition Regulation (HHSAR)** - The Department's codification of uniform acquisition policies and procedures that implements and supplements the Federal Acquisition Regulation (FAR). (48 CFR Chapter 3.)

**Health Scientist Administrator (HSA)** - In PHS, the awarding office official who is responsible for the technical, scientific, or programmatic aspects of a grant. This official may also be referred to as the program officer or project officer. Such individuals deal with recipient organization staff to assure programmatic progress and work closely with the Grants Management Officer and the grants management staff in the overall administration of grants.

**HHS** - The U.S. Department of Health and Human Services.

**High-risk or At-risk** - terms used to describe a recipient whose risk of financial failure is determined to be high based on a history of poor performance or poor business practices, financial instability, or lack of a management system that meets the required financial management standards.

**Hospital Cost Principles** - The HHS regulation (45 CFR, Part 74, Appendix E, "Principles For Determining Costs Applicable to Research and Development Under Grants and Contracts With Hospitals") establishing the cost principles for allowability of costs incurred by hospitals.

**Human Subjects** - Individuals whose physiologic or behavioral characteristics and responses are the object of study in a research project. Under federal regulations, human subjects are defined as living individuals about whom an investigator conducting research obtains data through intervention or interaction with the individuals or identifiable private information. The human subjects rules do not apply to research and demonstration projects involving programs, such as demonstrations under Section 1115 of the Social Security Act. (45 CFR Part 46 is HHS's implementation of statutory requirements concerning the protection of human subjects.)

**Incremental Funding** - The process by which an awarding agency funds multi-year projects in budget periods. For example, a three-year project would normally be funded in three budget periods.

**Independent Auditor** - An individual accountant, accounting firm, public or private agency, association, corporation, or partnership sufficiently independent of the recipient being audited to render objective and unbiased opinions, conclusions, and judgments.

**Independent or Objective Review** - An advisory competitive review of discretionary grant applications usually conducted by peer/expert review groups.

**Indian-owned business** - A business which is, at a minimum, 51 percent owned, controlled, and operated by an Indian or Indians.

**Indirect Costs** - Those costs that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, program, or activity but are nevertheless necessary to the operations of the organization. For example, the costs of operating and maintaining facilities, depreciation, and administrative salaries are generally treated as indirect costs. (Note: for institutions subject to OMB Circular A-21, the term "facilities and administration" is used to denote indirect costs.)

**Indirect Cost Base** - The accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) that are used to distribute indirect costs to individual Federal grant awards and programs.

**Indirect Cost Pool** - The accumulated costs that jointly benefit two or more programs or other cost objectives.

**Indirect Cost Proposal** - The documentation prepared by a recipient to substantiate its claim for the reimbursement of indirect costs. This proposal provides the basis for review, audit, and negotiation leading to the establishment of the organization's indirect cost rate(s).

**Indirect Cost Rate** - The ratio, expressed as a percentage, of an organization's total indirect costs to its direct cost base (commonly direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures). When a rate is established for a specific activity or program, the rate represents the ratio of the total indirect costs allocated to the activity or program to the direct base costs of the activity or program. (See "Indirect Cost Base.")

**Indirect Cost Rate Agreement** - The document that formalizes the establishment of indirect cost rates and provides information on the proper application of the rates.

**Initial Review Group (IRG)** - In PHS, a group composed of primarily non-Federal scientific experts who conduct the initial scientific and technical merit review of grant applications.

**Institutional Review Board (IRB)** - A recipient administrative body established to protect the rights and welfare of human research subjects recruited to participate in research activities conducted under the auspices of the institution with which it is affiliated. The IRB has the authority to approve, require modifications in, or disapprove all research activities that fall within its jurisdiction.

**Intangible Property and Debt Instruments** - Trademarks, copyrights, patents and patent applications (except for a subject invention, as the term is used in 37 CFR Part 401, "Rights to Inventions Made by Non-Profit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements") and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

**Internal Implementation** - Any awarding agency issuance (including its GAM) which establishes the procedures) for agency staff to implement Grants Policy Directives (GPDs), or other grants-related policies within the awarding agency.

**International Organization** - An organization identifying itself as international or intergovernmental, with membership from (and representing the interests of) more than one country, without regard to whether the headquarters of the organization or location of its activity are inside or outside the United States.

**Invention** - Any discovery which is or may be patentable or otherwise protectable. The term "subject invention" means any invention of an awardee conceived or first actually reduced to

practice in the performance of work under a funding agreement, i.e., contract, grant, or cooperative agreement.

**Invention Reporting** - The requirement that recipients of contracts, grants or cooperative agreements fully disclose any subject inventions made during the performance of work under a funding agreement in order to protect the Government's rights.

**Lists of Parties Excluded from Federal Procurement or Nonprocurement** - The GSA monthly debarment and suspension book. It contains one list for procurement and another for nonprocurement. (see "Debarment and Suspension.")

**Local Government** - A county, municipality, city, town, township, local public authority (including any public and Indian housing agency), school district, special district, intra-State district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity (such as regional planning agencies), or any agency or instrumentality of a local government. The term does not include institutions of higher education and hospitals.

**Low-cost Extension** - An extension of time to a project period and/or budget period to complete the work under a grant, with minimal amount of further Federal support.

**Maintenance of Effort** - A requirement contained in authorizing legislation, regulation, or administrative policy stating that in order to receive Federal grant funds a recipient must agree to contribute and maintain a specified level of financial effort for the grant from its own resources or other non-Federal sources. This requirement is usually given in terms of meeting a previous base-year dollar amount.

**Mandatory Grant** - A grant that a Federal agency is required by statute to award if the recipient (usually a State) submits an acceptable State Plan or application and meets the eligibility and compliance requirements of the statutory and regulatory provisions of the grant program. Mandatory grants include open-ended entitlement grants, closed-ended grants, and block grants. In the past, mandatory grants were sometimes referred to as "formula grants."

**Material Equity Lease** - A lease under which the lessee acquires a material equity in the leased property. A material equity in the property exists if the lease is noncancelable, or is cancelable only upon the occurrence of some remote contingency, and has one or more of the following characteristics: (1) the lessee has the right to purchase the property for a price which at the beginning of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option.) (2) title to the property passes to the lessee during or after the lease period. (3) the term of the lease (initial term plus periods covered by bargain renewal options, if any) is equal to 75 percent or more of the economic life of the property and is expected to be economically usable by one or more users. Material equity leases are also referred to as "capital leases."

**Minority Business Enterprise** - A business, at least 51 percent of which is owned, controlled, and managed by a minority group member or members who are U.S. citizens.

**Misconduct in Science** - Fabrication, falsification, plagiarism, or other practices in carrying out research or in proposing, conducting, or reporting research that seriously deviates from those that are commonly accepted within the scientific community. It does not include honest error or honest differences in interpretations or judgments of data.

**Monitoring** - A process whereby the programmatic and business management performance aspects of a grant are reviewed by collecting and assessing information from reports, audits, site visits, and other sources.

**National Advisory Council/Board** - An administrative body in PHS which may be composed of both scientists and lay members, which has a broader responsibility than initial review groups. As authorities knowledgeable in specific areas, Council/Board members may perform the final advisory review of grant applications and also offer advice and make recommendations on matters of significance to the policies, missions, and goals of the awarding unit they advise.

**No-cost Extension** - An extension of time to a project period and/or budget period to complete the work of the grant under that period, without additional Federal funds or competition.

**Noncompeting Application** - Those applications which will be reviewed noncompetitively, rather than through the usual competitive review process.

**Noncompeting Continuation Award** - A financial assistance award for a subsequent budget period within a previously approved project period for which a recipient does not have to compete with other applicants.

**Nongovernmental Organization** - A public or private institution of higher education; a public or private hospital; an Indian tribe or Indian tribal organization which is not a Federally-recognized Indian tribal government; and a quasi-public or private nonprofit organization or commercial organization. The term does not include a State or local government, a Federally recognized Indian Tribal Government, an individual, a Federal agency, a foreign or international governmental organization (such as an agency of the United Nations), or a government-owned contractor-operated facility or research center providing continued support for mission oriented large scale programs that are government-owned or controlled or are developed as a Federally Funded Research and Development Center under Office of Federal Procurement Policy letter 84-1.

**Non-Federal Share** - The portion of allowable project costs not borne by the Federal Government.

**Non-monetary Assistance** - A type of assistance whereby goods or services are provided to recipients in lieu of cash. Non-monetary assistance generally involves the assignment of Federal personnel or the provision of equipment or supplies such as vaccines and generally requires specific legal authority.

**Nonprofit Organization** - A corporation or association whose profits may not lawfully accrue to the benefit of any private shareholder or individual.

**Non-standard Agreement** - Agreements used by Federal agencies and managed in a way similar to grants. These may include memoranda of understanding with foreign governments, States, and other entities; reimbursable agreements; trust agreements; and interagency agreements.

**Notice of Grant Award (NGA)** - The official award document, signed by the Grants Management Officer, or his or her delegate, that: (1) notifies the recipient of the award of a grant; (2) contains or references all the terms and conditions of the grant and Federal funding limits and obligations; and, (3) provides the documentary basis for recording the obligation of Federal funds in the Department's accounting system.

**Obligations by Recipients** - The amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a funding period that will require payment during the same or a future period.

**OIG** - Office of the Inspector General.

**OIG Clearance Document (OCD)** - An Office of Inspector General Clearance Document (OCD) is the means by which OPDIV officials report the management decisions and actions taken on recommendations in Office of Inspector General (OIG) reports. OCDs are used as the source document by the Office of Audit Services, OIG, to clear the report recommendations from the Stewardship Report. The OCD is used to process OIG recommendations pertaining to financial adjustments, nonmonetary or procedural issues, the final disposition of accounts receivable, and funds put to better use. The original OCD is generally prepared to report the management decisions taken on all OIG recommendations, including any monetary recoveries to be made, during the initial six month period. The final OCD is used to report the final management action on an account receivable, i.e., final collection, offset against other obligated funds or write-off.

**OMB** - The United States Office of Management and Budget.

**OMB Circular A-21** - The OMB Circular establishing the cost principles for allowability of costs incurred by institutions of higher education under Federally-sponsored agreements.

**OMB Circular A-87** - The OMB Circular establishing the cost principles for allowability of costs incurred by State, local and Federally-recognized Indian tribal governments under Federally-sponsored agreements.

**OMB Circular A-102** - The OMB Circular establishing the administrative standards for grants (except for some block grants and entitlement grants) and cooperative agreements to State and local governments and Federally-recognized Indian tribal governments.

**OMB Circular A-110** - The OMB Circular establishing the administrative standards for grants and cooperative agreements to nongovernmental organizations.

**OMB Circular A-122** - The OMB Circular establishing the cost principles for allowability of costs incurred by nonprofit organizations under Federally-sponsored agreements, except institutions of higher education subject to Circular A-21 and hospitals which are covered under 45 CFR Part 74, Appendix E, "Principles For Determining Costs Applicable to Research and Development Under Grants and Contracts With Hospitals." Note that the allowability of costs incurred by commercial organizations is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR), Part 31.

**OMB Circular A-133** - The OMB Circular establishing audit requirements for States, Local Governments, Indian Tribes and non-profit organizations.

**Operating Division (OPDIV)** - As used in the GPD system, the term Operating Division means the Administration for Children and Families, the Administration on Aging, the Agency for Health Care Policy Research, the Centers for Disease Control and Prevention, the Food and Drug Administration, the Health Care and Financing Administration, the Health Resources and Services Administration, the Indian Health Service, the National Institutes on Health, the Substance Abuse and Mental Health Services Administration, the Program Support Center, and other awarding agencies of the Department such as the Office of Population Affairs, the Office of Minority Health, the Office of the Inspector General; and the Office of the Assistant Secretary for Planning and Evaluation.

**Outlays or Expenditures** - The charges made to the Federally-sponsored project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subrecipients. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for the goods and other property received, for services performed by employees, contractors, subrecipients, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

**Patent** - A property right awarded by the Government whereby the Government grants the right to exclude others from making, using or selling the invention for a period of years.

**Payment Management System (PMS)** - The HHS centralized grants payment system. Most HHS, and some other Federal Government agencies' recipients are paid through this system.

**Peer Review** - A form of independent review utilizing reviewers who are the professional equivalents of the applicant's Project Direct or Principal Investigator.

**Percentage of Completion Method** - A system under which payments are made for construction work according to the percentage of completion of the work, rather than for the recipient's incurred cost.

**PHS** - Public Health Service.

**Pre-application** - A Statement, in summary form, of the applicant's intent to request Federal funds. It is used to determine: (1) the applicant's eligibility; (2) the standing of the proposed project compared to similar applications; and (3) those applications with little or no chance for Federal funding, before applicants incur significant expenditures for preparing an application. Pre-applications are required for all construction projects for which proposed Federal funding exceeds \$1 million. Pre-applications may be required for other assistance programs as well, at the option of the HHS awarding office.

**Preaward Cost** - The cost incurred prior to the effective date of the award and in anticipation of the award, where incurrence is necessary to comply with the proposed delivery schedule or period of performance.

**Predetermined Indirect Cost Rate** - An indirect cost rate, applicable to a specified current or future period, usually the recipient's fiscal year. This rate is based on an estimate of the costs to be incurred during the period. Except under very unusual circumstances, a predetermined rate is not subject to adjustment.

**Predetermined Research Patient Care Rates** - A permanent rate for research patient care established for a future period based on an estimate of the costs and charges of that period. Except under very unusual circumstances, this type of rate is not subject to subsequent adjustment.

**Principal** - An officer, director, owner, partner, key employee, or other person within a recipient organization with primary management or supervisory responsibilities; or a person who has a critical influence on or substantive control over a covered transaction, whether or not employed by the recipient organization. Persons who have a critical influence on or substantive control over a covered transaction are: (1) Project Director/Principal Investigator/Program Director; and (2) Researchers.

**Prior Approval** - The written permission provided by the authorized granting official from the HHS awarding office before the recipient may undertake certain activities (such as performance or modification of an activity), expend funds, or exceed a certain dollar level.

**Program Announcement** - An awarding agency's formal published announcement of the availability of Federal funding through one of its assistance programs. The announcement invites applications and provides such information as eligibility and evaluation criteria, funding preferences/priorities, how to obtain application kits, and the submission deadline.

**Program Income** - Regarding assistance relationships, the gross income received by the recipient and/or sub-recipient that was directly generated by the supported activity, or earned as a

result of the award. Program income includes (but is not limited to) income from fees for services performed, the use or rental of real or personal property acquired under the grant, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and payments of interest on loans made with grant funds. Except as otherwise provided in statute, regulation, or the terms and conditions of the award, program income does not include interest earned on advances of grant or subgrant funds, or rebates, credits, discounts, refunds, etc., or interest earned on any of them.

**Program Information File** - A file containing all general information affecting the assistance program.

**Program Official/Project Officer** - The individual designated as the official responsible for the programmatic, scientific, and/or technical aspects of HHS programs. He/she serves as the counterpart to the Department's Grants Management Officer who is responsible for all business management aspects of a grant.

**Progress or Performance Report** - A recipient report which contains for each grant information on the comparison of actual accomplishments to objectives established for the period. In addition, where the output of the project can be quantified, a computation of the cost per unit of output may be required.

**Project Costs** - The total allowable costs incurred by a recipient (and the value of the in-kind contributions made by third parties) in accomplishing the objectives of the award during the project period.

**Project Director/Principal Investigator/Program Director** - An individual designated by the recipient to direct the project or program being supported by a grant. He/she is responsible and accountable to officials of the recipient organization for the proper conduct of the project, program, or activity.

**Project Period** - The total time stated in the Notice of Grant Award (including any amendments) for which Federal support is recommended. The period will consist of one or more budget periods. It does not constitute a commitment by the Federal Government to fund the entire period.

**Property** - The term, unless otherwise stated, includes real property, equipment, intangible property and debt instruments.

**Provisional Indirect Cost Rate** - A temporary rate established for a given period to permit interim reimbursement of indirect costs pending the establishment of a permanent rate for the period. When a permanent rate is established, the indirect costs reimbursed based on the provisional rate are adjusted upward or downward to reflect the costs based on the permanent rate.

**Provisional Research Patient Care Rate** - A temporary rate established for a given period to permit funding and reporting of research patient care costs pending the establishment of permanent rates for the period. When permanent rates are established, the research patient care

costs reimbursed on each grant based on the provisional rates are subject to adjustment to reflect the costs based on the permanent rates.

**Real Property** - Land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

**Reasonable Cost** - A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

**Recipient or Grantee** - The entity receiving financial assistance directly, in the form of a grant or cooperative agreement, from a Federal agency to carry out a project or program. Although grant funding and benefits may be limited to a particular site or component of a larger entity, the entire legal entity that received the award is legally responsible for carrying out a program or project, even if the grant award document refers only to the particular site or component.

**Reconversion Cost** - The cost incurred in the restoration or rehabilitation of a recipient's facilities to approximately the same condition existing immediately prior to commencement of a sponsored agreement, fair wear and tear excepted.

**Reimbursement** - A payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request after cash disbursements are made by the recipient. Most reimbursement payments are processed through the Payment Management System (PMS), the Department's centralized grants payment system. Reimbursement payments occur less frequently than advance payments. Reimbursement financing is generally used in the following circumstances: for specific designated programs such as construction; when a recipient has been determined to be "high-risk"; or when a recipient elects to be financed on a reimbursement as opposed to an advance method of payment.

**Replacement Equipment** - The property acquired to take the place of other equipment. To qualify as replacement equipment, it must serve the same function as the equipment replaced and must be of the same nature or character, although not necessarily the same model, grade, or quality.

**Replacement Recipient** - An organization which assumes responsibility, upon approval of the awarding agency, for an existing financial assistance award. In order for there to be a replacement recipient, the bona fide need for the project must continue, the purpose of the grant from the government's perspective must be the same, and the revised grant must have the same scope. An example of a replacement grant would be when a principal investigator transfers to a new organization and the original recipient relinquishes the grant to that organization.

**Research and Development (R&D)** - All research activities, both basic and applied, and all development activities that are supported at universities and other institutions. "Research" is the systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from

research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

**Research Patient Care** - Routine and ancillary services provided by hospitals to patients participating in research programs. The costs of these services are normally assigned to individual research projects through the development and application of research patient care rates or amounts (collectively referred to as "rates").

**Research Patient Care Cost Agreement** - The document that formalizes the establishment of research patient care rates and provides information on the proper application of the rates.

**Research Patient Care Cost Proposal** - The documentation submitted by a hospital to substantiate its claim for the reimbursement of research patient care costs. This proposal provides the basis for review, negotiation, and audit leading to the establishment of the hospital's research patient care rates.

**Reversionary Interest** - The interest of the Government in real property acquired with Federal grant funds. To protect that interest, real property acquired with grant funds may not be conveyed, transferred, assigned, mortgaged, leased or in any other manner encumbered by the recipient, except as expressly authorized in writing by the awarding component.

**Small Business Concern** - A business, including its affiliates, which is independently-owned and operated, is not dominant in the field of operation, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration (Title 13 CFR 121, "Small Business Concern").

**SMARTLINK II** - An Electronic Funds Transfer (EFT) payment system which allows a recipient organization using a Personal Computer (PC) with a modem to dial directly into the Payment Management System (the Department's centralized payments system) and request Federal cash on its assistance programs as frequently as disbursements (outlays) are made. The cash is then electronically direct deposited into the recipient organization's account the next business day. SMARTLINK II can be used by any recipient organization that has a PC with a modem.

**Sole Source Award** - A new award, neither urgent nor unsolicited, which is not competed.

**Special-purpose Equipment** - That equipment which is only usable for research, medical, scientific, or other technical activities. This includes such items as microscopes, X-ray machines, and surgical instruments. The governing criterion for distinguishing general-purpose equipment from special purpose equipment is the potential use of the equipment, not its actual use. General-purpose equipment does not become special-purpose equipment merely because it is used only on research, medical, scientific or other technical activities, or because it is used in a scientific or technical location or environment.

**State** - Although the definition may vary in different statutes, generally it means any of the States of the United States, the District of Columbia, any commonwealth, territory or possession of the

United States, or any agency or instrumentality of a State exclusive of institutions of higher education, hospitals and units of local government.

**State Plan** - A plan submitted to a Federal agency which describes the proposed uses of Federal funds and assures compliance with pertinent statutory and regulatory requirements. A State plan generally is applicable to mandatory grant programs.

**State Public Assistance Agency** - The State agency administering or supervising the administration of the public assistance programs operated by the State.

**Stewardship** - The management of assistance programs to be exercised by Federal officials. Grants management officials oversee the process of evaluating and awarding grants and actively participate in the management of grants to ensure that funding is properly and prudently utilized, that all applicable laws and regulations are followed, and that the mission of the sponsor is furthered.

**Stipend** - A payment made to an individual under a fellowship or training grant in accordance with preestablished levels to provide for the individual's living expenses during the period of training.

**Subdivision by Programmatic Segment** - Some grants and subgrants encompass two or more programmatic segments (such as discrete programs, projects, functions, or types of activities). In these cases, the awarding party may require that the approved budget be subdivided to show the anticipated cost of each programmatic segment.

**Subgrant** - Financial assistance in the form of money, or property in lieu of money, made by a recipient to an eligible subrecipient using Federal funds. The term includes such financial assistance when provided by any legal agreement (even if the agreement is called a contract) but does not include any form of assistance which is excluded from the definition of "grant."

**Supplant** - To replace funding of a recipient's existing program with funds from a Federal grant, usually a mandatory grant. Mandatory grant statutes and regulations frequently prohibit this practice.

**Supplemental Application** - A request for an increase in support during a current budget period to expand a project's scope or to meet unforeseen increased costs.

**Supplemental Award** - The award of additional funds to: (1) support new or additional activities which are not identified in the current grant or which significantly expand the project's scope beyond the purpose(s) for which the current grant was awarded; (2) support an expansion of the grant approved activities; or (3) provide for an increase in costs due to unforeseen circumstances.

**Supplies** - All personal property excluding equipment, intangible property, debt instruments, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject inventions"), as defined in 37 CFR Part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements. "

**Surplus Property** - That property no longer needed by the Federal Government, declared surplus by the United States General Services Administration, and available for donation for authorized purposes.

**Suspension** - An action by a Federal awarding agency that temporarily suspends Federal financial assistance under an award, pending corrective action by the recipient or pending a decision to terminate the award by the awarding office. Suspension of an award is a separate action from suspension under agency regulations implementing Executive Order 12549, "Debarment and Suspension," found in Title 45 CFR Part 76.

**Termination** - The permanent cancellation of the recipient's authority to obligate all or part of the funds which have been awarded to it. It also means the recipient's voluntary relinquishment of that authority. Termination is distinct from HHS' refusal to provide additional funds through a non-competing continuation award (denial of refunding/withholding of support).

**Termination Cost** - The cost incurred, or the need for special treatment of costs, which would not have arisen had the agreement not been terminated.

**Terms and Conditions** - All requirements imposed on a recipient by the Federal awarding agency, whether by statute, regulation, or within the grant award document itself. The terms of award may include both standard and special provisions, appearing on each Notice of Grant Award, that are considered necessary to attain the objectives of the grant, facilitate postaward administration of the grant, conserve grant funds, or otherwise protect the Federal Government's interests.

**Third-party In-Kind Contribution** - The value of non-cash contributions directly benefiting a grant-supported project or program that are provided by non-Federal third parties to the recipient, the subrecipient, or a cost-type contractor under the grant or subgrant without charge. In-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and goods and services directly benefiting and specifically identifiable to the project or program.

**Total Project Costs** - The total allowable direct and indirect costs incurred by the recipient to carry out an approved grant supported project or activity, including costs charged to the HHS grant, costs paid by the recipient from non-Federal sources, and the value of third-party in-kind contributions.

**Training Project** - A program supported through a discretionary grant or a cooperative agreement, to support staff training in techniques pertaining to the delivery of certain services (or to the performance of functions necessary to the development of these services).

**Unallowable Cost** - A cost determined to be unallowable in accordance with the applicable Federal cost principles or other terms and conditions contained in a grant award.

**Unliquidated Obligation** - (1) For reports prepared on a cash basis, the amount of obligations incurred by the recipient that has not been paid; and (2) For reports prepared on an accrued

expenditure basis, the amount of obligations incurred by the recipient for which an outlay has not been recorded.

**Unobligated Balance** - The portion of the funds authorized by the Federal agency that has not been obligated by the recipient.

**Unrecovered Indirect Costs** - The difference between the amount awarded and the amount which could have been awarded under the recipient's approved, negotiated indirect cost rate.

**Urgent Application** - An application which cannot be held for the next applicable independent review process because, in order for the objective of the project to be achieved, support must be provided immediately. An urgent application may be unsolicited, in response to a program announcement, or in anticipation of a future announcement. Examples of urgent applications are emergency disaster relief projects and "now-or-never" research projects.

**Urgent Award** - An award of financial assistance for which support must be provided immediately in order for the objective of the project to be achieved.

**Unsolicited Application** - An application received for a project which is not within the scope of any program announcement issued or expected to be issued, but which clearly is within the scope of activities which can be supported by the awarding agency. Such applications must be submitted in writing and solely on the applicant's own initiative, without prior formal or informal solicitation by any Federal Government official.

**Vertebrate Animals** - Any live animal having a backbone or spinal column used or intended for use in research, research training, experimentation or biological testing or for related purposes.

**Waiver** - Authority provided to the Secretary or other designated HHS official to permit certain actions or projects (such as State demonstration projects), or to remove certain specific statutory or regulatory requirements or restrictions.

**Withholding of Payment** - An action taken by an awarding agency, after appropriate administrative procedures have been provided, which delays a recipient's ability to access its grant funds until the recipient takes corrective action required by the awarding agency. This action is generally considered to be less serious than a suspension action.

**Withholding of Support** - A denial of a noncompeting continuation award under the project period system of funding. (See "Denial of Refunding.")

**Woman-owned Business** - A business which is, at least, 51 percent owned, controlled, and operated by a woman or women.