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NOTICE

12/1/82 - copy to each Specialist

REVISED PHS GRANTS POLICY STATEMENT NOW AVAILABLE

The revision of the Public Health Service Grants Policy Statement is now available. The successor to the October 1, 1976 issuance is designated as DHHS Publication No. (OASH) 82-50,000 (Rev.) December 1, 1982. The Public Health Service has sent one free copy to each grantee institution of record addressed to: "Director, Office of Research Program Support." NIH hopes to make some limited additional distribution; however, institutions or individuals desiring additional copies may obtain them for \$5.00 each by writing to:

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In addition to the DHHS Publication Number referenced above, requests should include the GPO Stock No. 017-020-00090-01 to expedite delivery.

Questions of interpretation, clarification, or correction will be provided as necessary in subsequent issuances of this Guide or other official communications.

No FREEBIES!

PREFACE

The Public Health Service (PHS) is the principal health agency of the Federal Government. PHS, which is under the direction of the Assistant Secretary for Health, is comprised of the Office of the Assistant Secretary for Health (OASH) and five major agencies: the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), the Health Resources and Services Administration (HRSA), and the National Institutes of Health (NIH). A description of the primary areas of concern of these organizations is listed below:

OASH provides executive leadership for all programs administered by PHS. Under the direction of the Assistant Secretary for Health, OASH is directly responsible to the Secretary of the Department for the performance of PHS's mission. A grant and cooperative agreement program is administered in OASH by the Office of Adolescent Pregnancy Programs.

ADAMHA is responsible for developing knowledge, manpower and services to prevent mental illness, to treat and rehabilitate the mentally ill, to prevent the abuses of drugs and alcohol, and to treat and rehabilitate drug and alcohol abusers.

CDC is responsible for the national program of prevention and control of communicable and vector-borne diseases and noninfectious conditions, improving laboratory conditions, and assuring safe and healthful working conditions for all working people.

FDA, the Nation's first consumer protection agency, is concerned with research and regulation in such areas as food, drugs, biological products, cosmetics, medical devices, radiation emitting products and substances, poisons, pesticides and food additives.

HRSA provides leadership and direction to programs and activities designed to improve the health services for all citizens and to develop health care and maintenance systems which are adequately financed, comprehensive, interrelated and responsive to the needs of individuals and families in all levels of society.

NIH seeks to improve the Nation's health by increasing knowledge related to health and disease through the conduct and support of research, research training and biomedical communications.

One of the important activities that PHS carries out in pursuit of this mission is that of awarding grants and cooperative agreements in support of efforts that help PHS and the recipients achieve mutually beneficial goals.

PHS administers a diverse array of programs concerned with the whole spectrum of health concerns

reflected in the missions of its several agencies as outlined above. The PHS agencies and offices are responsible for the award, administration and monitoring of these programs under a variety of legislative authorities, governing regulations, policies and procedures utilizing mechanisms ranging from discretionary project grant awards to block grants to States. They administer awards to a wide range of recipients including State and local governments, educational institutions, hospitals, nonprofit organizations and, in certain programs, for-profit organizations.

The administration of these grant and cooperative agreement programs requires adherence not only to the program objectives for which the award was made but also requires that those objectives be accomplished in a businesslike manner. This is particularly important at a time when the costs to recipients and the Federal Government are climbing and Federal spending is being closely watched for its cost effectiveness. For these reasons, recipients of PHS funds must establish sound and effective business management systems to assure that grant funds are properly safeguarded and utilized only for the purposes for which they were awarded. Recipients are expected to exercise the same degree of prudence in the expenditure of Federal funds that they use in expending their own funds.

PHS views its relationship with recipients as a partnership, with the recipient providing the effort and expertise necessary to carry out approved activities and PHS providing financial assistance. In furtherance of its role in this relationship, PHS has established Grants Management Offices in each of its awarding offices to serve as focal points for the business management aspects of grants administration. Questions concerning the interpretation of policies or the applicability of certain policies to particular programs should be directed to the designated PHS Grants Management Officer.

This booklet is intended to provide a common understanding of the framework for the administration of discretionary grants within which PHS staff and responsible recipient officials must operate. The contents of this booklet do not apply to block grant awards to States where there is reliance on State laws, policies and procedures for the administration of those programs. Any questions relating to its preparation or subject matter should be directed to the Grants Management Branch, Office of the Assistant Secretary for Health, U.S. Public Health Service, Rockville, Maryland 20857.

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INTRODUCTION.

The award and administration of financial assistance funds are subject to applicable laws, regulations, and policies. This booklet presents a compilation of the salient features of policies and various policy issues, which have been raised in the past, regarding the administration of PHS grant awards.

Recipients should maintain or have access to copies of documents referred in this booklet to assure themselves of detailed guidance on the subject matter. The information in this booklet is subject to change due to laws, regulations or policies adopted subsequent to the issuance date of this document. To assure that they are aware of any new changes as soon as they are issued and to administer awards effectively, recipients need to have access to the following documents:

Code of Federal Regulations (CFR) (Titles 42 and 45)—Title 42 sets forth PHS programmatic and general administrative grant regulations. Title 45 contains, among other regulations, administrative regulations applicable to virtually all Department of Health and Human Services (HHS) grants and cooperative agreements. These titles are available in booklet form from the U.S. Government Printing Office.

Federal Register—This publication contains proposed and final PHS rules and regulations as well as program announcements and statements of funding priorities. It also included rules and regulations issued by HHS and the Office of Management and Budget that may be pertinent to PHS financial assistance. The *Federal Register* is available on a subscription basis from the U.S. Government Printing Office.

Cooperative Agreements

Public Law 95-224, The Federal Grant and Cooperative Agreement Act of 1977, defines as an alternative assistance instrument, the cooperative agreement, to be used in lieu of a grant whenever substantial Federal involvement with the recipient during performance is anticipated. The difference between grants and cooperative agreements is the degree of Federal

programmatic involvement rather than the type of administrative requirements imposed. Therefore, laws, regulations, and policies and the information contained in this booklet which are applicable to grants are also applicable to recipients of cooperative agreements unless the agreement itself provides otherwise.

Subgrantees and Contractors Under Grants

The information contained in this booklet applies principally to the primary recipient of PHS funds. Where programs have statutory authority to provide financial assistance to subgrantees, the information contained in this booklet would also apply to such subgrantees. This booklet would also apply to cost-type contractors under the grants where stated. A recipient must assure that a contract contains the clauses necessary to ensure that all the requirements under the grant will be satisfied since neither Part 74 nor other documents referred to in this booklet are directly binding on a contractor.

Applicability

Except where PHS has been delegated responsibility to act for all HHS components in certain specific areas, such as the protection of human subjects and institutional cost sharing agreements, the information set forth in this booklet is to provide guidance only to awards made by constituent agencies and regional offices of the Public Health Service and not necessarily to those made by other components of HHS.

This policy statement is not applicable to PHS block grant awards.

Effective Date

This document will supersede the *PHS Grants Policy Statement*, dated October 1, 1976 (HEW Publication No. (OS) 77-50,000 Rev.), and the addenda thereto (HEW Publication No. (OS) 77-50,000A and 77-50,000B). Effective December 1, 1982

GLOSSARY

The following are terms frequently encountered in awarding and administering PHS grants, and used throughout this document. Other policy-specific terms will be defined in the appropriate sections of this booklet.

Application—A request for financial support of a project/activity submitted to PHS on specified forms and in accordance with instructions provided by the PHS awarding office. (See "Types of Application and Support".)

Pre-Application—A statement in summary form of the intent of the applicant to request Federal funds. It is used to determine the applicant's eligibility; determine how well the proposed project can compete with other similar applications; and eliminate any proposals for which there is little or no change for Federal funding before applicants incur significant expenditures for preparing an application. Pre-applications are required for all construction projects for which the need for Federal funding exceeds \$1,000,000. Pre-applications may also be required for other grant programs, at the option of the PHS awarding office.

New Application—A request for financial or direct assistance for a project or program not currently receiving PHS financial assistance.

Noncompeting Continuation Application—A request for financial or direct assistance for a second or subsequent budget period within a previously approved project period (see definition of "Project Period" under this section).

Competing Continuation Application—A request for financial or direct 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.

Supplemental Application—A request for an increase in support during a current budget period for expansion of the project's scope or research protocol, or to meet increased administrative costs unforeseen at the time of the new, noncompeting continuation, or competing continuation application.

Award—The provision of funds or direct assistance in lieu of funds based on an approved application and budget to provide general financial assistance to an organization or an individual to carry out an activity or program.

Approved Budget—The financial expenditure plan, including any revisions approved by the awarding

party for grant-supported project or activity. The approved budget consists of Federal (grant) funds and non-Federal participation or Federal funds only, and will be specified on the Notice of Grant Award and on any subsequent revised or amended award notice.

Budget Period—The interval of time (usually 12 months) into which the project period is divided for budgetary and funding purposes.

Competitive Segment—The initial period of recommended support (1 to 5 years) or each successive competing continuation period of a project period.

Contracting Under a Grant—A process whereby a grantee enters into a written agreement with a third party for the acquisition of property or services or the conduct of prescribed activities or functions under the grant. Such an agreement may involve substantive programmatic work or general activities (see definition of "General Activities" below), and in either case, involves the acquisition of services or property whose cost is either borne as a direct cost by Federal (grant) funds or counted towards meeting a matching or cost sharing requirement.

Cooperative Agreement—A financial assistance mechanism to be used in lieu of a grant when substantial Federal programmatic involvement with the recipient during performance is anticipated by the PHS awarding office. (See "Grant" under this section.)

Cost Sharing—A cost participation requirement, included in HHS's annual appropriations acts, stating that HHS funds cannot pay for the entire cost of a research project. The amount of required cost sharing is neither fixed by law nor stipulated by regulation. It is negotiable on a project-by-project basis or on an institutional basis covering some or all research project grants. An institutional cost sharing agreement may also cover some or all of the research contracts to an institution.

Direct Assistance—A financial assistance mechanism whereby goods or services are provided to recipients in lieu of cash. Direct assistance generally involves the assignment of Federal personnel or the provision of equipment or supplies such as vaccines.

Direct Costs—Costs that can be specifically identified with a particular project or program.

Equipment—An article of nonexpendable tangible personal property having a useful life of more than 2 years and an acquisition cost of \$500 or more per unit. An organization may use its own definition of equipment provided that it includes at least that property included in this definition as "equipment."

General-Purpose Equipment—Equipment which is not limited in use only to research, medical, scientific, or other technical activities. Examples of such equipment are office equipment and furnishings, heating and cooling units including air conditioning equipment, passenger and cargo vehicles, computing and automatic data processing devices, cameras, refrigerators and freezers.

Special-Purpose Equipment—Equipment which may only be used 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.

Expiration Date—The date signifying the end of the current budget period, as indicated on the Notice of Grant Award, after which the grantee does not have authority to obligate grant funds.

Federal Financial Assistance—Transfer of money, property, or other direct assistance (see above) to an eligible recipient to accomplish a public purpose of support or stimulation authorized by statute.

Federal Institution—A Cabinet-level department or independent agency of the Executive Branch of the Federal Government or any component organization of such a department or agency. Federal hospitals, such as VA hospitals, and Howard and Gallaudet Universities are not considered as Federal institutions under this definition. See Appendix VIII for special requirements applicable to Federal grantees.

Federally Recognized Indian Tribal Government
—See 45 CFR 74.3.

Foreign Institution—An institution located in a country other than the United States and its territories which is subject to the laws of that country, irrespective of the citizenship of the proposed investigator. See Appendix VII for special requirements applicable to foreign and international grantees.

General Activities—Activities other than substantive programmatic work, which are incidental to the purposes of a grant, and which are generally common to various types of endeavors or organizations. Examples of general activities are maintenance services, clerical or transportation services, and purchases of supplies, equipment, or automatic data processing services. (See 45 CFR 74.103(d)(2) for additional guidance on activities considered to be general activities.)

Grant—A financial assistance mechanism whereby money and/or direct assistance is provided to carry out approved activities. A grant (as opposed to a co-

operative agreement) is to be used whenever the PHS awarding office anticipates no substantial programmatic involvement with the recipient during performance of the financially assisted activities.

Grant-Approved Project/Activities—Those activities specified or described in a grant application, plan, or other document that are approved by the PHS awarding office for funding, whether or not Federal funding constitutes all or only a portion of the financial support necessary to carry out such activities.

Grantee—The organizational entity or individual to which a grant (or cooperative agreement) is awarded is responsible and accountable both for the use of the funds provided and for the performance of the grant-supported project or activities. The grantee is the entire legal entity even if only a particular component is designated in the award document. See 45 CFR 74.3.

Grants Management Officer (GMO)—The individual designated to serve as the PHS official responsible for the business management aspects of a particular grant(s) or cooperative agreements(s). The Grants Management Officer serves as the counterpart to the business officer of the grantee 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 or she works closely with the program or project officer who is responsible for the scientific, technical, and programmatic aspects of the grant. (See Program/Project Officer under this section.)

Indirect Costs—Costs that are incurred for common or joint objectives, and which therefore cannot be identified specifically with a particular project or program. (See Appendix II.)

International Organization—An organization with membership from, and representing the interests of, more than one country without regard to whether the headquarters of the organization and location of the activity are inside or outside the United States.

Local Government—See 45 CFR 74.3.

Maintenance of Effort—A requirement contained in certain legislation, regulations, or administrative policies stating that a recipient must maintain a specified level of financial effort in the health area for which Federal funds will be provided, in order to receive Federal grant funds. This requirement is usually given in terms of a previous base-year dollar amount.

Matching—The term used to refer to the portion of the costs of a grant-supported project or activity to be provided by the grantee or by third parties from sources other than the grant funds. Where matching is not required by law or regulations, matching may be administratively required by the PHS awarding office. Costs used to satisfy matching requirements are subject to policies governing costs allowable under the approved budget.

Monitoring—A process whereby the programmatic and business management performance aspects of a grant are reviewed by means of the collection and assessment of information gathered from various reports, audits, site visits, and other sources.

Noncompeting Extension—The PHS approval of additional time not to exceed 12 months to any budget period, including the final budget period, of a previously approved project period. The extension may be made with or without additional funds. Notice of extension must be made through the issuance of a revised notice of award.

Notice of Grant Award—The legally binding document that serves as a notification to the recipient and others that a grant or cooperative agreement has been made, contains or references all terms of the award, and documents the obligation of Federal funds in the HHS accounting system.

PHS Awarding Office—The office responsible for the award, administration, and monitoring of grant-supported activities. The designated Grants Management Officer and program officer are representatives of this office. The use of this term throughout this document as a point of contact and the focal point for requesting necessary prior approvals refers specifically to the Grants Management Officer.

Prior Approval—In a number of policy areas, prior approval is required before certain activities may be undertaken, funds expended, or when the cost of actions exceed a certain dollar level. These requirements are specified in this policy statement or appear in documents included or referenced herein.

Where prior approval must be obtained from the Public Health Service (PHS) awarding component, it must be obtained by the grantee institution in writing from the Grants Management Officer (GMO). All references in this document to PHS prior approval, therefore, mean written approval from the GMO.

For subgrants and contracts awarded by grantees, the prior approval authority is usually the grantee. However, the grantee may not approve any action or cost which is inconsistent with the purpose or terms of the Federal grant. If an action by a subgrantee or contractor will result in a change in the overall grant project or budget requiring granting agency approval, the grantee shall obtain that approval from PHS before giving its approval to the subgrantee or contractor. In a few instances, PHS must grant prior approval for activities or actions taken by subgrantees and contractors under grants.

Designated officials of some grantee organizations may approve certain rebudgeting actions under an Institutional Prior Approval System. (See "Postaward Administration—Changes in Expenditures/Activities.")

Program—A coherent assembly of plans, projected activities, and supporting resources contained within an administrative framework, whose purpose is to

implement an organization's mission or some specific program-related aspect of that mission. For purposes of this policy statement, a PHS financial assistance program refers to a program that carries out its mission by supporting activities in other organizations through the grant or cooperative agreement mechanisms.

Program Director/Project Director/Principal Investigator—An individual designated by the recipient to direct the project or program being supported by the grant. (See "Postaward Administration—Changes in Project" for policy regarding the replacement or postaward designation of that individual, or any significant change in his or her level of participation in the grant.) He or she is responsible and accountable to recipient organization officials for the proper conduct of the project or program. The recipient is, in turn, legally responsible and accountable to PHS for performance and financial aspects of the grant-supported activity.

Program Income—See 45 CFR 74.41.

Program/Project Officer—The PHS awarding office official who is responsible for the technical, scientific, or programmatic aspects of a grant. Such individuals deal with grantee organization staff to assure programmatic progress, and work closely with the Grants Management Officer and grants management staff in the overall administration of grants.

Project Costs—Total allowable costs incurred to carry out an approved grant-supported project or activity.

Project Period—The total time for which support of a discretionary project has been programmatically approved. A project period may consist of one or more budget periods. The total project period comprises the original project period and any extensions.

Public Health Service (PHS)—The organization primarily responsible for supporting the health-related activities of HHS. As used in this booklet, references to PHS will mean the PHS awarding offices. (See "PHS Awarding Office" under this section.)

Real Property—See 45 CFR 74.132.

Recipient—The grantee or, where subgrants are authorized by law, the subgrantee that receives PHS financial assistance in the form of grants or cooperative agreements.

State Government—State institutions of higher education and state hospitals are considered non-governmental organizations for purposes of 45 CFR 74 and this policy statement. (See 45 CFR 74.3.)

State Plan/Application—Those documents that, under mandatory (formula) grants to States indicate the State's compliance with the program's legislative and regulatory requirements and that are incorporated by reference in the certification form required to be submitted to the PHS awarding office along with a budget form and other required supporting information or reports.

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.

Subgrant—An award of financial assistance in the form of money or property made under a grant by a grantee to an eligible recipient called a subgrantee. (See 45 CFR 74.3.)

Substantive Programmatic Work—Project activities which are a primary purpose for the provision of grant support and/or a significant portion of the activities to be conducted under the grant.

Suspension—Temporary withdrawal of the grantee's authority to obligate grant funds pending corrective action by the grantee as specified by PHS, or a decision by PHS to terminate the grant. (See 45 CFR 74.110.)

Termination—Permanent withdrawal of a grantee's authority to obligate previously awarded grant funds

before that authority would otherwise expire, including the voluntary relinquishment of that authority by the grantee. (See 45 CFR 74.110.)

Terms of Award—All legal requirements imposed on a grant by the Federal Government, whether by statute, regulation(s), the grant award document itself, or other documents. 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 Contributions—See 45 CFR 74.51.

Withholding of Support—A decision by the awarding office not to make a noncompeting continuation award within a previously approved project period.

TYPES OF APPLICATIONS AND SUPPORT

DISCRETIONARY GRANTS

Applications for project grants may be classified as new, noncompeting continuation, supplemental, and competing continuation. A description of each of these types of applications, the timing of such requests, and the nature of the PHS review process are indicated below. Policy and procedures affecting construction grants are described in Appendix III.

Preapplications serve one or more of the following purposes: (1) they establish communication between the awarding office and the applicant; (2) determine the applicant's eligibility; and (3) determine how well the project can compete with other similar applications, in order to discourage proposals that have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application.

Some discretionary grant programs require the submission of preapplications. The requirement for submission of preapplications, if any, will be contained in published guidance from the particular program involved. Governmental organizations may submit preapplications even in the absence of a requirement for such a submission.

Preapplications are required where a request for support involves joint funding. A request for joint funding would include requests for assistance from more than one Federal program, or one or more Federal programs and one or more State programs, provided each one of those components contributes materially to the accomplishment of a single purpose or closely related purpose. Preapplication and application requirements for such projects are contained in OMB Circular A-111. "Jointly Funded Assistance to State and Local Governments and Nonprofit Organizations." (July 30, 1976). Also see 45 CFR 74.122 and 74.123.

New applications are subject to an independent objective review process (see "Review Process—Discretionary Grants") and must compete for available funds in accordance with programmatic criteria and funding priorities. They may also be subject to certain external review requirements by health planning agencies and A-95 clearinghouses. (See "Preaward Process—External Review Requirements.")

Applications for competitive continuation of PHS support for one or more budget periods beyond the originally approved project period may be submitted, unless such requests are prohibited by the program's regulations or other published policy. Such an application is appropriate when (1) the original project period was approved for a period of time shorter than grant

support was needed, or (2) the results of the original activity warrant support beyond the period originally recommended. Such competing continuation applications must be submitted in accordance with established deadline dates and will be subject to "objective review" requirements and any external review requirements applicable to competitive applications (see "Preaward Process—External Review Requirements and Internal Review Process"). If approved and funded, the extended period of support is treated as an extension of the original project period.

Application forms and information concerning deadlines for submission of these types of applications can be obtained by contacting the Grants Management Officer of the appropriate PHS awarding office (see Appendix I). Research grant application forms for some programs may be obtained from the applicant or grantee institution's application control office or from the Division of Research Grants, National Institutes of Health, Bethesda, Maryland 20205.

A noncompeting continuation application to request funds for subsequent budget periods after the first budget period must be submitted annually, when a discretionary multiyear project (excluding construction projects) is approved for funding for a project period of more than 1 year. Application materials are routinely mailed to the grantee several months before the beginning date of the next budget period. If these materials are not received at the proper time, it is the responsibility of the grantee organization to request them. In the case of research grants to institutions with designated application control offices, a listing of continuing projects for which applications are due is supplied to that office by the Division of Research Grants, National Institutes of Health. These applications are not subject to independent objective review procedures and do not compete with new applications for funds (see "Award Process" for an explanation of the requirements for the issuance of a continuation award).

Supplemental applications for expansion of a project's or program's scope or research protocol are treated as "new" applications for purposes of the review requirements and competition for funds described in this document.

Supplemental applications for administrative increases to meet institution-wide increased costs, such as those associated with salary or fringe benefit increases, that take effect during a current budget period, and which were not included in the grant application for that period, are usually noncompeting but are subject to PHS awarding office approval and the

availability of funds. The supplemental amount, if awarded, becomes part of the approved budget for the applicable budget period. Requests for supplemental funds to meet increased administrative costs for subsequent years should be included in applications for continuation support.

A *noncompeting extension* may be requested to extend the final budget period of a project period, or any other budget period where justified, for up to 12 months beyond the ending date of the budget period as shown on the Notice of Grant Award, unless otherwise restricted by a program's statute or governing regulations. Such an extension may be made without additional funds or with a minimal amount of further support, and may be approved by administrative action of the Grants Management Officer or the PHS awarding office and awarded without competition. The request for a noncompeting extension must be in writing, stating the reason for the extension, and the additional time and funds, if any, being requested, and should be made before the expiration of the currently active budget period. A non-competing extension of a budget period or project period may also be initiated by PHS. Notice of extension must be made through the issuance of a revised notice of award.

Generally, noncompeting extensions should be granted only when continuity of PHS grant support is required while a competing continuation application is under review, or to permit an orderly phaseout of a project that will not receive continued PHS support. Requests for noncompeting extensions of the final budget period of a previously approved project period should be made at least 60 days before the end of the project period. In no case will such an extension be approved after the expiration date of the final budget period of the project period. If a budget period is extended, any subsequent award will not be made effective until the expiration of the extended budget period.

TYPES OF GRANTS

Grants can be classified in several ways: on the basis of (1) type of activity(ies) supported (research, training, service, etc.); (2) degree of discretion allowed the awarding office (mandatory or discretionary); and/or (3) method of determining amounts of award (negotiated basis or formula). More than one of these terms may be used to characterize any particular grant. Below are definitions of the types of grants that are referred to in the following sections of this document.

Capitation Grant—Assistance provided to an eligible institution to provide, maintain, or improve its educational program in areas such as nursing and health professional education. The award amount is based on enrollment factors, including the number of full-time students.

Conference Grant—Assistance provided to aid in supporting the costs of a symposium, seminar, workshop, or any other organized and formal meeting where persons assemble to exchange information and views or explore or clarify a defined subject, problem, or area of knowledge within the areas of PHS program interests. See Appendix VII, "Foreign Institutions and International Organizations;" for a discussion of the international conferences.

Construction Grant—Assistance provided to support the building of a health-related facility.

Demonstration Grant—Assistance, generally provided for a limited period of time, to establish or demonstrate the feasibility of a theory or approach.

Discretionary or Project Grant—Assistance provided according to legislation that permits PHS to exercise judgment in selecting the project to be supported, the grantee, and the amount of the award. In some instances, the amount of the award may be based on a formula.

Facilities Assistance Grant—Assistance provided for the acquisition, remodeling, expansion, or leasing of existing facilities; or the construction of new facilities; and/or for the initial equipping of such facilities, as authorized by and specified on the Notice of Grant Award.

Fellowship Award—Assistance provided to or in behalf of an individual to support specific training that will enhance that individual's level of competence in a particular health or research area. Under certain programs, fellowship recipients may be subject to service or payback requirements.

Planning Grant—Assistance provided to support planning, developing, designing, and establishing the means for performing research, delivering health services, or accomplishing other approved objectives.

Research Grant—Assistance provided to support investigation or experimentation aimed at the discovery and interpretation of facts, revision of accepted theories in the light of new facts, or the application of such new or revised theories in specified areas of biomedical and behavioral research. Such grants may be project grants supporting a discrete research project, a center, a consortium arrangement that represents a collaborative effort between or among institutions, or other types of projects. Research support may be provided on a formula basis to assist eligible institutions in enhancing the efficiency and effectiveness of their research programs.

Research (Career/Scientist) Development Award—Assistance provided to institutions to allow for the development and/or continuation of research careers of specified individuals.

Resource Grant—Assistance provided to develop or support a service or activity which is then made available for use by others, such as support of a computer center or an animal resource center.

Service Grant—Assistance provided to support the organization, establishment, provision, or expansion of the delivery of health services to a specified community or area.

Training Grant—Assistance provided to an organization to support the training of students, personnel, or

prospective employees in research, or in the techniques or practices pertinent to the delivery of health services in the particular area of concern. Under some programs, student trainees may be subject to service and payback requirements.

PREAWARD PROCESS

The preaward process begins when a PHS agency publishes a program announcement on the availability of financial assistance funds to carry out specified health-related activities. It continues on with the preparation of the application by the entity requesting the funds, the external review of the application by A-95 clearinghouses and health planning bodies, as applicable, and the internal PHS review. It culminates with the PHS awarding office decision on whether to award a grant.

The following sections deal with policies and procedures pertinent to the preaward phase of the grants administration process.

DISSEMINATION OF INFORMATION

PHS agencies are required to publish the following types of documents in the Federal Register for discretionary grant programs, including fellowship and training awards made directly to individuals:

1. Program regulations.
2. Program announcements or pertinent portions of such announcements, containing at least sufficient information to describe the program objectives, and any areas of special emphasis or interest and provide a contact point for additional information. The following additional information must be available in either the program announcement or such other document: eligibility requirements, application deadlines, the place where applications may be submitted, requirements for A-95 and/or Health Systems Agency reviews, application format, and recipient financial participation requirements.
3. Criteria for review and evaluation and program priorities for funding, if not included in the published regulations or program announcement.
4. A statement regarding the availability of funds, if not included in the program announcement.
5. If other materials are available and are not included or referred to in the preceding items, a notice regarding the availability of these materials or other information the program wishes to make available to applicants.

Where a program intends to use the cooperative agreement mechanism, it will be indicated in the program announcement.

Publication of this information enables potential applicants to determine whether to apply for funds, to understand how and by what criteria an application will be evaluated, and to know the obligations imposed on a recipient.

All PHS awarding offices are responsible for making information regarding their programs available to the interested public on request and for promoting the widespread dissemination of this information.

ELIGIBILITY

Authorizing legislation and governing programmatic regulations specify eligibility for individual grant pro-

grams. In general, assistance is provided to nonprofit organizations and institutions, governments and their agencies, occasionally to individuals and to for-profit organizations when deemed by PHS to be consistent with legislative intent and program purposes.

Nonprofit organizations are corporations or associations no part of whose net earnings may lawfully inure to the benefit of any private shareholder or individual. Proof of nonprofit status must be submitted by private nonprofit organizations with the application or, if previously filed with PHS, the applicant must state where and when the proof was submitted. Any of the following is acceptable evidence of nonprofit status:

1. A reference to the applicant organization's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.
2. A copy of a currently valid Internal Revenue Service tax exemption certificate.
3. A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals.
4. A certified copy of the organization's certificate of incorporation or similar document that clearly establishes nonprofit status.
5. Any of the above proof for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local nonprofit affiliate.

Trainees and Fellows

Trainees supported under a training grant and individuals supported under fellowships must meet the general eligibility requirements set by the particular program providing the support, and any additional requirements established by the grantee institution.

To be eligible for support at the postdoctoral level (see "Stipends" under "Costs Under PHS Grant-Supported Projects/Activities"), an individual must have completed all requirements for the doctoral degree before the beginning date of PHS support. Where a degree has not been formally conferred, the degree-granting institution must certify that all of the degree requirements have been met. Under training grants, the grantee must retain this documentation.

Only U.S. citizens, noncitizen nationals, and those foreign nationals who possess a visa permitting permanent residence in the United States may be appointed as

trainees on training grants or as individual fellows,¹ except in the case of programs specifically designed for support of foreign nationals. Individuals on temporary or student visas are not eligible to receive PHS fellowship or training grant support.

Section 504 of Public Law 90-574 allows students to be eligible to receive funds awarded for traineeships and fellowships even though they are receiving educational assistance under the Veterans Readjustment Benefits Act ("G.I. Bill").

PUBLIC POLICY REQUIREMENTS

There are a number of public policy requirements with which applicants and grantees must comply. Where requirements are applicable to subgrantees and contractors, the individual section so states. These policies are intended to ensure fairness, equity, and physical and other protections in activities receiving PHS financial assistance. This section lists these principal policies and cites the applicable supporting statute, regulation, or other source documents. In addition, this section explains the applicability of the particular policy to the types of programs supported by PHS. This listing is not exhaustive. Additional requirements and necessary documentation will be detailed in the application or other materials provided to applicants. Public policy provisions that are to be included in contracts under grants (or under subgrants) are included in the procurement standards prescribed by 45 CFR 74, Subpart P.

I. Civil Rights

A. Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, whether directly or under a subgrant arrangement. The HHS regulation implementing this requirement is contained in 45 CFR 80. Every domestic applicant organization is required to have an Assurance of Compliance (Form HHS-441) on file with the Office for Civil Rights, Office of the Secretary, HHS, before a grant may be made to the organization. For applicant organizations that have not previously received HHS support, the proposed PHS awarding office will provide the assurance form to the applicant and will provide instructions on submitting the completed form. This requirement is also applicable to subgrantees.

¹Individual fellows must have been lawfully admitted for permanent residence at the time of application; trainees must have been lawfully admitted for permanent residence at the time of appointment. This must be documented by the individual's possession of an alien registration receipt card I-151 or I-551.

B. Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. This requirement also applies to subgrantees and contractors under grants. The HHS regulation at 45 CFR 84 implements this requirement. Subpart F of that regulation applies specifically to health programs and prohibits recipients of Federal financial assistance from discriminating on the basis of handicap in the provision of benefits or services. This regulation requires an assurance by the applicant (Form HHS-641) that HHS-funded activities will be available and accessible to handicapped persons, and that there will be no discrimination in employment based on an individual's handicap. The required assurance must be on file with the Office for Civil Rights, Office of the Secretary, HHS, before a grant may be made to an organization. When such an assurance has not been filed, the PHS awarding office from which support is being sought will provide that applicant with the required form and will provide instructions as to where to send the completed form.

C. The Age Discrimination Act of 1975 prohibits unreasonable discrimination on the basis of age in any program or activity receiving Federal financial assistance. This requirement is also applicable to subgrantees and contractors under grants. The HHS regulation implementing the provisions of this Act is at 45 CFR 90.

D. All PHS grantees are encouraged to adopt practices that will eliminate sex discrimination and encourage sex fairness, including but not limited to, using language that represents both genders, avoiding sex stereotyping and representing women equitably in leadership and policymaking positions.

Title IX of the Education Amendments of 1972 (in particular, section 901 of those amendments) provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance, whether directly or under a subgrant or contract under a grant. The HHS regulation at 45 CFR 86 implements this requirement. The applicant (or proposed subgrantee or contractor) is required to submit an assurance to the Office for Civil Rights, Office of the Secretary, HHS, before a grant, subgrant or contract under a grant may be made.

Section 704 of Title VII and Section 855 of Title VIII of the Public Health Service Act, as

amended, forbids the extension of Federal support for health manpower and nurse training programs authorized under those titles to any entity that discriminates on the basis of sex in the admission of individuals to its training programs. The regulation implementing this requirement is at 45 CFR 83. The applicant is required to submit an assurance (Form 590 or 590B) to the Office for Civil Rights, Office of the Secretary, HHS, before a grant may be made.

- E. Section 407 of the Drug Abuse Office and Treatment Act of 1972, as amended, provides that drug abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment because of their drug abuse or drug dependence, by any private or public general hospital that receives support in any form from any federally funded program. This prohibition is extended to all outpatient facilities receiving or benefiting from Federal financial assistance by 45 CFR 84. This prohibition also applies to subgrantees and contractors under grants.
- F. Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, provides that alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital that receives support in any form from any federally funded program. This prohibition is extended to all outpatient facilities receiving or benefiting from Federal financial assistance by 45 CFR 84. This prohibition also applies to subgrantees and contractors under grants.
- G. Section 408 of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255), as amended, Section 501 of the Mental Health Systems Act (Public Law 96-398), and Section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Public Law 91-616), as amended, require that certain records be kept confidential except under certain specified circumstances and for specified purposes. These include records of the identity, diagnosis, prognosis, or treatment of any patient that are maintained in connection with the performance of any activity or program relating to drug abuse prevention; i.e., drug abuse education, training, treatment, or research, or alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research that is directly or indirectly assisted by the Federal Government. These statutory requirements have been implemented in PHS regulations at 42 CFR 2.

II. Environmental Impact

The National Environmental Policy Act of 1969 (NEPA) (Public Law 91-190) establishes national

policy goals and procedures to protect and enhance the environment. This act applies to all Federal agencies and requires them to consider the probable environmental consequences of any major Federal activity, including activities of other organizations operating with the concurrence or support of a Federal agency. This includes grant-supported activities.

To administer the provisions of NEPA, HHS requires that the environmental aspects of all requests for assistance involving construction,² including projects involving the acquisition and/or modernization of existing buildings, and certain requests for assistance involving nonconstruction projects are reviewed and evaluated by the technical staff of the HHS reviewing office prior to approval or other action on the application. For nonconstruction project grants, PHS agency heads must determine what categories of activities or programs may have little environmental impact and should be excluded from NEPA requirements. Actions that qualify for categorical exclusions i.e. "screened out," will be published in the *Federal Register*.

In addition, the Department's policy includes public comment and participation as a part of the environmental impact review process. Potential applicants for construction projects and non-excluded activities under programs subject to OMB's Project Notification and Review System (A-95, "Preaward Process—External Review Requirements") are required to include in their notifications to State and areawide clearinghouses a request for comments on the project's potential environmental impact of the project and to submit such comments with the completed application.

Project Grants

Except as provided below, all applications for construction assistance including assistance to acquire or modernize existing buildings, shall be accompanied by the applicant's own separately bound environmental analysis to facilitate PHS review and evaluation prior to approval or other action on the application. An environmental analysis means a written review that (1) lists the environmental effects that are expected to occur as a result of the proposed action; (2) defines the current and future implications of these effects; and (3) lists any proposed actions or safeguards to avoid or reduce any negative environmental effects.

For those programs or activities that have been "screened out" from routine NEPA processing, no environmental analysis is necessary, except in those unusual situations where a significant environmental consequence is anticipated by either the applicant or

²See Appendix III in regard to construction grants.

an official of the PHS awarding office. In such a case, an environmental analysis shall be provided with the application.

III. Flood Insurance

The Flood Disaster Protection Act of 1973 (Public Law 93-234) provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of such identification. Listings of flood-prone areas that are eligible for flood insurance are published in the *Federal Register* by the Department of Housing and Urban Development (HUD).

The flood insurance purchase requirement is applicable to both public and private applicants for PHS support, including applicants under mandatory (formula) grant programs where PHS approves or ratifies the expenditure of funds to acquire, modernize, or construct property on a project basis.

IV. Historic Properties

Under the provisions of Section 106 of the National Historic Preservation Act of 1966, the Secretary of the Interior has compiled a national register of sites and buildings that are of significant importance to America's history.³

The applicant and the PHS awarding office must jointly determine whether activities using PHS financial assistance will affect a property listed in the National Register. Although this requirement applies to all construction, acquisition, and modernization activities, it may also apply to other PHS grant-supported activities. This must be a preaward determination. If a designated historic property is to be affected, the applicant must obtain clearance from the appropriate State Historic Preservation Office before submitting the application for A-95 clearinghouse review (see "Preaward Process—External Review Requirements" and Appendix VI).

V. Relocation Assistance and Real Property Acquisition

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) requires certain assurances for those PHS financial assistance projects conducted by a State agency that involve the acquisition and/or modernization of real property or cause the displacement of persons, businesses, or farm operations. The HHS regulation implementing those provisions is at 45 CFR 15.

³This listing may be obtained from the individual State Liaison Officers designated by their respective States to administer this program, or from the Advisory Council on Historic Preservation, 1522 K Street, N.W., Washington, D.C. 20005. A listing of the State Liaison Officers is included in Appendix VI.

The term "State agency" means any department, agency, or instrumentality of a State(s). For the purposes of 45 CFR 15, this includes the State itself, a political subdivision of a State, and State or local institutions of higher education or hospitals, or any department, agency, or instrumentality of two or more States. This term also includes a private nonprofit entity when such an entity receives PHS funds to act as an agent or contractor of a State agency in the discharge of the State agency's responsibilities. Indian tribes and tribal organizations are also subject to these requirements.

The applicant must ensure that (1) fair and reasonable relocation payments and advisory services will be provided to or for displaced persons and that safe, decent, and sanitary replacement dwellings will be available to such persons within a reasonable period of time prior to displacement, and (2) the State agency will be guided by the land acquisition policies of the act and the property owners will be paid or reimbursed for necessary expenses as specified by the act. These assurances must be contained in or accompany all applications that are subject to this policy.

Additional details regarding this requirement are contained in 45 CFR 15.

VI. Elimination of Architectural Barriers to the Handicapped in Construction Supported by Grant Funds

All grants for construction of new facilities⁴ must include provisions for making the facilities accessible to and usable by the physically handicapped. Where assistance is provided for alteration or renovation (including modernization and expansion) of existing facilities, the altered facility (or part of the facility) must include such provisions to the maximum extent possible. Minimum standards for facilities used by the handicapped are contained in "Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" (American National Standards Institute, Inc. A.117.1, 1961; reaffirmed 1971).⁵ These minimum standards must be included in the specifications for any PHS-funded new construction unless the grantee proposes to substitute standards that meet or exceed these standards. These standards must also be included in the specifications of any PHS-funded renovation to the maximum extent possible. Applicants for such assistance must ensure that the facility will comply with these standard specifications (see discussion of 45 CFR 84 in subsection I.B. under "Civil Rights"). The applicant will be responsible for conducting inspections to ensure compliance with these specifications by any contractor performing construction services under the grant.

⁴See Appendix III also in regard to construction grants.

⁵Copies may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

The only exception to this requirement is in those programs where the governing legislation may prescribe the inclusion of special provisions for the handicapped.

VII. Human Subjects

Section 474(a) of the Public Health Service Act (P.L. 93-348) as implemented by HHS regulation 45 CFR 46 requires basic protection for human subjects involved in PHS grant supported research activities. Human subject is defined in the regulation as "a living individual about whom an investigator [whether professional or student] conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." The regulation extends to the use of human organs, tissues, and body fluids from individually identifiable human subjects as well as to graphic, written, or recorded information derived from individually identifiable human subjects. The regulation also specifies additional protections for certain classes of human research involving fetuses, pregnant women, human *in vitro* fertilization and prisoners. However, the regulation exempts certain categories of research involving human subjects, which normally involve little or no risk. The exemptions are listed in 46.101(b) of the regulation.

HHS regulation 45 CFR 46 defines research as "systematic investigation designed to develop or contribute to generalizable knowledge." Activities meeting this definition constitute "research" for purposes of applying the regulation even if they are supported by a grant which might have as its overall purpose an activity which is not primarily research. For example, some "demonstration," "training," and "service" programs may include research activities. Research activities may involve interaction with the individual or intervention, or may entail only the obtaining of identifiable private information. "Interaction" includes communication or interpersonal contact between the researcher and the subject. "Intervention" includes both physical procedures by which data are gathered or generated and manipulations of the subject or the subject's environment that are performed for research purposes. "Obtaining of private information" is covered by the regulations when the information is individually identifiable and the information is either about the individual's behavior in a context in which there is reasonable expectation that no observation or recording is taking place; or is information provided for specific purposes with the reasonable expectation that it will not be made public (e.g., a medical record).

Research covered by regulation 45 CFR 46 will not be funded unless it has been reviewed and approved by an institutional review board (IRB). The board will determine that:

1. the risks to subjects are minimized by appropriate safeguards;

2. the risks are reasonable in relation to anticipated benefits for the subjects and the importance of the knowledge that may reasonably be expected to result;
3. informed consent will be sought from subject and documented; and
4. selection of subjects is equitable and is guided by consideration for appropriate safeguards for any subjects likely to be vulnerable to undue influence.

The institution which receives or is accountable to the Department for a PHS grant has primary responsibility for safeguarding the rights and welfare of individual human subjects involved in research activities supported by the grant. In regard to project grant awards, institutions applying for PHS awards for non-exempt human subject research are required to provide written Assurances of Compliance with 45 CFR 46 and to file with the application a certification (Form HHS 596) that the proposed research activity has been reviewed and approved by an IRB in compliance with 45 CFR 46. Certain types of applications for project grant awards are submitted with the knowledge that human subjects may be involved within the period of funding but definite plans are not set forth in the application, such as institutional type grants, research training grants, or projects which require completion of prior scientific studies. Before human subjects may be involved in non-exempt research activities supported by these types of awards, the research activity must be reviewed and approved by an IRB and certification (Form HHS 596) submitted to the PHS. With regard to block grant awards, no human subjects may be involved in non-exempt research activities supported by block grants unless the research activity has been reviewed and approved by an IRB established in compliance with 45 CFR 46. No individual may receive PHS grant funds for non-exempt human subjects research unless the individual is affiliated with or sponsored by an institution which assumes responsibility for the research under a written Assurance of Compliance or the individual makes other arrangements with the Department.

Before award, PHS staff (or other application reviewers) are responsible for determining independently whether human subjects are involved, whether the research is exempt, and whether protections for the subjects are adequate. The Office for Protection from Research Risks, National Institutes of Health, Bethesda, Maryland 20205, is responsible for the implementation of, and compliance with, 45 CFR 46 for HHS. Information concerning the preparation and negotiation of assurances as well as copies of the regulation may be obtained from that Office.

VIII. Sterilization

HHS and PHS have established certain limitations on the performance of nonemergency sterilizations by PHS grant-supported programs or projects that

are otherwise authorized to perform such sterilizations. PHS has issued regulations that establish safeguards to ensure that such sterilizations are performed on the basis of informed consent, and that the solicitation of consent is not based on the withholding of benefits. These regulations, published at 42 CFR 50, Subpart B, apply to the performance of nonemergency sterilizations on persons legally capable of consenting to the sterilization.

Federal financial participation is not available for any sterilization procedure performed on an individual who is (1) under the age of 21, (2) legally incapable of consenting to the sterilization and declared mentally incompetent, or (3) institutionalized. The requirements in this section also apply to subgrantees and contractors under grants.

IX. Abortions and Related Medical Services

Federal financial participation is generally not available for the performance of an abortion in a grant-supported health services project. This limitation also applies to subgrantees and contractors under grants.

For further information on this subject, consult the regulation at 42 CFR 50, Subpart C.

X. Recombinant DNA and Institutional Biosafety Committees

Each institution where research involving recombinant DNA technology is being, or will be, conducted must establish a standing Biosafety Committee. Requirements for the composition of such a committee are given in Section IV of *Guidelines for Research Involving Recombinant DNA Molecules*, (43 FR 60108),⁶ which also discusses the roles and responsibilities of principal investigators and grantee institutions. A roster of the members of the Institutional Biosafety Committee must be submitted to the Office of Recombinant DNA Activities, National Institutes of Health (NIH), Building 31, Room 4A52, Bethesda, Maryland 20205. At a minimum, this should include the names, addresses, occupations, and qualifications of the chairperson and members of the committee. The committee is required to review each proposed project for recombinant DNA experiments and certify that it has found the procedures, project, personnel, and facilities adequate and in compliance with NIH Guidelines. *Guidelines for Research Involving Recombinant DNA Molecules and Administrative Practices Supplement* should be consulted for complete requirements for the conduct of projects involving recombinant DNA technology. This requirement is also applicable to subgrantees and contractors under grants.

⁶These guidelines may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4A-52, Bethesda, Maryland 20205.

XI. Animal Welfare

Principal investigators and project directors, and the grantee institution or organization are responsible for the humane care and use of animals in PHS grant supported projects. ("Animal" means any live, vertebrate animal used or intended for use in research, experimentation, testing, training, or related purposes. "Animal facility" means any building, room, area, or vehicle designed to confine, transport, maintain, or use animals.)

No PHS grant involving the use of animals or animal facilities by grantees, subgrantees, or contractors under grants will be made unless a responsible official of the institution that proposes to use the animals or animal facilities (or the institution with which an applicant individual is affiliated) has provided an acceptable written assurance to the Office for Protection from Research Risks (OPRR), National Institutes of Health that (1) the institution is committed to complying with the Animal Welfare Act (Public Law 89-544, as amended), the *Guide for the Care and Use of Laboratory Animals*⁷ (most recent edition, revised 1978), the principles for the use of animals included in that guide, and other applicable laws and regulations, and (2) the institution has appointed and will maintain a committee to provide oversight of its animal care program. The committee should, in general, consist of five members, including at least one veterinarian, and its membership must be reported to OPRR as part of the assurance.

The assurance must also indicate how the institution will review its facilities for warmblooded animals for conformance with the provisions of the guide. This may be accomplished by accreditation by the American Association for Accreditation of Laboratory Animal Care, or by a review, at least annually, of animal facilities and procedures by the institution's established committee.

A complete new assurance must be submitted to OPRR once every 5 years. However, significant changes in assurance status or problems encountered in implementing this policy should be reported to OPRR as they occur. Information concerning the preparation and negotiation of assurances may be obtained from that office.

Recipients must maintain records of committee activities (including recommendations and determinations) and/or records of accrediting body determinations. These records shall be treated as grant-related records for purposes of access and retention (see "Postaward Administration—Record Retention and Access").

⁷A single copy of this document may be obtained without charge by writing to the Office of Science and Health Reports, Division of Research Resources, National Institutes of Health, Bethesda, Maryland 20205. Multiple copies are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20024 (Stock No. 017-040-00427-3).

Review of individual proposals or projects involving animals by the institutional committee is encouraged but not required.

XII. Student Unrest Provisions

No PHS funds shall be used to provide a loan, loan guarantee, a grant, salary, or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, that involves the use of (or the assistance to others in the use of) force, the threat of force, or the seizure of property under the control of an institution of higher education to require or prevent the availability of a certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution. This prohibition stems from language in HHS's annual appropriations act.

The primary responsibility for observing and complying with the terms of this provision rests with the institutions of higher education receiving PHS awards or, where payments are made directly, with the individuals receiving such payments. Fair notice shall be given to an affected individual of any proposed cessation of payment, and an opportunity for a hearing shall be provided.

USES OF INFORMATION

Following are policies that applicants should be aware of as they prepare their applications. These policies are of a general nature, however, and their applicability extends beyond the preaward stage. Applicability will be specified in each section, if necessary, to distinguish between types of awards and/or types of grants.

Release of Information

The Freedom of Information Act

The Freedom of Information Act (P.L. 90-23) as amended, and associated public information regulations of HHS (45 CFR 5) require the release by PHS of certain grant documents and records requested by members of the public. The intended use of information pertaining to PHS grants or awards will not be a criterion for release. These policies and regulations apply to information in the possession of PHS and do not require recipients or contractors under grants to permit public access to their records.

The following indicate the types of material that will generally be released, subject to the stated qualifications concerning timing and nondiscloseability:

1. Application information is available only after the initial award has been funded. Information contained in continuation and supplemental applications, which is not exempted by 45 CFR 5, is generally available.

2. Notices of Grant Award or information contained thereon including project title, grantee organization, principal investigator or program director, and amount of award are available. A general description of the approved project is also available upon request.
3. Interim and final progress reports.
4. Reports of expenditures (Financial Status Reports).
5. Final reports of any audit, survey, review, or evaluation of grantee performance that have been transmitted to the grantee.

The organization that submitted the application and the project director or principal investigator will be notified by the PHS awarding office in the event of a Freedom of Information request and will be informed as to whom the documents will be released.

Requests for access to records or documents containing the following types of information may be denied in whole or in part by designated PHS or HHS officials:

1. Pending or disapproved applications for new research and research training grants.
2. Financial information pertaining to an individual, such as the salaries of named project personnel.
3. Information subject to the provisions of the Privacy Act of 1974 (see below).
4. Information of a confidential nature (personal, medical, or otherwise) that if disclosed would constitute a clearly unwarranted invasion of personal privacy.
5. Opinions in interagency or intraagency memoranda or letters expressed by Government officers, employees, or consultants, including transcripts or summaries of discussions of applications by advisory bodies.
6. Information that if released would adversely affect patent or other valuable commercial rights of the recipient or third party.

If a document contains both discloseable and nondiscloseable information, the nondiscloseable information will be deleted by a designated PHS or HHS information officer or by another PHS official with the concurrence of the requester, and the balance of the record will be disclosed even though the balance of the record might not be readily intelligible.

The Privacy Act

The Privacy Act of 1974 (Public Law 93-579) provides certain safeguards for individuals against invasions of personal privacy. These safeguards include (1) the right of individuals to determine what information about them is maintained in Federal agencies' files and to know how that information is used, and (2) the right of individuals to have access to such records and to correct, amend, or request deletion of information in their records that is inaccurate, irrelevant, or outdated.

The act also imposes requirements on Federal agencies with respect to the manner in which they collect, use, disseminate, and maintain records containing information pertaining to specific individuals. For example, information obtained for one purpose cannot be used for other purposes without the concerned individual's consent.

Records maintained by PHS with respect to grant applications, grant awards, and the administration of grants are subject to the provisions of the Privacy Act and the implementing regulation issued by HHS (45 CFR 5b) if they constitute a "system of records" as defined in that regulation. Records maintained by grantees are not subject to the requirements of 45 CFR 5b.

The consideration of a request for information concerning an individual, made by a party other than the subject individual, will take into account both the right to know of the requester (under the Freedom of Information Act) and the right to privacy of the individual to whom the record pertains (under the Privacy Act).

Salary Information in Application

Applicant organizations shall have the option of omitting specific salary rates or salary amounts for individuals from copies of grant applications that are made available to outside reviewers. For this purpose, the term "outside reviewers" refers to persons who are not regular employees of PHS. This option would apply to types of applications subject to objective review requirements, e.g., new applications and competing continuation applications, under programs where personnel costs are required to be shown by position. When an applicant exercises this option, the following conditions shall apply:

1. Specific salary rates must be included in or attached to one copy of the application, which will be restricted to use by PHS employees.
2. All other copies, which will be made available to outside reviewers, should show undetailed salary summary totals, but must include at least the following information for each individual who is identified in the applications as working or expected to work on the grant-supported activity:
 - a. The name of the individual if known, and the position or job title.
 - b. Percentage of time or effort or hours per week expected to be devoted to work on the project.
 - c. Whether or not salary support is requested from the grant.

Under some programs, applicants (primarily non-governmental applicants) are also required to submit other types of confidential information to PHS in their applications, such as information about the applicant organization's financial status or structure.

Any confidential information, including salary information, need not be included with applications submitted to A-95 clearinghouses and Health Systems Agencies for review, but an identification of any items withheld should be attached to those copies. (See "Preaward Process - External Review Requirements" for information on submitting confidential information to health planning agencies.)

Information Collection Under Grants

The use of grant funds for the collection of information is governed by the following criteria: No grant shall

be awarded with a primary objective of collecting information intended primarily for the use of the Government or third parties specifically designated by the Government. Contracts shall be used for this purpose unless a grant is specifically required by legislation. However, recipients may use PHS grant funds to collect information under the following conditions:

1. When the collection of information is not a primary objective of the grant, but is incidental to, or is an integral part of, a grant-supported activity.
2. When the collection of information is a primary objective of the grant, but such information is not intended primarily for the use of the Government or a party designated by the Government.

When information is collected according to either of the two conditions above, recipients are prohibited from representing to their respondents that the information is being collected for, or in association with, the Federal Government unless PHS awarding office approval has been obtained, and the Office of Management and Budget (OMB) report clearance procedures (as contained in OMB Circular A-40, revised) have been followed where required. (When OMB approval is required, the PHS awarding office is responsible for obtaining the necessary prior clearance.) However, this prohibition shall not preclude recipients from making the required general acknowledgement of PHS grant support when publishing the results of the grant-supported effort (see "Postaward Administration—Publications").

OMB clearance is required whenever PHS sponsors the use of a reporting form or plan to collect identical kinds of information or data from 10 or more persons.

A reporting form or plan used by a grantee is considered to be sponsored by PHS when one or more of the following circumstances exist:

1. The PHS awarding office authorizes the recipient to represent to respondents that the information is being collected for, or in association with, PHS.
2. The recipient uses the report form or plan to collect information that PHS has requested for the planning, operation, or evaluation of its program.
3. The terms of the award provide for PHS awarding office approval of the study design, questionnaire content, or data collection procedure.
4. The terms of the award provide for either submission of the data for individual respondents or the preparation and submission of special requested tabulations to the PHS awarding office.

PHS and OMB approval may also be required if the use of a report form or plan presents a relatively high risk of unwarranted invasion of privacy.

Collection of the following types of information is not subject to the clearance requirements under OMB Circular A-40, revised:

1. Health professions data as described in Section 708 of the PHS Act, as amended;
2. Tests or examinations given individuals for determining knowledge, abilities, or aptitudes of the person tested, and the collection of information for identification or classification in connection with such tests;

3. Information from patients which is to be used exclusively for the purpose of research on or direct treatment of a clinical disorder or for the interpretation of biological analyses of body fluids, tissues, or other specimens, or for identification or classification of such specimens. (See OMB Circular A-40 for additional exemptions from clearance requirements.)

EXTERNAL REVIEW REQUIREMENTS

The following sections deal with required reviews by organizations outside PHS of certain types of applications and requests for support. Where required under discretionary grant programs, these reviews must be completed prior to the PHS objective review of an application. The reviews discussed below are in addition to reviews, such as single State agency reviews, that may be legislatively mandated for certain programs.

OMB Circular A-95 Clearinghouse Requirements

Part I of Attachment A of OMB Circular A-95 establishes a Project Notification and Review System (PNRS) that utilizes a network of State and areawide planning and development clearinghouses to coordinate federally assisted projects or programs with State, areawide, and local planning for the orderly development of facilities and services. According to the PNRS requirements, an applicant seeking project grant support under most PHS planning, service, and construction grant programs, that is, those having an impact on State, areawide, or local development, must notify the appropriate State and areawide clearinghouses of its intention to apply for Federal assistance. If the application is for a statewide project that does not affect areawide or local planning and programs, the notification need be sent to the State clearinghouse only. (Program announcements and application kits will contain information as to the need for A-95 review. Listings of applicable programs also appear in Attachment D of OMB Circular A-95 and Appendix I of the Catalog of Federal Domestic Assistance.) The names and addresses of the pertinent clearinghouses may be obtained from the Grants Management Officer of the PHS awarding office (see Appendix A).

These requirements are generally applicable to pre-applications, new applications, competing continuation applications, and substantive programmatic changes or amendments to approved applications under covered programs. Noncompeting continuation applications within an approved project period are subject to A-95 review requirements only if clearinghouses have not had a previous opportunity to review an application for a project or the clearinghouse requests such a review.

Applications from federally recognized Indian tribes are not subject to PNRS. However, federally recognized Indian tribal governments that have established a mechanism for coordinating the activities

of tribal entities may request that the PHS awarding office require applications from such Indian groups to be reviewed by the tribal coordinating mechanism as if it were a State or areawide clearinghouse.

Notification to the clearinghouses of the intent to apply for Federal assistance should be made as soon as the applicant can provide useful information concerning the type, purpose, estimated cost, beneficiary population or other aspects of the proposed project, the location of the proposed project, the PHS program under which support is being sought, any environmental or historical impact anticipated, and the estimated date the applicant expects to formally file a completed application with PHS.

In the absence of any contrary instructions from clearinghouses, applicants must use Standard Form (SF) 424, "Notification of Intent to Apply for Federal Assistance," to notify the clearinghouses. This form, which serves as the face page of application for PHS: 5161-1, is available from the grants management office of the PHS awarding office from which assistance will be sought (see Appendix I). In addition, where the PHS awarding office requires (or the applicant voluntarily decides to submit) a preapplication, copies of the preapplication should be sent to the appropriate State and areawide clearinghouses at the same time that the preapplication is submitted to PHS.

Clearinghouses have 30 days after receipt of a Notification of Intent to Apply to conduct its review, inform other agencies and governmental units that may be affected by the proposed project, and to arrange for consultation with the applicant, as necessary. The clearinghouse review may be completed in this period and comments submitted to the applicant, or if unresolved issues remain, discussions may continue while the application is being prepared. If requested by the clearinghouses, the applicant must submit copies of the application to them for review. Clearinghouses may then have an additional 30 days to review and comment on the application. (If the applicant did not file a preapplication or Notification of Intent to Apply, clearinghouses may have up to 60 days to review and comment on the application, which must be submitted to them for review.) At the same time that the application is submitted to the clearinghouse, copies should be provided to PHS and, if required, to the appropriate Health Systems Agency or Statewide Health Coordinating Council (see "Health Planning and Development Reviews" and "Joint or Concurrent A-95-HSA Reviews" in this section).

If the applicant receives no response from the clearinghouse by the end of the 30/60 day period allotted for clearinghouse review of the application, it should notify PHS that no clearinghouse response was received. Clearinghouse comments will be forwarded to both the applicant and the PHS awarding office. If necessary the applicant shall then forward

to the PHS awarding office a statement of the applicant's position with respect to those comments and any changes if any that will be made in the application.

The applicant's failure to provide the clearinghouse an opportunity to comment or to notify PHS that no comments were received from the clearinghouse(s) will result in a delay in the PHS review of the application.

With the issuance of Executive Order 12372, July 14, 1982, the Office of Management and Budget (OMB) must take action to revoke OMB Circular A-95. The circular will remain in effect until revised agency coordination procedures have been approved, however, this may not extend beyond April 30, 1983. Applicants need to contact the PHS awarding office to which they are applying to obtain information on the coordination procedures which must be followed.

Multijurisdictional Areas— Coordination of Planning

Part IV of OMB Circular A-95 establishes requirements for, and minimum procedures to achieve, coordination of federally assisted planning and development in multijurisdictional areas. A multijurisdictional area is any geographic area comprising, encompassing, or extending into more than one unit of general local government.

Under the provisions of Part IV of OMB Circular A-95, States are encouraged to establish sub-State districts or regions to serve as common and consistent geographic bases for planning and development activities. When a PHS grant program requires that the State be divided into geographic areas for purposes of planning, assigning service responsibilities to local agencies, dispersing needed facilities or other resources, or assigning funding priorities, or requires that the grantee assume responsibility for a formally designated geographic area, such areas must conform to the State's common planning districts, where established, unless there is a clear justification for non-conformance. Whether or not the State has established such districts, the Governor(s) of the State(s) in which the designated area(s) would be located must be given the opportunity to review and comment. For discretionary grants, this will be accomplished during review of the application by the State A-95 clearinghouse. Where planning and development districts or regions have not been established, major units of general focal government and the appropriate Federal Regional Council must also be consulted.

For grant programs supporting areawide planning activities, a grantee other than an areawide planning agency designated under Part I of OMB Circular A-95 shall coordinate its activities and seek to enter into a memorandum of agreement with that agency. The agreement must identify activities requiring coordination, delineate organizational and procedural

arrangements for coordinating such activities, arrange for sharing of resources, and contain base data, statistics, and projections that have been agreed upon as the bases for planning in the area.

Health Planning and Development Reviews

The National Health Planning and Resources Development Act of 1974 (Public Law 93-641) added a new Title XV to the Public Health Service Act, that authorized the designation of Health Systems Agencies (HSAs) to provide for effective health planning and for promotion of the necessary development of health services, manpower, and facilities within identified health service areas. One of the functions of these agencies is to review and approve or disapprove, or review and comment on, as appropriate, specified proposed uses of Federal funds within their health service area. (See Title XV of the PHS Act and 42 CFR 122 for the applicability of this requirement and associated procedures.)

These review and approval or disapproval requirements are applicable to funds available under the PHS Act if the proposed uses are for the purpose of developing, expanding, or supporting health resources. NOTE: Under the provision of the Omnibus Budget Reconciliation Act of 1981, PL 97-35, the Secretary may exempt an HSA from the requirements of this function upon application or may, by regulation, so exempt all HSAs, provided he finds Federal funds available are insufficient to the task.

An HSA may only review and comment on (rather than approve or disapprove) proposed uses of funds under these Acts for projects that will be located in or will specifically serve, a federally recognized Indian reservation or designated Indian areas in Oklahoma or Alaska.

The health planning legislation requires that the general public be given access to all applications reviewed by the HSA. Therefore, if an application contains material which the applicant believes to be confidential or proprietary and which should not become public, the applicant may submit a summary of this material to the PHS awarding office along with a copy of the application. If the awarding office determines that the material is confidential or proprietary and that the summary is full and accurate, the applicant may submit the summary to the HSA along with the application, deleting the portion of the application which has been summarized.

HSAs are allowed 67 days from the date of receipt of the complete application or PHS approved summary to make this review. If an HSA disapproves a proposed use of funds in its health service area on the basis of this review, the PHS awarding office may not make an award unless a decision is made to consider the application for funding notwithstanding the HSA disapproval in accordance with the procedures established by PHS.

Those procedures provide the applicant with the opportunity to request a PHS review of the disapproval decision. The request must be in writing and must be postmarked no later than 15 days after the postmark date of the HSA's notification of disapproval. Late requests will not be reviewed.

A decision to consider the application for funding notwithstanding the HSA's decision will not necessarily result in an award.

Although the Health Planning and Resources Development Amendments of 1979 (P.L. 96-79) require reviews of certain applications by the Statewide Health Coordinating Council, this authority may not be exercised until such time as regulations implementing P.L. 96-79 are published.

Joint or Concurrent A-95—HSA Reviews

Some of the competing applications subject to the A-95 review process will also be required to undergo a Health Systems Agency review. The applicability of these requirements will be indicated in the program announcement and in the grant application kit. HSAs and A-95 clearinghouses responsible for the same geographic area are required to coordinate their activities, and should seek to enter into written agreements providing, at a minimum, for concurrent reviews of proposed uses of PHS funds to ensure complementary actions. In some areas, however, the designated HSA and clearinghouse(s) have established formal arrangements whereby the HSA or the clearinghouse will conduct the review on behalf of both entities. Applicants should contact the A-95 clearinghouse to determine what arrangements, if any, have been made for the performance of these reviews.

Where the clearinghouse and the HSA will be performing their reviews independently, the applicant should submit its application to each body at the same time. In order to expedite processing of applications and allow sufficient time for review, applicants must submit copies of completed applications simultaneously to the A-95 clearinghouse and/or the HSA and the PHS awarding office at least 120 days before the requested start date for the project.

INTERNAL REVIEW PROCESS

Discretionary Grants

Application Receipt

Competing applications, i.e., those subject to independent objective review requirements (see below), will be considered to be "on time" if they are postmarked or received by the deadline date given in the program announcement or in the application kit materials, unless they arrive too late for orderly processing. Late competing applications not accepted for processing may either be returned to the applicant or held for the next regularly scheduled review cycle.

Applications for noncompeting continuation awards will also be considered to be "on time" if they are postmarked or received by the deadline date given in the application kit materials. The late submission or receipt of a noncompeting continuation application may result in a delay in the issuance of the continuation award, during which time no additional Federal funds will be awarded.

A designated PHS official may determine that a competing or noncompeting application is nonconforming if it cannot be properly evaluated or its deficiency(ies) cannot be remedied before award, thereby ending the review process for that application. For this purpose, a "nonconforming application" is one that does not meet the requirements of the program announcement to which it is responding because it (1) omits required material or contains material not permitted under the announcement, (2) is submitted by an ineligible applicant, or (3) omits any assurance or other document required to be submitted with the application. PHS will return nonconforming applications to the applicant. Correction of the deficiencies in noncompeting applications should be made as soon as possible and the application should be returned to the PHS awarding office in order to expedite the processing of the application.

An applicant may withdraw an application from consideration at any time. A competing application that is withdrawn by the applicant before it enters the formal review process will be returned to the applicant. Other applications may be returned to the applicant at the discretion of the PHS awarding office.

Objective Review of Grant Applications

All PHS discretionary grant programs, including construction programs when awards are made on the basis of competitive review, and fellowships and other training programs when awards are made to individuals, have established systems of objective review.

Within each of these programs, all new, competing continuation, and competing supplemental applications, receive an independent objective review.

The review includes a thorough and consistent examination of each application by persons knowledgeable in the field of endeavor for which support is requested, who have no direct relationship with the organization or individual submitting the application, and who do not have any personal or vested interest in the award of a grant to that organization or individual. Peer review, a review system utilizing reviewers who are the professional equals of the principal investigator or program director who is to be responsible for directing or conducting the proposed project, is a form of objective review. Peer review is legislatively mandated in some programs and in other programs is administratively required.

The objective review is generally conducted by a committee or by a group(s) of field readers or by a

combination of those methods. Reviewers may be Federal or non-Federal. Peer review committee membership is usually entirely non-Federal. The use of non-Federal reviewers is governed by the requirements of the Federal Advisory Committee Act and its implementing HHS regulation, 45 CFR 11.

Objective review of grant applications is intended to be advisory and not to replace the authority of the PHS awarding official to decide whether or not a grant shall be awarded. A review committee makes a "recommendation for approval or disapproval," and only the decision-making official has the sole authority to fund an application. Such decisions are based not only on the recommendations resulting from the objective review process but also on stated programmatic priorities, the availability of funds, HSA/A-95 decisions and recommendations, where applicable (see "Preaward Process—External Review Requirements"), and other information available to the awarding official.

Cost Analysis of Grant Applications and Reviews of Financial Systems

A cost analysis is normally performed for every grant application approved for funding by PHS except for awards such as fellowships, which do not require detailed budgets. A cost analysis is the process of obtaining cost breakdowns, verifying cost data, evaluating specific elements of cost, and examining data to determine necessity, reasonableness, and allowability of the cost reflected in the grant budget. The Grants Management Officer of the PHS awarding office responsible for reviewing the application will determine the form and extent of the cost analysis based on information obtained from the review process, the amount and type of costs being requested, the nature of the project, and past experience with the applicant institution.

In cases where a prospective grantee has had no prior Federal grants or cost-type contracts, the applicant's financial management system must be reviewed before award or within a reasonable time thereafter to ensure its adequacy and acceptability, and to aid the PHS awarding office in determining the organization's capability for financial stewardship of Federal funds.

A review of an applicant's or grantee's financial management systems may also be undertaken if any of the following conditions exist:

1. The organization may have had prior Federal grants or cost-type contracts, but will be receiving PHS support for the first time.
2. The organization is known to have operational and/or financial problems in its dealings with commercial or governmental entities.
3. The PHS award will result in a major change in the organization's overall operations.
4. The PHS awarding office is aware of information which raises doubts about the adequacy of the organization's financial and business management capabilities.

The decision whether to have a review and, if so, how comprehensive it should be is made by the responsible Grants Management Officer. That official may conduct the review or have others conduct it. The review is made against the standards for recipient financial systems in 45 CFR 74, Subpart H.

Notification to Unsuccessful Applicants

Within 30 days after the decision not to fund an application, a written notice must be sent to each applicant whose application has been disapproved or has been recommended for approval but is not expected to be funded during the current funding cycle. The notice must provide the reasons the applications will not be funded, or the name of an official to contact for more information. Notices shall also be sent to applicants whose applications have been deferred, i.e., where a final recommendation has not been made, in order to obtain additional information or otherwise augment the review of an application.

An application that has been recommended for approval but is not funded in a particular review cycle may be considered for funding in a subsequent review cycle(s). Such applications must then compete for funding with comparable applications recommended for funding in that review cycle. An applicant whose application is recommended for approval but is not funded will be advised whether and for what period of time the application will be held for reconsideration and possible funding. In no case may such an application be held for reconsideration for more than 12 months in an approved but unfunded status following the date of the funding decision. This policy is applicable to all PHS discretionary grant programs, both construction and nonconstruction.

AWARD PROCESS

AWARD AND FUNDING

When an application is approved for funding, the Grants Management Officer will prepare, or cause to be prepared, a Notice of Grant Award.

The Notice of Grant Award includes, among other things, the dates of the budget period or other specified funding period and the amount of Federal funds authorized for obligation by the grantee during the period indicated. If applicable, the Notice of Grant award will also indicate the dates of the approved project period and the amount of PHS support recommended for each subsequent budget period of the approved project. Any action, such as the award of a supplement or the noncompeting extension of a budget period, resulting in a change in the amount of funds awarded or a change in the duration of support will be reflected in a revised Notice of Grant Award. Award notices also contain or refer to all terms applicable to a particular award.

Discretionary Grants

All PHS discretionary grants are funded either by a single award covering the entire period of support or incrementally by a series of successive awards.

A single award covering the entire period of support will generally be used only when:

1. The project is exclusively for construction, alteration and renovation, or acquisition of property;
2. The planned period of support will be less than 18 months; or
3. This method of funding is required by the authorizing legislation or known intent of Congress.

When incremental funding is used, projects may be programmatically approved for support in their entirety or in part, but funded in annual increments called "budget periods."

The length of an initial project period or any subsequent extension is determined by the PHS awarding office on the basis of (1) statutory and regulatory requirements, (2) the length of time requested by the applicant to complete the project, (3) the frequency of competitive review desirable for proper management of the project, and (4) limitations on the length of the project period recommended by the independent objective review group(s). However, except where specifically required by legislation or regulation, an initial project period or competitive continuation thereof may not exceed 5 years exclusive of noncompeting extensions. The total project period consists of the initial project period and any extensions (competitive segments) thereof.

The initial grant award provides funds for the conduct of the project during the first budget period. A

budget period is normally 12 months. Shorter or longer budget periods may be established for compelling programmatic or administrative reasons such as to arrange more advantageous anniversary dates, to allow for project periods not evenly divisible into 12-month increments, to take into account an unavoidable extended absence of a principal investigator, to merge two or more grants into a consolidated grant, or to accommodate a change in the grantee's fiscal year. The documentation on a Notice of Grant Award of the approval of a project period that extends beyond the budget period for which funds are provided, including recommended levels of future support, expresses the PHS intention to provide continued financial support to the project. However, the recommended levels of future support within a project period are not guarantees by PHS that the project will be funded or funded at those levels and creates no legal obligation to provide such future support. Instead, these amounts represent estimates of future funding levels based on a projection of the information available at the time of the initial award. The actual amount of subsequent awards will be determined by reviewing the proposed project budget submitted with the annual noncompeting continuation application, reports of progress, other information submitted in the continuation application for the budget period involved, and the availability of Federal funds, and may be subject to negotiation between the grantee organization and the PHS awarding office. Funding of a noncompeting continuation award within a previously approved project period may be withheld for justifiable reasons. (See "Withholding of Support" under "Postaward Administration—Changes in Project.")

Grant funds, including amounts awarded for the current budget period, and estimated or actual unobligated Federal funds carried over from prior budget periods are authorized for grantee use only in the current budget period in the amount specified by the PHS awarding office in an approved budget on a Notice of Grant Award. As a result of carryovers of unobligated grant funds, the total amount of funds available in the grant account may exceed the Federal share of the approved budget. Those funds are not automatically available to the grantee. The PHS awarding office exercises sole discretion as to the use of those funds. See "Postaward Administration—Reporting" for further information concerning the application and disposition of unobligated balances.

Construction Grants

Generally, for construction grants, one award that may cover more than 1 year is made on the basis of an

application covering the entire project. Incremental funding is not normally used for construction grants.

Training Grants

PHS grants which provide funds for the training of individuals are made to institutions and are funded incrementally as described above. The grantee institution selects the trainees, whose periods of training may not necessarily coincide with the budget period of the project. Under these programs, a new appointment is the first appointment for a trainee under the PHS grant-supported project. A reappointment is a subsequent appointment for the same trainee under the same project. An appointment or a reappointment may not be for less than 9 months (except under approved programs or projects that specifically include provisions for short-term training) or exceed 12 months without prior approval by the PHS awarding office. The full amount of the stipend and tuition for each year covered by the appointment or reappointment is considered a cost of the budget period in effect on the beginning date of the appointment or reappointment unless other instructions are furnished by the PHS awarding office.

Individual Fellowships

An individual fellowship may be activated at any time during the 12-month period immediately following the issue date shown on the Notice of Award. An approved continuation award must be activated on the day following the completion of the previous award period.

PAYMENT

The Notice of Grant Award will identify the office from which the grantee will receive payments under the grant, or such information will be provided separately at the time of award.

Grant and subgrant payment requirements are set forth in 45 CFR 74, Subpart K. That subpart requires recipients to minimize the time elapsing between the transfer of funds and the recipients's disbursement.

Grant payments are made by one of three methods: (1) letter of credit, (2) advance by Treasury check (also termed "monthly cash request"), and (3) reimbursement by Treasury check. Most PHS grants are paid through the Departmental Federal Assistance Financing System (DFAFS), which is operated by HHS. Detailed requirements of DFAFS are contained in the "DFAFS Policy and Procedures Manual for Recipients," which may be obtained from the specified payment office.

Letter of Credit

The letter of credit is a document that authorizes a grantee to submit payment vouchers through its commercial bank to a Federal Reserve Bank or branch for deposit of cash in the grantee's commercial bank ac-

count. The letter of credit indicates the dollar amount available to a grantee during a specified period.

Letters of credit are used, generally, when all of the following conditions exist:

1. There is or will be a continuing relationship between the grantee and the HHS payment office for at least a year, and the total amount of advances to be received from the HHS payment office is \$120,000 or more per year.
2. The grantee has maintained or demonstrated to HHS the willingness and ability to maintain procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the grantee.
3. The grantee's financial management system meets standards for fund control and accountability prescribed by HHS (see 45 CFR 74, Subpart H.)

Advance by Treasury Check

Under this method of payment, grantee organizations must request grant funds monthly, based on anticipated disbursements during the succeeding month and the amount of Federal funds already on hand. This method is generally used when the grantee meets the requirements for a letter of credit as specified in items 2 and 3 under "Letter of Credit" above, but its aggregate financing needs are less than \$120,000 annually or its relationship with the HHS payment office is expected to last less than a year.

Reimbursement by Treasury Check

Under this method, payment is made to the grantee with a Treasury check upon request for reimbursement from the grantee. A request for reimbursement may be submitted monthly or more often if authorized. PHS may use this method for construction grants unless HHS has entered into an HHS-wide letter of credit agreement with the grantee. This method may also be used for nonconstruction grants where it is determined that the grantee's financial management system does not meet the standards in 45 CFR 74, Subpart H, or that the grantee has not maintained, or demonstrated the willingness and ability to maintain, procedures that will minimize the time between transfer of funds from the Treasury and their disbursement for grant-related purposes.

Secondary Recipient Advances

Advances made by the grantee to subgrantee and contractor organizations must conform substantially to the same standards of timing and amount that govern advances made by the Federal Government to the grantee under the above-mentioned payment methods.

Assignment of Payments

When the grant provides for payment only after incurrence of costs, i.e., reimbursement payment method, the alternatives discussed below regarding assignment and other means of ensuring adequate working capital are appropriate.

With approval of the PHS awarding office, grant payments due or to become due, under the types of

grants indicated above may be assigned to financial institutions under the following conditions:

1. The award provides for reimbursements totaling \$1,000 or more.
2. The payments are assigned to a bank, trust company, or other financing institution, including any Federal lending agency.
3. The program's legislation does not prohibit assignment.
4. The assignment covers all amounts payable under the grant that have not already been paid and are not subject to further assignment. (This does not preclude assignment to one party acting as agent or trustee for two or more parties participating in the financing.)
5. In the event of any assignment, the assignee shall file a written notice of grant payments assignment along with a true copy of the instrument of assignment with the PHS awarding office and the responsible HHS payment office.

Requests to assign payments should be submitted to the designated Grants Management Officer for approval. Upon approval, necessary information as to how assignment may be accomplished will be provided by the Grants Management Officer.

Any interest charges resulting from loans obtained on the basis of the assignment are unallowable charges to project funds.

In instances where lack of Federal funds due would cause a hardship on the grantee, it is possible to accelerate the grant payments. The grantee should contact the Grants Management Officer of the PHS awarding office to request expeditious handling of its reimbursement request or to obtain authorization to submit reimbursement requests more often than monthly.

Grantees might also consider arranging a short-term loan from a lending institution in an amount sufficient for the initial phase of the grant-supported activity. Using the grant award as collateral, a grantee could secure such a loan and pay off the loan upon receipt of the Federal payment. Grantees would have to absorb interest payments, but this would be for a lesser amount

over a shorter period of time than that incurred by assigning grant payments. This process of securing short-term loans could be repeated if necessary.

TERMS OF AWARD

The terms of the award, either contained in or referenced by the award document, will be binding on both the grantee and the PHS awarding office until such time as they are modified by a revised award notice or other document signed by the Grants Management Officer.

The award document will, among other things, set forth the approved budget and the approved period of support; identify the approved grant application or its equivalent; indicate the grantee's specific matching, or cost sharing requirement; include the name of the individual (project or program director or principal investigator) who by the terms of the application will have responsibility for the conduct of the project or program; and may specify the option to be exercised by the grantee concerning the disposition of general program income earned from the grant-supported activities.

Under all PHS grant awards, a grantee indicates acceptance of the terms of an award by requesting funds from the grant payment system. If the grantee finds those terms unacceptable in some respect, they may only be changed with the consent of the Grants Management Officer of the PHS awarding office (see "Postaward Administration—Changes in Expenditures/Activities—Methods for Grantees to Request Approvals"). The grantee does not have appeal rights with respect to the terms appearing on the Notice of Grant Award or with respect to a denial by the PHS awarding office of a request to change the terms of the award, since the actions and decisions resulting in the issuance of the award document are normally considered to be preaward determinations.

NON-FEDERAL SOURCES OF FUNDS

A number of PHS grant programs have requirements for non-Federal participation in the costs of grant-supported activities; the extent of that participation is specified by PHS or is negotiable. The non-Federal participation may be in the form of allowable costs incurred by the grantee, subgrantee, or a contractor under the grant or subgrant, or the value of third-party in-kind contributions (see "Costs Under PHS Grant-Supported Projects/Activities"), and must meet the requirements for allowability and documentation set forth in 45 CFR 74, Subpart G. The following information, which supplements 45 CFR 74, contains an explanation of the non-Federal share requirements and how they are administered by PHS, and specifies where PHS will exercise the options provided in Subpart G.

COST SHARING AND MATCHING

Cost Sharing

Since 1966, the appropriation acts for HHS have stated that "None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project." Consequently, cost sharing is required by statute on all HHS research project grants awarded from funds appropriated by an act containing this language. Grantee institutions with multiple PHS awards may share in the costs of grant-supported research through an institutional agreement negotiated for all or some HHS research project grants and applicable research contracts. Where institutional cost sharing agreements are not in effect, cost sharing will be negotiated with PHS on an individual project basis. Cost sharing proposals are not required for research grants where the terms of the award prohibit or restrict full reimbursement of indirect costs, or as in the case of research grants to Federal institutions, allows less than full recovery of indirect costs to satisfy the requirement for cost sharing. (See "Costs Under PHS Grant-Supported Projects/Activities" regarding indirect costs.) Cost sharing requirements on research conference grants, and grants to individuals are met through nonpayment of indirect costs.

Responsibility for negotiating institutional cost sharing agreements is assigned to the Cost and Audit Management Branch, Division of Grants and Contracts, Office of Resource Management, Office of Management, PHS, 5600 Fishers Lane, Rockville, Maryland 20857. All requests for information regarding institutional cost sharing should be directed

to that office. The responsibility for negotiating project-by-project-type cost sharing agreements is assigned to the individual PHS awarding offices.⁴ For project-by-project cost sharing, the agreed rate will apply to the original project period or to a subsequent competitive segment of the extended total project period. There may be no contribution or only a token contribution in some years of the competitive segment provided that the agreed overall percentage for the competitive segment is met.

The amount of cost sharing is not a factor in determining the merit of a research project application; therefore, a cost sharing proposal is not required until after the review process. At that time, the applicant will be requested to submit a cost sharing proposal to the appropriate PHS awarding office for approval. Such proposals are not required (1) if the grantee already has an institutional cost sharing agreement, (2) if the requirement is to be met by nonpayment of indirect costs or which the grantee will incur and to which it would otherwise be entitled, or (3) where the grantee claims indirect cost reimbursement at less than the full rate.

When the grantee elects to contribute some or all of its cost sharing on research grants by requesting less than the full amount of indirect costs to which it would otherwise be entitled, an explanation should be included in the "Remarks" section of the Financial Status Report indicating that the claim for less than full indirect costs is intentional. (See "Postaward Administration Reporting.")

Cost sharing contribution by the grantee is represented on the Notice of Grant Award by (1) citing the date of the agreement which covers the currently approved budget period in the case of institutional cost sharing, or by (2) the specific percentage figure in the case of a project-by-project arrangement. The amount of the cost sharing contribution is not shown as a part of the total approved budget on the Notice of Grant Award.

The costs that the grantee incurs in fulfilling its cost sharing requirement are not subject to the individual cost or activity prior approval requirements described by Subpart Q and this document, but are subject to the other rules for allowability provided in the cost principles and below.

⁴Further information regarding cost sharing may be found in "A Guide to Institutional Cost Sharing Agreements for Research Grants and Contracts Supported by the Department of Health, Education, and Welfare" (DHEW Publication No. (OS) 75-50009), which is available from the Cost and Audit Management Branch, Division of Grants and Contracts at the address shown above.

The actual cost sharing percentage must at least equal the original percentage agreed on at the time of award unless the PHS official or office that negotiated the original percentage agrees to a lower percentage.

Matching

In addition to cost sharing under research project grants, the terms of some other PHS grant awards require that expenditures from Federal (grant) funds be matched in some proportion by non-Federal sources. Matching may be required by law or regulation or may be administratively required by the PHS awarding component. A matching requirement may either specify a minimum fixed percentage of non-Federal funds or may provide that the level of non-Federal participation be negotiated between the applicant and the PHS awarding component.

The source and amount of costs, and/or the value of third-party in-kind contributions proposed by the applicant or recipient to meet a matching requirement must be identified in the application. The amount of Federal funds awarded, including authorized carryovers, combined with the amount of the non-Federal share reflected on the Notice of Grant Award constitute the total approved budget. The activities supported by that budget as well as any expenditures against that budget must conform to the requirements of this document.

General Requirements for Matching and Cost Sharing

In determining the allowability of costs for cost sharing or matching purposes, the qualifications and exceptions listed in 45 CFR Part 74.53 apply. Also, the classification of a contributed cost as either direct or indirect must be consistent with the classification of other costs incurred for the same purpose in like circumstances. For example, if the costs of facilities (such as depreciation or use allowance and operation and maintenance expenses) are treated as indirect costs for the organization's other activities, similar costs may not be counted as a direct cost contribution for purposes of cost sharing or matching. If the recipient has established special or multiple indirect cost rates, the requirement for consistent classification of costs applies separately to the activities covered by each rate. (See Special Indirect Cost Rates in Appendix II.)

Where a fixed minimum percentage of match is specified by legislation or regulations, the actual level of matching must at least equal that minimum percentage. If the grantee is unable to meet the minimum level of non-Federal participation, the PHS awarding office will take appropriate action to adjust the awarded amount downward to ensure that the respective Federal and non-Federal shares reflect the proper ratio. Where a fixed minimum percentage of

match is not specified by legislation or regulation and the actual reported level of match does not meet the previously negotiated percentage, the PHS awarding office may agree to accept a lower percentage of match.

PHS will exercise the options contained in 45 CFR 74.56(b) and 45 CFR 74.57 in the following way.

Where a grantee, subgrantee or contractor under a grant proposes to provide allowable matching or cost sharing in the form of an in-kind contribution of equipment, a building and/or land that has been donated by another party who has transferred title to the grantee, subgrantee, or contractor under a grant, PHS awarding office prior approval is required in order to apply the market value at the time of the donation of the equipment or building and/or the fair rental rate of the land as cost sharing or matching. See 45 CFR 74.56(b)(2) for the required accounting treatment in the absence of such approval.

In order to establish the market value or rental rate of land or a building, the PHS awarding office may require that the market value or fair rental rate be established by a certified real property appraiser (or by a representative of the U.S. General Services Administration, if available) and that the value or rate be certified by a responsible official of the party to which the property or its use is donated.

THIRD-PARTY REIMBURSEMENT AND OTHER SOURCES OF HEALTH SERVICES FUNDING

Those projects supported under health services delivery programs are expected to develop, to the extent possible, independence from PHS grant support. Therefore, these projects will be encouraged and assisted in the development and use of alternate funding sources to supplement or supplant PHS support where possible. These funding sources include third-party payors, other available Federal, State, local, and private funds, and beneficiaries who are able to pay. Each project is to establish a plan to (1) recover to the maximum extent feasible third-party revenues to which it is entitled for services provided, (2) garner all other available Federal, State, local, and private funds, and (3) charge beneficiaries according to their ability to pay for services without creating a barrier to those services.

Where third-party payors, including Government agencies, are authorized or are under legal obligation to pay all or a portion of charges for health care services, all such sources must be billed for covered services and every effort must be made to obtain payment. Each service provider receiving Federal funds, either directly or indirectly, must have a procedure to identify all persons served who are eligible for third-party reimbursement.

Where a significant percentage of the cost of care and services provided by the project is to be reimbursed by a third-party payor, there must be a written agreement with the third party.

MAINTENANCE OF EFFORT AND NONSUPPLANTATION OF FUNDS

Some PHS grant programs require an assurance that grant funds will be used to supplement and not supplant the non-Federal funds that would otherwise

be made available for that activity or purpose. This is a "nonsupplantation" requirement.

In addition to this requirement or in place of this requirement some PHS grant programs have a "maintenance of effort" requirement. Where a specified level of non-Federal effort is to be maintained, the level of effort does not include volunteer services or donations nor should it include expenditures of a nonrecurring nature. The base period for determining the level of applicant and grantee expenditures to be maintained and the sanctions for noncompliance may vary among the programs containing this requirement.

COSTS UNDER PHS GRANT-SUPPORTED PROJECTS/ACTIVITIES

An important element in all phases of the grants administration process—preaward, award, and post-award—is the identification of allowable costs. Post-award changes to approved budgets and the audit process will be considered in later sections of this document.

The cost of a grant-supported activity is comprised of the allowable direct costs incident to its performance plus the allocable portion of the allowable indirect costs of the organization, less applicable credits. All costs must be reasonable and necessary.

The principles for determining the allowability of these costs are prescribed in 45 CFR 74, Subpart Q and in Appendices II, III, and IV of this document. Five separate sets of cost principles are prescribed for recipients and cost-type contractors. Each recipient or cost-type contractor is subject to only one set, according to the type of organization it is: for example, educational institution or State or local government. A subgrantee or cost-type contractor⁹ under a grant is subject to the cost principles applicable to its type of organization, which may not necessarily be the same as that of the grantee. The five sets of cost principles and their applicability are as follows:

- State, local, and federally-recognized Indian tribal governments (OMB Circular A-87)
- Institutions of higher education (OMB Circular A-21)
- Hospitals (45 CFR 74, Appendix E)
- Nonprofit organizations¹⁰ (OMB Circular A-122)
- For-profit (commercial) organizations (Federal Procurement Regulations - 41 CFR Subpart 1-15.2.)

A direct cost is any cost that can be specifically identified with a particular project or program. Direct costs include, but are not limited to, salaries, travel, equipment, and supplies directly benefiting the project or activity.

Indirect costs are those incurred by an organization for common or joint objectives and cannot be identified specifically with a particular project or program. Facilities operation and maintenance costs, depreciation, and administrative expenses are ex-

amples of costs that are usually treated as indirect costs. Policies and procedures concerning the establishment of indirect cost rates and the reimbursement of indirect costs are contained in the "Indirect Costs" section of this part and in Appendix II.

The cost principles permit an organization to establish and use its own accounting system to determine costs, provided it is based on sound accounting principles consistently applied to all organizational activities regardless of the source of funds supporting those activities. While costs may be charged either as direct or indirect costs depending on their identifiable benefit to a project or program, such costs must be treated consistently for all work of the organization under similar circumstances so as to avoid duplicate charges. Organizations must have procedures for determining the allowability of costs to grant-supported activities and projects according to the applicable cost principles and other terms of the award.

GENERALLY ALLOWABLE/ UNALLOWABLE COSTS

Outlined below are those costs generally allowable and unallowable under PHS grant programs, including both direct and indirect costs. This section is not exhaustive, however, and the cost principles should be consulted for more specific guidance.

This section also addresses certain cost items which are not specifically covered in the cost principles or elsewhere and, in some cases, supplements the language in the principles.

Aside from the cost principles and supplemental policies in this section, the allowability of costs may be subject to additional requirements specified in the program legislation and regulations, and in the specific terms of an award.

This section applies to grantees and, where applicable, to subgrantees. It does not apply to cost-type contractors under grants unless the language for a given provision indicates otherwise. However, as stated earlier, the applicable cost principles do apply to such contractors.

If a grantee is uncertain whether a particular cost is allowable, the grantee should contact the Grants Management Officer of the appropriate PHS awarding office.

This listing of allowable and unallowable costs refers to their allowability or unallowability as "project costs" under discretionary grants. When costs are borne in whole or in part by a PHS grant or any non-Federal matching required by the terms of the grant, they are considered to be "project costs" and are subject to the cost principles and the policies in this section.

⁹All references to "contractors" in this section on costs under PHS grants refer to cost-type contractors.

¹⁰References to nonprofit organizations other than institutions of higher education and hospitals in this section apply to such nonprofit organizations covered by OMB Circular A-122, i.e., private nonprofit organizations. However, a few of the larger nonprofit organizations, which are specifically listed in Attachment C to OMB Circular A-122, shall be subject to the Federal cost principles applicable to commercial firms (41 CFR Subpart 1-15.2) rather than to the cost principles for nonprofit organizations. Rules governing the allowability of bid and proposal costs and independent research and development costs for nonprofit organizations are in subparagraphs 74.174(b) and (c) of 45 CFR 74.

Applicants for discretionary grants are expected to anticipate and justify their funding needs and the activities to be carried out with those funds in preparing the budget and accompanying narrative portions of their applications. Unless otherwise indicated on the Notice of Grant Award, a discretionary award based on the information included in the approved grant application constitutes the required prior approval referred to in several of the following sections. Post-award requests to incur costs or undertake activities that have not been described in the approved application and that require prior approval are subject to the requirements in "Postaward Administration—Changes in Expenditures/Activities."¹¹

Advertising—Allowable only for recruitment of staff or trainees, procurement of goods and services, disposal of scrap or surplus materials, and other specific purposes (as indicated in the terms of the award) necessary to meet the requirements of the grant-supported project or activity.

Alcoholic Beverages—Generally not allowable unless authorized in the approved project and consistent with the purpose of the award.

Air Conditioning Equipment—Air conditioning equipment is considered as general purpose equipment and may be directly charged only with prior approval.

Alteration and Renovation—Alteration and renovation is defined as 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 utilized for its currently designated purpose or adapted to an alternative use to meet a programmatic requirement. Routine maintenance and repair of the organization's physical plant or its equipment is not considered to be alteration and renovation. Certain costs of installing equipment, such as the temporary removal and replacement of wall sections and door frames, in order to place equipment in its permanent location or the costs of connecting utility lines, replacing finishes and furnishings, and installing any accessory devices required for the equipment's proper and safe utilization, may be considered either equipment costs or alteration and renovation costs depending on the recipient accounting system.

New construction is unallowable unless specifically authorized by the program legislation (see "Construction" in this section and in Appendix III).

¹¹Except for certain rebudgeting actions under an Institutional Prior Approval System, grantees must obtain any required prior approval in writing from the Grants Management Officer. For subgrants and contracts awarded by grantees, the prior approval authority is usually the grantee. However, the grantee may not approve any action or cost which is inconsistent with the purpose or terms of the Federal grant. If an action by a subgrantee or contractor will result in a change in the overall grant project or budget requiring granting agency approval, the grantee shall obtain the approval from PHS before giving its approval to the subgrantee or contractor.

Work necessary to obtain an initial occupancy permit for the intended use is not an allowable alteration and renovation cost.

Subject to the limitations set forth below, alteration and renovation costs may be charged to PHS grant-supported projects provided that:

1. The program legislation or implementing regulations or other grant terms do not exclude "alteration and renovation;"
2. The grantee is not an individual;
3. The grant is not a conference grant;
4. The building has a useful life consistent with program purposes and is architecturally and structurally suitable for conversion to the type of space required;
5. The alteration and renovation is essential to the project supported by the grant;
6. The space involved will actually be occupied by the project;
7. The space is suitable for human occupancy before alteration and renovation work is started, except where the purpose of the alteration and renovation is to make the space suitable for some purpose other than human occupancy (e.g., storage);
8. If the space is rented, evidence is provided that the terms of the lease are compatible with the alteration and renovation proposed; and
9. The amount charged does not exceed the following limitations:
 - a. The amount budgeted or used for alteration and renovation under a single grant during 3 consecutive budget periods (whether or not the 3 years overlap two distinct competitive segments of support) cannot exceed the lesser of \$100,000 or 25 percent of the total funds reasonably expected to be awarded by PHS for direct costs for such 3-year period, unless a waiver is obtained from the awarding office.
 - b. The maximum amount of PHS grant funds that may be applied to any single alteration and renovation project is \$100,000.
 - c. The amount of project funds rebudgeted for alteration and renovation during a budget period cannot exceed \$1,000 without prior approval.

Alteration and renovation costs that do not constitute construction are allowable charges to PHS grant-supported projects and activities. Such expenditures under discretionary project grants are subject to the limitations set forth above. Alteration and renovation projects in an existing building that are considered construction, such as relocation of exterior walls, roofs, and floors, attachment of fire escapes, development and repairing of parking lots or completion of unfinished shell space to make it suitable for human occupancy, are unallowable unless authorized by the program legislation.

Alteration and renovation costs under programs which have statutory alteration and renovation, modernization, or facilities assistance authority, are limited to the costs of modifying existing space and utilities within a completed and finished structure that is suitable for human occupancy. The cost of adapting any of the following interior building features to the needs of the grant-supported activity are allowable under these programs:

1. Physical characteristics of space, such as interior dimensions, surfaces, and finishes;
2. Internal environment, such as heating, ventilation, humidity, and acoustics;
3. Utility services, such as plumbing, electricity, gas, vacuum, or other laboratory piping;

4. Unfinished shell space to make it suitable for purposes other than human occupancy, such as the storage of pharmaceuticals.

Alteration and renovation costs of this type associated with a building under construction or an otherwise incomplete structure may be allowed if (1) it is cost effective to perform such work while the building is being constructed or the structure is being completed, and (2) the space is being adapted to particular program needs.

Two copies of the following documents are to be submitted with each request for approval of alteration and renovation costs in excess of \$1,000 (whether proposed in the application or as a post-award rebudgeting request):

1. Requests from \$1,001 to \$40,000
 - a. A single line drawing of existing space and proposed alterations.
 - b. A narrative description of the proposed functional utilization of the space and equipment requirements prepared by the persons who will use and be responsible for the working space, e.g., the program and administrative managers and, when appropriate, architectural and engineering advisors. Final drawings and specifications will be based on this description.
- The description should include an explanation of the need, character, and extent of the functions to be housed in the space proposed for alteration and renovation, using the following headings, as appropriate.
- (1) General information
 - (2) Description of the functions to be performed in the space
 - (3) A space schedule (detailed description of floor space)
 - (4) A list of fixed equipment proposed for the facility
 - (5) A cost estimate (details of which are contained in Appendix V of this document)
 - (6) Special design problems
 - (7) Description of the existing and proposed utility systems for the modified space
 - (8) Description of plans to provide accessibility for the physically handicapped
 - (9) Provisions for meeting the requirements of the Life Safety Code
 - (10) The length of the property lease, if the space is rented
 - (11) Other information required by program legislation or regulations
- c. When the proposed alteration is to occur in a building that is under construction or in an incomplete structure, the following documentation must also be provided:
 - (1) A detailed justification for the need to perform the work before the building is completed.
 - (2) A cost comparison between doing the work before and after the building is completed.
 - (3) A description of other specific benefits to be gained by doing the work before the building is completed.

2. Requests above \$40,000

In addition to the above-mentioned documentation, grantees, if requested by the PHS awarding office, should submit a copy of architectural and engineering documents, including the following:

- a. The final cost estimate.
- b. Coded architectural floor plans showing the final arrangement of space committed to the PHS program.
- c. Final working drawings and specifications.
- d. The design analysis report, describing the heating, ventilation, and air conditioning, plumbing, and electrical power systems.
- e. Provisions to meet mandatory Federal requirements and special clearances.

When the recipient's own construction and maintenance staff is used in carrying out the alteration and renovation, i.e., force account, the associated costs are allowable provided (1) the grantee can document that force account is not any more costly than contracting out and (2) the costs are substantiated by receipts for the purchase of materials and appropriate time certifications for the labor involved. In addition, grantees must obtain PHS awarding office approval where force account work is not reflected in the original application.

Animals—Allowable for the acquisition, care, and use of experimental animals. If the recipient operates an animal resource facility, charges for use of the facility should be determined in accordance with the "Cost Analysis and Rate Setting Manual for Animal Resource Facilities" (NIH Publication No. 80-2006, October 1979).¹²

Audiovisual Activities—Allowable. Under PHS discretionary grants (or subgrants under discretionary grants), PHS prior approval must be obtained to use project funds (1) to acquire or produce audiovisuals or (2) to present or disseminate to the general public an audiovisual produced or acquired with HHS support, if the costs of these activities are to be treated as direct costs.

"Audiovisual" means a product containing visual imagery or sound or both, such as motion picture films, videotapes, filmstrips, slide shows, and live or prerecorded radio or television programs, including commercials and other announcements and messages of any size. "Production" refers to the steps and techniques used to create a finished audiovisual product including, but not limited to, design, layout, scriptwriting, filming or taping, fabrication, sound recording, and editing.

An audience is considered to be a "general public audience" if the intended or actual audience for the production includes persons who are not health professions colleagues and who are not directly involved in project activities either as employees, providers of health services to patients, or other participants such as volunteers or patients. If an audiovisual is presented at a location such as the following, it is considered to involve a general public audience:

1. Commercial, cable or educational television or radio;
2. Commercial movie houses;
3. Public places such as airports, bus or railroad depots, or waiting rooms; or
4. Civic associations, schools (except when used as a teaching tool in a classroom setting), clubs, fraternal organizations, or similar lay groups.

The requirement for prior approval does not apply to the production or acquisition of films, videotapes,

¹²This may be obtained from the Division of Research Resources, National Institutes of Health, Bethesda, Maryland 20205.

filmstrips or slides that are (1) incidental to laboratory work; (2) essentially substitutes for other forms of documentation or records, and (3) not intended for release to or use with the general public, nor does it apply to the placing of captions for the deaf or hearing impaired on products not originally intended for such individuals.

A recipient having in-house production capability must determine if it would be more efficient and economical to use that capability or to contract for the production of an audiovisual. (See "Contracting Under Grants" under "Postaward Administration—Management Systems and Procedures—Procurement").

The applicant or recipient must provide the following information, as applicable, concerning a proposed production, acquisition, or presentation or dissemination to the general public: proposed type of audiovisual (documentary, dramatization), technical specifications (black and white or color, 16mm or 35mm, etc.); proposed title; objectives; subject matter, text (if applicable), and relationship to project objectives; intended audience and location for showing; estimated cost; number of prints; format; credits; length in minutes; time schedules for development, production, and distribution; discussion of procedures for protection of the rights and welfare of individuals appearing in or identified in the audiovisual; a plan for distribution and use; reasons why the medium chosen was selected in preference to less expensive media and alternatives which were considered and reasons for rejection.

Postaward prior approval requests will also be necessary where the recipient proposes to make significant changes to the previously approved plans for the grant-supported activity or where the originally approved production or acquisition was not for viewing by a general public audience and the recipient wishes to show it to a general audience.

Audiovisuals produced under a PHS grant-supported project must bear an acknowledgment and disclaimer, as appropriate, such as:

"The production of this motion picture (television program, etc.) was supported by Grant No. . . . from (name of awarding agency). Its contents are solely the responsibility of (name of grantee organization) and do not necessarily represent the official views of (name of awarding agency)."

Unless HHS has approved the audiovisual for presentation to the general public, the acknowledgment shall also be accompanied by a statement that HHS has not approved this audiovisual for presentation to the general public.

If an audiovisual intended for general public audiences is produced under a PHS grant-supported project, the recipient must submit two prints or tapes of the finished product along with its annual or final progress report (see "Postaward Administration—Reporting"). The costs of such prints or tapes are allowable project costs.

Audit Costs—Allowable. When the audit scope is limited to a single PHS grant-supported project and the costs of the audit can be specifically identified to the project and are consistently treated as direct costs, the audit costs may be charged directly to that specific PHS award; otherwise charges for audits should be treated as indirect costs.

Bad Debts—Not allowable.

Bonding—Allowable. See 45 CFR 74, Subpart C for policies and requirements concerning bonding.

Books and Periodicals—Allowable as a direct cost when required for the conduct of the project. Where an institution has a library, books and periodicals should generally be provided as normal library service and treated as indirect costs rather than being directly charged.

Child-Care Costs—Allowable to assist patients in receiving health services and to permit consumer board members to attend board meetings. (See "Consumer/Provider Participation" under this section.) Such costs may also be allowable as a fringe benefit for individuals working on a grant-supported project. (See "Fringe Benefits" under this section.)

Communications—Allowable for costs incurred for local and long-distance telephone calls, telephone surveys, telegrams, postage, etc.

Conference Services—Allowable under conference grants for necessary recording of proceedings, simultaneous translation, subsequent transcriptions, and other similar costs.

Construction—Allowable only when (1) the program legislation includes specific construction authority or other specific modernization or facilities assistance authority, and (2) PHS specifically authorizes such costs.

Allowable and unallowable construction costs under construction grants may generally include, but are not limited to, those listed below. (See also Appendix III.) Programmatic regulations and other terms of the award should be consulted for the specific costs allowable under a particular program.

1. Allowable Costs
 - a. Site survey and soil investigation
 - b. Site clearance (as long as reflected in bid)
 - c. Sidewalks necessary for use of facility
 - d. Driveways to connect with public roads
 - e. Parking areas
 - f. Bid advertising
 - g. Architect fees
 - h. Liability insurance
 - i. Fixed and movable equipment
 - j. Project management
2. Unallowable Costs
 - a. Relocation of utilities
 - b. Offsite improvements
 - c. Consultant fees not related to actual construction
 - d. Equipment purchased through a conditional sales contract
 - e. Bonus payments to contractors
 - f. Damage judgment suits
 - g. Fund-raising expenses
 - h. Legal services not related to site acquisition

Consultant Services—Allowable. A consultant is an individual hired to give professional advice or services for a fee but not as an employee of the hiring party. In unusual situations, a person may be both a consultant and an employee of the same party, receiving compensation for some services as a consultant and for other work as a salaried employee. The term "consultant" also includes a firm that provides paid professional advice or services. Recipients are expected to have policies governing their use of consultants that are consistently applied regardless of the source of support, and are expected to justify using consultants instead of salaried employees.

Charges to a project for consultant costs may include fees and travel costs (transportation/per diem/subsistence costs). Under discretionary grants, PHS awarding office prior approval is required if the use of consultants, either individuals or firms, (1) constitutes a transfer of substantive programmatic work, (2) results in a contract for general activities that requires such approval (see "Contracting Under Grants" "Postaward Administration—Management Systems and Procedures—Procurement,") or (3) is required by program regulations or other award terms.

See "Federal (U.S. Government) Employees" under this section for allowable costs associated with Federal employee consultants as well as circumstances of allowability.

Consulting fees paid by an educational institution to a salaried member of its faculty are allowable only in unusual cases and only if both of the following conditions exist (see Section J.6.e.(1) of OMB Circular A-21):

1. The consultation is across departmental lines or involves a separate or remote operation; and
2. The work performed by the consultant is in addition to his or her regular departmental workload.

In all other cases, consulting fees paid to employees of recipient or cost-type contractor organizations in addition to salary may be charged to PHS grant-supported projects only in unusual situations and when all of the following conditions exist:

1. The policies of the recipient or contractor permit such consulting fee payments to its own employees regardless of whether Federal grant funds are received;
2. The consulting services are clearly outside the scope of the individual's salaried employment; and
3. It would be inappropriate or not feasible to compensate the individual for these services through payment of additional salary.

Authorization for consulting fees paid to individuals serving as both employees and consultants of the same party must be provided in writing on a case-by-case basis by the head of the recipient organization or cost-type contractor incurring the costs, or his or her designated representative is personally involved in the project or program under consideration, the authorization may be given only by the head of the recipient organization or cost-type contractor. This authorization must include determination that the

above-required conditions are present and that there is no apparent or actual conflict of interest.

Recipients and cost-type contractors are encouraged to obtain written reports from consultants. If the recipient or cost-type contractor determines that a report is not feasible or would probably not be useful, it may exercise the option of not requiring a written report.

Where the costs of consultants are borne in whole or in part as direct costs by PHS projects, the consultation must be documented by an invoice from the consultant and a copy of the consultant's written report, if any. Any of the following information not shown on the invoice and/or report must be shown in a memorandum or other document, including handwritten notations on the invoice, signed by an organization official and retained in its files: the name of the consulting firm or individual consultants, the nature of the services rendered and their relevance to the grant-supported activities, if not otherwise apparent from the nature of the services; the period of service; the basis for calculating the fee paid, e.g., rate per day or hour worked or rate per unit of service rendered; and the amount paid.

Consumer/Provider Participation—Allowable in accordance with specific program regulations. When not specifically authorized by program regulations, only the following costs are allowable with the prior approval of the PHS awarding office:

1. Reasonable and actual out-of-pocket costs incurred solely as a result of attending a scheduled meeting, including transportation, meals, babysitting fees, and lost wages.
2. Only if not reimbursed to participants as per diem, or otherwise, the reasonable costs of necessary meals furnished by the grantee to consumer or provider participants during scheduled meetings.

Where programmatic regulations permit, but establish a maximum annual income for eligibility for reimbursement of consumer/provider board members for wages lost by reason of their participation in board activities, the determination of eligibility will be made on the basis of gross rather than net income.

Members of consumer/provider boards are not considered employees or consultants of the grantee organization and therefore may not be compensated for their services other than as above nor are they eligible for associated fringe benefits. While not eligible for individual insurance coverage, board members may be covered by an organizational insurance policy while acting in their official capacities as board members (see "Insurance" under this section).

Contingency Funds—Contributions set aside for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable under non-construction grants. (See Appendix III concerning contingency funds under construction grants.) Contingency funds do not include pension funds, self-insurance funds and normal accruals.

Contracting Under Grants—Allowable. See “Post-award Administration—Procurement.”

Customs and Import Duties—Allowable. Charges may include consular fees, customs surtaxes, value-added taxes, and other related charges.

Dependency Allowances (Fellowship and Training Programs)—(See “Trainee Costs” under this section).

Depreciation or Use Charges—Not normally allowable as a direct cost but may be included in the grantee’s indirect cost pool. Depreciation or use charges on equipment or buildings acquired under a federally supported project, are unallowable.

Donor Costs—Allowable for payment to volunteers or research subjects who contribute blood, urine samples, and other body fluids or tissues that are specifically project related.

Drugs—Allowable. See 42 CFR 50, Subpart E, for the maximum allowable cost for drugs under PHS grant-supported projects and activities for health services.

Project funds may not be used to purchase drugs classified by the Food and Drug Administration as “ineffective” or “possibly effective” except in approved clinical research projects or in cases where there is no alternative other than therapy with “possibly effective” drugs.

Dues—Allowable for organizational membership in professional organizations or societies if it can be shown that such membership is necessary to accomplish the objectives of the project. Such costs are not allowable under conference grants.

Payment of dues for an individual’s membership in a professional organization is allowable as a fringe benefit or an employee development cost if paid according to an established institutional policy consistently applied regardless of the source of funds.

Entertainment Costs—Not allowable. This includes the cost of amusements, social activities, and related incidental costs such as meals, beverages, lodging, and transportation. (See “Meals” under this section for the allowability of meal costs.)

Equipment Purchase—Allowable. See “Glossary” for definitions of general-purpose and special-purpose equipment. PHS awarding office prior approval is required for the purchase of general-purpose equipment costing \$500 or more per unit or individual items of special-purpose equipment costing \$1,000 or more per unit, treated as a direct cost. For policies governing the use, management, and disposition of equipment, see “Postaward Administration Property Management and Accountability.” For policies governing the amount of allowable costs that may be charged for rental of equipment, see “Rental or Lease of Facilities and Equipment” under this section.

Conference grant funds may not be used for the purchase of equipment.

Federal (U.S. Government) Employees—The following rules apply to payments made to Federal employees under a PHS grant-supported project:

1. Consultant fees: Allowable only when all of the following conditions are present:
 - a. The employees are medical personnel of the Uniformed Services of the United States (except Commissioned Officers of the Public Health Service) providing the kind and extent of medical services approved in the grant award.
 - b. Adequate numbers of qualified civilian medical personnel are not available to provide these services and eligible Federal medical personnel are hired only in addition to those qualified civilian medical personnel, if any, who are available.
 - c. The eligible Federal medical personnel employed as consultants have prior written authorization from their commanding officers to the effect that they are authorized to work on the grant-supported activity and to be paid for their efforts. Such authorizations may be given when the work will be performed during nonduty hours or while the employee is on authorized leave, and will not interfere with the performance of his or her Federal duties.
2. Outpatient or subject costs: Allowable when the employee is a patient or subject undergoing study in connection with activities supported by the grant.
3. Salaries: Allowable when the employee is:
 - a. Working under a grant to a Federal institution in which case salary payments from PHS grant funds must be proportional to the time an individual devotes to the project. The total salary support may not exceed the normal level of compensation for the work performed; or
 - b. Performing services other than consultant services, during nonduty hours, while in leave-without-pay status, or on detail to a State or local government, educational institution, or other nonprofit organization, provided:
 - (1) Reimbursement is in accordance with terms mutually acceptable to the grantee organization and the PHS awarding office; and
 - (2) All parties concerned are assured that there is no possibility of dual-compensation for the same work or an actual or apparent conflict of interest. The grantee/applicant must submit a letter from a supervisory or personnel official in the Federal employee’s employing Agency which approves his working on the grant project. Such documentation must be provided to and deemed acceptable by the Grants Management Officer of the awarding office prior to incurring any cost chargeable to the grant project for that employee’s services.
4. Travel: Allowable when the employee is:
 - a. Working under a grant to a Federal institution; or
 - b. Performing allowable reimbursable services as outlined above
 - c. Attending a PHS grant-supported conference (1) during nonduty hours, (2) while in leave-without-pay status, or (3) on detail to a State or local government, educational institution, or other nonprofit organization, provided such payments are made in accordance with established institutional policy, and the parties concerned have taken care to ensure that there is no actual or apparent conflict of interest.

The four types of costs listed above are the only costs that can be charged to PHS grants in behalf of Federal employees. Recipients should advise any Federal employee with whom these types of arrangements may be made of the need to consult with his or her employing agency concerning the allowability of such payments.

Fines and Penalties—Unallowable unless incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding office.

Fringe Benefits—Allowable in proportion to the amount of time or effort employees devote to the grant-supported project, provided such costs are incurred under formally established and consistently applied policies of the organization. See "Salaries and Wages" under this section.

Tuition or tuition remission for regular employees or their families is allowable as a fringe benefit. For policies applicable to tuition remission for students working on grant-supported projects, see "Salaries and Wages" under this section. See "Trainee Costs" under this section for the allowability of tuition costs for trainees and fellows.

Fund Raising—Not allowable.

Honoraria—Not allowable when the primary intent is to confer distinction on, or to symbolize respect, esteem, or admiration for, the recipient. An honorarium that constitutes a payment for services rendered, such as a speaker's fee under a conference grant, is allowable.

Hospitalization—See "Patient Care Costs" under this section.

Insurance—Allowable. Insurance is usually treated as an indirect cost. In certain situations, however, where special insurance is required because of risks peculiar to the project, the premium may be charged as a direct cost if consistent with organizational policy. Such premiums may include those on hazard, malpractice, and other liability insurance to cover the grant-supported project and the approval activities of grant-supported personnel, including trainees, fellows, and governing board members.

Equipment—Costs of insuring equipment, purchased with project funds should normally be included in indirect costs, but may be allowable as direct costs if this manner of charging is the normal organizational policy.

Costs of insurance on Government-owned equipment are not allowable except to the extent that the PHS awarding office has specifically required or approved such costs.

Trainees and fellows—The cost of medical insurance for fellows and trainees is allowable as part of the institutional allowance (see "Trainee Costs" below), if such medical insurance is required of all students of similar standing as a condition of the individual's participation in the institution's programs, regardless of the source of support.

Interest Costs—Not allowable, unless (1) specifically provided for under program legislation such as that authorizing the payment of interest on loans for the acquisition and/or modernization of existing buildings, or (2) allowable under the applicable cost principles.

Land or Buildings Acquisition—Not allowable unless acquisition or construction is specifically authorized by program legislation and provided for in the grant award. Under those PHS programs that have authority to permit recipients to acquire facilities, considerations such as the type of program(s) being supported, and the Federal interest in purchased property will be taken into account by the PHS awarding office in determining whether property should be leased or purchased. (See "Rental or Lease of Facilities and Equipment" under this section.) Use allowance or depreciation on buildings which were not acquired under a Federal project are allowable (usually as an indirect cost). (See also "Facilities Purchased or Constructed by State or Local Governments.")

Leave—Allowable for employees as an employee fringe benefit. See "Fringe Benefits" in this section.

Although trainees and fellows in academic institutions are not entitled to vacations as such, they are entitled to normal student holidays and the period between semesters observed by their training institutions. Trainees and fellows in nonacademic institutions are entitled to the holiday and vacation schedule applicable to all trainees and fellows at the institution.

Legal Costs—Allowable where required in the administration of a grant-supported project, subject to the limitations described below, and the applicable cost principles.

Legal costs incurred in the prosecution of claims, whether equitable or monetary, against the Federal Government are unallowable charges to PHS grant-supported projects. However, the legal costs of pursuing an administrative action, e.g., an administrative grant appeal, are allowable.

Before the recipient incurs legal costs that are extraordinary or unusual in nature, the recipient should make an advance agreement regarding the appropriateness and reasonableness of such costs with the appropriate Grants Management Officer of the PHS awarding office.

Library and Information Services—Allowable as a direct cost when specifically required for the conduct of the project and when identifiable as an integral part of the grant-supported activity—for example, in those programs designed to develop and support such services. General library support is not allowable as a direct cost but may be included in the recipient's indirect cost pool.

Lobbying—Generally unallowable. However, if the recipient can demonstrate that lobbying activities are necessary to carry out the project, the costs may be allowable. If the recipient is unsure about the allowability of such costs, it should seek an advance understanding with the Grants Management Officer of the PHS awarding office.

Costs of lobbying activities to influence legislative or appropriation actions pending before the U.S. Congress are unallowable.

Meals—Allowable (1) for subjects and patients under study, (2) when an organization customarily provides meals to employees working beyond the normal workday, (3) as a part of a formal compensation arrangement, (4) as part of a per diem or subsistence allowance provided in conjunction with allowable travel, or (5) when meals are a necessary and integral part of a conference being supported by a conference grant, provided that such charges are not duplicated in participants' per diem or subsistence allowances. Guest meals are not allowable. See "Customer/Provider Participation" under this section regarding the allowability of cost of meals for consumer and provider participants in grant-supported activities.

Moving Costs—See "Recruitment Costs," "Relocation Costs," and "Transportation" under this section.

Motion Pictures—See "Audiovisual Activities" under this section.

News Release Costs—Allowable only with PHS awarding office prior approval. However, the requirement for prior approval does not apply to educational institutions.

Nursery Items—Allowable for purchase of toys, games, etc., to allow patients to attend clinic sessions, or for diagnostic or therapeutic purposes in child development clinics and similar programs.

Overtime—See Salaries and Wages under this section.

Patient Care—Allowable to provide routine and ancillary medical services on either an inpatient or outpatient basis if the recipient has obtained prior approval from PHS for the need to treat patients and to incur patient care costs in the project receiving grant support. The incurrence of patient care costs in excess of the amount included for such costs in the approved budget must have prior approval.

Patient care costs do not include allowable items for personal expense reimbursement, such as patient travel, consulting physician fees, or any other direct payments to patients, including inpatients, outpatients, subjects, volunteers, and donors.

For research grants, the institution will be reimbursed on the basis of research patient care costs expressed as a rate or amount. See Appendix II for the policies and procedures to be followed in negotiating research patient care rates.

For grants other than research grants, reimbursement will be made on the basis of "reasonable cost" as set forth in the Principles of Reimbursement for Provider Costs (under Title XVIII of the Social Security Act) published by the Health Care Financing Administration, HHS, except where a different basis for reimbursement is set forth in governing programmatic regulations or guidelines.

Pension Plan Costs—Allowable if (1) the benefits are reasonable and are provided according to the established policies of the organization consistently applied regardless of the source of funds; (2) the

amount assigned to each fiscal year is in accordance with generally accepted accounting principles; and (3) the cost assigned to a given fiscal year is paid or funded for all plan participants within six months after the end of that fiscal year. Amounts funded in excess of the pension costs assigned to a given fiscal year shall be applied to future years. ("Pension plan" is defined as a plan established and maintained by an employer to systematically provide for the payment of benefits to its employees after their retirement and may also provide benefits such as permanent and total disability or survivorship payments to beneficiaries of deceased employees.) The "pay-as-you-go" cost method, i.e., when pension benefits are paid by a recipient directly to, or on behalf of, retired former employees (or their beneficiaries), may be used by State, local, or Indian tribal governments, or hospitals. Under this method, the benefits may be charged in the year in which the payments are made to, or on behalf of, retired former employees (or their beneficiaries), provided that the recipient follows a consistent policy of treating such payments as expenses in the year of payments. See the applicable cost principles for additional information on the allowability of costs associated with pension plans.

Preaward (Preagreement) Costs—Not allowable for costs incurred before the beginning date of the budget period of a new or competing continuation award unless the costs involved are included in the approved budget and the costs are approved as preaward costs in writing by the Grants Management Officer of the PHS awarding office. However, a grantee may, at its own risk, incur obligations and expenditures before the beginning date of the budget period of a noncompeting continuation award that is within an approved project period and may charge such costs to that continuation award, if made, provided (1) the costs concerned are considered necessary to the conduct of the project, (2) the costs are allowable under the continuation award, and (3) when required for specific expenditures or activities, prior approval was obtained. In allowing the grantee this flexibility, PHS expects the grantee to be fully aware that such "borrowing" against future support must not impair its ability to accomplish the project objectives in the approved time frame or in any way adversely affect the conduct of the project.

Publication Costs—Allowable.

Page charges for publication in professional journals may be paid from project funds if both of the following conditions are met:

1. the paper reports work supported by the grant.
2. the charges are levied impartially on all papers published by the journal, whether or not by Government-sponsored authors.

Other publication costs such as publications, books, monographs and pamphlets are allowable subject to the prior approval requirements in the cost principles. Purchase of reprints without covers is an allowable cost. Purchase of reprints with

covers is allowable only if the cost is the same as without covers or where the publisher sells only reprints with covers.

Recruitment Costs—Allowable subject to the conditions and restrictions contained in the applicable cost principles. These costs may include help-wanted advertising costs, travel costs to preemployment interviews incurred by applicants, and travel costs of employees while engaged in recruiting personnel. Project funds may not be used for a prospective trainee's travel costs to or from the grantee institution for the purpose of recruitment. However, other costs incurred in connection with recruitment under training or manpower programs, e.g., advertising, may be allocated to a grant-supported project according to the provisions of the applicable cost principles concerning recruitment costs (See "Travel" and "Relocation Costs" in this section).

Registration Fees (For Symposiums and Seminar)—Allowable if necessary to accomplish project or program objectives.

Relocation Costs—Allowable in other than change of grantee institution situations when such costs are incurred incident to the permanent change of duty assignment (for an indefinite period or for a stated period of no less than 12 months) for an existing employee working on a grant-supported project, or upon recruitment of a new employee for work on the project provided that the move is for the benefit of the grantee organization and payment is made according to established organizational policies consistently applied regardless of the source of funds. These costs may include transportation of the employee, his or her family, dependents, and household goods to the new location, and certain expenses associated with the sale of the former home. (See OMB Circ. A-122) Where relocation costs have been incurred in connection with the recruitment of a new employee and the employee resigns for reasons within his control within 12 months after hire, the institution must credit the grant account for the full cost of the relocation charged to the grant.

In change of grantee institution situations, the personal relocation expenses of project directors or principal investigators and others moving from the original grantee to a replacement grantee (see "Postaward Administration Changes in Project") are not allowable charges to PHS grants.

Rental or Lease of Facilities and Equipment—Allowable as indicated below. Due to the complex nature of determining the allowable amount under certain types of leases, grantees are encouraged to consult the PHS awarding office Grants Management Officer before entering into leases that will result in direct charges to the grant project.

In general, the rental costs for facilities and equipment applicable to each budget period should be charged to that period, as specified on the Notice of

Grant Award. However, see "Postaward Administration—Procurement" for an exception to this general rule.

Subject to the limitations below, rental costs are allowable to the extent that the rates are reasonable at the time of the decision to lease, in light of such factors as rental costs of comparable property, if any; market conditions in the area; the type, life expectancy, condition, and value of the property leased; and available alternatives.

Rental costs under leases that create a material equity in the leased property are allowable only up to the amount that would be allowed under the applicable cost principles had the lessee purchased the property on the date the lease agreement was executed. This would include depreciation or use allowances, maintenance, taxes, insurance, etc., but would exclude unallowable costs. A lease giving rise to material equity would be one that is noncancelable or is only cancelable upon the occurrence of some remote contingency and has one or more of the following characteristics:¹³

1. The lessee has the right to purchase the property for a price that 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 at some time 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, i.e., the period the property is expected to be economically usable by one or more users.

Under an arrangement whereby property is sold to and leased back from another organization or individual (called a "sale and leaseback arrangement"), rental costs are allowable only up to the amount that would be allowed under the applicable cost principles had the lessee continued to own the property.

Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed under the applicable cost principles had title to the property been vested in the lessee. Such a lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to; those between (1) divisions of an organization, (2) organizations under common control through common officers, directors, or members, and (3) an organization and a director, trustee, officer, or key employee of the organization, or his or her family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

¹³The definition of "material equity lease" in this section differs from the definition of this term in the cost principles for educational institutions (OMB Circular A-21). For those institutions the definition in A-21 shall govern.

Reserve Funds—Allowable for specific programmatic purposes only where permitted by a program's authorizing statute or governing regulations.

Contributions to a reserve fund for self-insurance are allowable as specified in the governing cost principles.

Sabbatical Leave—Sabbatical leave costs may be included in a fringe benefit rate or in the institution's indirect cost rate. Salary may be charged directly to a project for services rendered the project by an individual while he or she is on sabbatical leave, provided that the salary is proportional to the service rendered and is paid according to established institutional policies applicable to all employees regardless of the source of funds. Sabbatical leave paid by an individual's employer, in combination with other compensation (e.g., partial salary from a PHS grant), cannot exceed 100% of an individual's regular salary from his or her institution.

Salaries and Wages—Allowable. Compensation for personal services covers all amounts paid or accrued by the organization for services rendered to the project. These costs are allowable to the extent that they are reasonable and conform to the established, consistently applied policy of the organization.

Payroll distribution—Amounts charged to grant-supported projects for personal services must be based on an adequate payroll distribution system. Standards for payroll distribution systems are contained in the applicable cost principles. Briefly summarized, these approved systems are as follows:

1. **Hospitals:**

- a. Monthly after-the-fact reports of the distribution of time or effort for professional staff.
- b. Time and attendance and payroll distribution records for nonprofessional employees.

The total effort for which the employee is compensated and which is required in fulfillment of his/her obligations to the organization must be accounted for.

2. **Nonprofit organizations:**

- a. Monthly after-the-fact activity reports including a signed certification by the employee or a responsible supervisory official having firsthand knowledge of the work performed that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports. Each report must account for the total activity for which the employee is compensated and which is required in fulfillment of his or her obligations to the organization.
- b. For nonprofessional employees additional supporting records indicating the total number of hours worked each day must be maintained in conformance with the Department of Labor regulations implementing the Fair Labor Standards Act (29 CFR Part 516).

The distribution of salaries and wages must be supported by personnel activity reports as described above, except when a substitute system has been approved in writing by the cognizant agency designated under OMB Circular A-122.

3. **State, local and Indian Tribal government agencies:**

- a. Time and attendance or equivalent records for all employees.

- b. Time distribution records for employees whose compensation is chargeable to more than one grant or other cost objective.

4. **Educational institutions:**

- a. A system of monitored workload or a system of personnel activity reports for professorial and professional staff.
- b. A system of personnel activity reports for nonprofessional employees.

The monitored workload system or the personnel activity report must account for 100 percent of the work for which the employee is compensated and which is required in fulfillment of the employee's obligations to the institution. Under the monitored workload system, adjustments must be made for significant changes in workload distribution, and a statement must be signed at least annually by the employee, principal investigator, or other responsible official having firsthand knowledge of the work, indicating that the salaries and wages charged are reasonable. For professorial or professional staff, personnel activity reports will be prepared for each academic term, but no less frequently than every 6 months. For other employees, the reports will be prepared no less frequently than monthly and will coincide with one or more pay periods.

Charges for work performed by faculty members on sponsored research agreements during the summer months or other period not included in the base salary period will be determined for each faculty member at a rate not exceeding the base salary divided by the period to which the base salary relates. The base salary period used in computing charges for work performed during the summer months will be the number of months covered by the faculty member's official academic year appointment.

Overtime premiums—Premiums for overtime are generally allowable; however, such payments are not allowable for faculty members at institutions of higher education. Overtime premiums paid by nonprofit organizations other than institutions of higher education and hospitals require PHS prior approval except under certain circumstances as specified in the governing cost principles. Where overtime premiums are allowable, the categories or classifications of employees that are eligible to receive overtime premiums should be determined according to the formal policies of the organization consistently applied regardless of the source of funds.

Bonus payments—Allowable as part of a total compensation package provided that such payments are reasonable and are made according to a formal policy of the recipient organization that is consistently applied.

Support from multiple grants—When salaries and/or other activities are being supported by two or more grant projects, costs associated with these activities should be allocated to each project based on the time or effort devoted to each project. A different

basis may be used to charge costs if the awarding office(s) Grants Management Officer(s) agrees in advance in writing that two or more grants concurrently support one identified activity or program.

Compensation of students—Tuition remission and other forms of compensation paid as, or in lieu of, wages to students (including fellows and trainees) performing necessary work are allowable provided that: (1) there is a bona fide employer-employee relationship between the student and the institution for the work performed, (2) the tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work, and (3) it is the institution's practice to similarly compensate students in nonsponsored as well as sponsored activities.

The determination as to the allowability of such compensation as a charge to a grant will be made on the basis of the cost principles without regard to whether the compensation is or is not taxable.

Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages shall be subject to the reporting requirements in section J.6. of OMB Circular A-21, and shall be treated as direct or indirect costs according to the actual work being performed. Tuition remission may be charged on an average rate basis.

College Work-Study Program—PHS grant funds may be used to pay all or part of the non-Federal share of a student's compensation under the Department of Education's College Work-Study Program. Payment of such compensation must be for the performance of services necessary to the approved project from which payment is made.

Service Charges—The costs of institutional services and central facilities owned by the recipient institution, such as computer services, are allowable.

Severance Pay—Allowable only to the extent that such payments are required by (1) law, (2) employer-employee agreement, (3) established policy that constitutes an implied agreement on the part of the organization, or (4) the circumstances of the particular employment. The amount of severance pay to be provided should be determined according to the established organizational policy consistently applied regardless of the source of funds, and should be reasonable, taking into consideration the practice of similar types of organizations and the extent of the organization's dependence on Federal funds. The applicable cost principles should be consulted regarding the different treatment of severance pay in regular and mass termination situations.

Subject Costs—(See "Patient Care" under this section.)

Supplies—Allowable.

Taxes—Allowable. Such costs include taxes that an institution is required to pay as they relate to employment, services, travel, renting, or purchasing for a project. Institutions must avail themselves of any tax exemptions for which activities supported by Federal funds may qualify. On projects involving construction, State sales and use taxes for materials and equipment are allowable only when no refund or exemption on such taxes is granted by the State.

Termination Settlements—When a grant is terminated, the grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The granting agency shall allow full credit to the grantee for the Federal share of the noncancellable obligations properly incurred by the grantee prior to termination. See 45 CFR 74.115(c). ~~Costs related to the sale of property~~ are not allowable if the grantee is reimbursed at a fixed amount or rate according to Subpart O of 45 CFR 74.

Trailers and Modular Units—Allowable as indicated below. A "trailer" is defined as a portable vehicle built on a chassis that is designed to be hauled from one site to another by a separate means of propulsion, and that serves, wherever parked, as a dwelling or place of business. A "modular unit" is a prefabricated portable unit designed to be moved to a site and assembled on a foundation to serve as a dwelling or a place of business. The determination of whether costs to acquire trailers or modular units are allowable charges to PHS grant-supported projects depends on whether such units are classified as real property or as equipment. The Grants Management Officer shall determine such classification. The classification will depend on whether the recipient's intended use of the property is permanent or temporary.

A trailer or modular unit would be considered as real property when the unit and its installation are designed or planned to be installed permanently at a given location so as to seem fixed to the land as a permanent structure or appurtenance thereto. Units classified as real property may not be charged to a PHS grant-supported project unless authorizing legislation permits construction or acquisition costs or purchase of real property, and the specific purchase is approved by the PHS awarding office.

A trailer or modular unit would be considered equipment when the unit and its installation are designed or planned to be used at any given location for a limited time only. Units classified as equipment may be charged to PHS grant-supported projects only if program regulations do not prohibit the purchase of equipment and prior approval is obtained from the PHS awarding office. Such approval may not be granted at the institutional level.

A trailer or modular unit properly classified as real property or equipment at the time of acquisition shall retain that classification for the life of the item, thereby determining the appropriate accountability requirements under 45 CFR 74, Subpart O.

Trainee Costs—Allowable under predoctoral and postdoctoral training grants if permitted by the authorizing statute or governing programmatic regulations. For each individual to be trained, such costs may include: (1) a stipend and (2) tuition and fees which are directly associated with and necessary to the individual's training and are incurred within the period of grant-supported training. Grantee institutions may rebudget funds among stipends and tuition and fees, i.e., within the trainee cost category, but may not rebudget funds awarded for trainee costs into another budget category without PHS awarding office prior approval. Funds may be rebudgeted into trainee costs without PHS prior approval to the extent that the resulting support for trainees does not constitute a change in the scope or objectives of the approved project (see "Postaward Administration—Changes in Expenditures/Activities").

Dependency allowances—Generally not allowable.

Institutional Allowances (Fellowships) and Institutional Costs—Non-Trainee Expenses (Training Grants)—Institutions sponsoring a predoctoral or postdoctoral fellow, unless otherwise restricted by law or regulations. Under fellowship (individual) awards, non-Federal institutions may request an institutional allowance of up to \$4,000 for each year of support for each full-time predoctoral fellow, and up to \$5,000 for each year of support for each full-time postdoctoral fellow. However, for training grants awarded under the National Research Service Award authority, institutional costs requested may not exceed the following ceiling amounts: up to \$3,000 per year for each full-time predoctoral trainee; up to \$5,000 per year for each full-time postdoctoral trainee. The actual amount to be awarded for institutional costs will be determined as part of the budget review and negotiation process.

Institutional allowances under fellowships are provided in lieu of all other institutional costs and are intended to cover the following types of expenses: (1) tuition and fees, including the costs of medical insurance, required of the fellow as a condition of his or her participation in the organization's training program, and required of all students of similar standing, regardless of the source of funding; (2) supplies and equipment; (3) faculty salary; (4) trainee travel to attend scientific meetings; and (5) other administrative costs.

Expenditures under fellowship institutional allowances are not subject to PHS prior approval and rebudgeting requirements nor is the sponsoring institution required to account for these expenditures on an actual cost basis. However, if the fellow is not enrolled or engaged in training for more than 6 months of the year of support for which the award was made, only one-half (½) of that year's allowance may be charged to the grant.

Institutional costs under training grants, e.g., research supplies and equipment, and faculty salaries are allowable in accordance with the rules on cost allowability prescribed in the cost principles and this section.

Stipends—Allowable for fellowships, training grants, or other types of grant-supported projects where such payments are specifically permitted under the governing legislation or program regulations.

Stipends provided to individual fellows or trainees are paid in accordance with preestablished levels. The following stipend levels are applicable to all PHS predoctoral and postdoctoral training other than short-term and prebaccalaureate training, unless otherwise provided by legislation, regulation, or, where deviations have been authorized by PHS,¹⁵ the special terms of the award.

Stipend levels for full-time PHS fellowships and traineeships are based on a support year of 12 months and are as follows (where individuals are required to pursue training on a full-time basis to be eligible for support, "full-time" is defined by the institution's policies):

1. Predoctoral ¹⁶	
	\$5,040, regardless of the year of award.
2. Postdoctoral	
Years of Relevant Experience ¹⁷	
0	\$13,380
1	14,040
2	14,736
3	15,468
4	16,236
5	17,040
6	17,892
7 or more	18,780

¹⁵As of the date of publication of this document, the following programs administered by the Bureau of Health Professions, Health Resources Administration are authorized to use the stipend amounts as ceilings rather than as standard amounts:

1. Public Health Traineeship Program
2. Professional Nurse Traineeship Program
3. Allied Health Advanced Traineeship Program

¹⁶The prebaccalaureate Minority Access to Research Careers Program administered by the National Institute of General Medical Sciences, National Institutes of Health and by ADAMHA is authorized to pay a \$3,900 stipend.

¹⁷For trainees, the "year of relevant experience" at the time of entry into the program will be determined as of the date on which the individual trainee begins his or her training rather than on the budget period beginning date of the training award. For fellows, this determination will be made as of the issue date of the award made to the individual fellow rather than on the activation date of the fellowship.

Determination of the years of relevant experience will be made in accordance with the program announcement, and will give credit to field experience as well as to year of participation in the grant-supported program.

The Occupational Safety and Health Training Program, administered by the National Institute of Occupational Safety and Health, Centers for Disease Control, is also authorized to use the stipend amounts as ceilings. The Minority Fellowship program, administered by the Alcohol, Drug Abuse, and Mental Health Administration, is authorized to permit grantee organizations to contribute toward the predoctoral stipend level, thus reducing the amount of the Federal contribution.

An institution is allowed to provide funds to an individual in addition to the stipends paid by PHS. Such additional amounts may either be in the form of augmented stipends, i.e., "supplementation," provided without obligation to the fellow or trainee according to institutional policy, or in the form of compensation (salary and/or tuition remission) for services such as teaching or serving as a laboratory assistant. However, funds characterized as "compensation of students" that meet the requirements under "Salaries and wages-compensation of students" in this section are not considered. Also, assistance under the Veterans Readjustment Benefits Act ("G.I. Bill") is not considered as supplementation. Under no circumstances, however, should the service requirements detract from or prolong the training.

Institutions can determine what amount of supplementation, if any, will be provided their own formally established policies governing supplementation. The institution's policies on supplementation must also include a means to ensure that those policies are followed consistently. The policies must be documented and are subject to audit. No Federal (grant) funds may be used for supplementation unless specifically authorized under the terms of both the program from which such supplemental funds are to be received, and the program whose funds are to be supplemented. This is not intended to discourage the use of Federal loan funds.

However, funds characterized as "compensation of students" that meet the requirements under "Salaries and wages-compensation of students" in this section are not considered stipend supplementation.

Travel—Costs associated with travel necessary to an individual's training, including attendance at meetings, that are incurred within the period of grant-supported training, are allowable under PHS training grants. Registration fees associated with such meetings are also allowable. However, travel

costs may not include travel between the trainee's or fellow's place of residence and the training site, except in the case of certain specialized programs that are relatively short term in duration and are expressly designed to train specific disadvantaged beneficiaries, or in the case of extreme need or hardship of an individual trainee or fellow, where a one-way travel allowance may be authorized by the grantee. In the case of individual fellowships, such travel will be paid from the institutional allowance. (See "Institutional Allowance" under this section.) Awards for training at a foreign site may include a single round-trip economy or coach fare, with the approval of PHS.

Tuition and related costs—Allowable unless otherwise provided by the terms and conditions of the award. Tuition and fees are allowable only to the extent that the same resident or nonresident tuition and fees are charged to regular non-federally supported students. Tuition at the postdoctoral level is limited to that required for specified courses.

Transportation of Property—Allowable for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, including instances when equipment or other property is moved from one recipient organization to another. In a change of grantee institutions situation, the cost of transportation may be charged to the grant at either the original or the new organization, depending on the circumstances and the availability of funds in the appropriate active grant account. (See "Postaward Administration—Changes in Project.")

Travel

General—Allowable as a direct cost where such travel will provide direct benefit to the project. According to the organization's established travel policy, such costs for employees working on the grant-supported project may include associated per diem or subsistence allowances and other travel related expenses such as mileage allowances if travel is by personal automobile.

Domestic travel is that performed within the recipient's own country. Domestic travel includes travel within and between any of the 50 states of the United States and its possessions and territories, and also includes travel between the United States and Canada and within Canada.

Foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions. However, for an organization located outside Canada and the United States and its territories and possessions, foreign travel means travel outside that country.

For recipients which are institutions of higher education, prior approval is required for domestic travel when such travel is not included in the approved budget or for domestic travel in any budget period which exceeds the amount identified in the approved

direct cost budget for such travel by \$500 or 25 percent of the budgeted amount, whichever is greater. For foreign travel, each separate foreign trip must receive specific prior approval under the IPAS.

For recipients which are nonprofit organizations, direct charges for foreign travel costs are allowable only when the travel has received awarding agency prior approval.

In all cases, travel costs are limited to that allowed by formal organizational travel policy and in the case of air travel, less than first-class travel must be used when available. Recipient institutions must comply with the requirement that U.S. flag air carriers be used by domestic grantees to the maximum extent possible when commercial air transportation is the means of travel between the United States and a foreign country or between foreign countries. This requirement shall not be influenced by factors of cost, convenience, or personal travel preference.

If the recipient organization has no formal travel policy, HHS travel regulations, including maximum per diem and subsistence rates prescribed in those regulations, shall be used to determine the amount for travel costs. This information may be requested from the PHS awarding office and is available in the HHS Travel Manual for public inspection and copying at HHS and Regional Office information centers.

In addition to these general policies, some specific policies applicable to various types of travel and travelers are indicated below.

Applicants and grantees should consult application instructions to determine how to budget for the following types of costs since they are not all required to be budgeted as "travel."

Patients—If patient care is an approved activity of the grant-supported project or program, the costs of transporting patients to the site where services are being provided, including costs of public transportation, are allowable. The purchase of motor vehicles for this purpose may be allowable provided the vehicle is treated as an item of general purpose equipment and PHS prior approval is obtained.

Conference grants—Per diem or subsistence allowances must be reasonable and must be limited to the days of attendance at the conference plus the actual travel time required to reach the conference location by the most direct route available. Where meals and/or lodgings are furnished without charge or at a nominal cost, e.g., as part of the registration fee, this should be taken into account in setting the per diem or subsistence allowance.

Travel costs for attendees and participants at the conference may not exceed economy class fares. In addition, the allowability of foreign travel being supported by a conference grant (as proposed in the grant application)

will be determined in accordance with PHS foreign travel restrictions in effect at the time of the award.

Conference grant funds may not be used to pay per diem or travel expenses other than local mileage for local participants in the conference.

INDIRECT COSTS

In theory, all costs might be charged directly to benefiting projects or programs. However, most organizations incur allowable costs which cannot be readily identified to individual projects and programs. In these situations, the costs are allocated to the projects and programs as "indirect costs." The end product of this allocation process is an indirect cost rate(s) which is then applied to individual grant-supported projects to determine the amount of indirect costs applicable to the project.

The establishment of an indirect cost rate is not necessary if (a) the organization's awards do not provide reimbursement for indirect costs or limit such reimbursement to 8 percent of direct costs as discussed below, (b) the organization's total operations consist of a single grant-supported project, or (c) the organization appropriately and consistently treats all costs as direct costs to projects and accounts for them as such. In the latter case, the Grants Management Officer must be satisfied that the organization's accounting system can adequately identify and support all costs as direct costs to the project (see "Postaward Administration—Financial Management and Non-Federal Audits"). Such an accounting system must identify and segregate costs based on a process which assigns costs commensurate with the benefits provided to individual projects.

The Public Health Service supports the policy of full reimbursement for indirect costs applicable to its grants, with the following exceptions:

1. Indirect costs under all training grants¹⁸ other than those awarded to State or local government agencies will be reimbursed at 8 percent of total allowable direct costs exclusive of tuition and related fees and expenditures for equipment, or at the actual indirect cost rate, whichever results in a lesser dollar amount. This limitation also applies to training funds provided under subgrants to organizations other than State or local government agencies. State and local government agencies will receive reimbursement at their full indirect cost rate for training grants.
2. Indirect costs on Research (Career) Development Awards will be reimbursed at 8 percent of total allowable direct costs, excluding the items in 1 above, or at the actual indirect cost rate, whichever results in a lesser dollar amount.
3. Indirect costs will not be paid on fellowships or similar awards where PHS funding is in the form of fixed amounts or the normal published tuition rates or an institution and for which the recipient is not required to account on an actual cost basis.

¹⁸For this purpose, "training grant" means any grant (subgrant, cost-type contract) under which PHS financing is provided on a cost reimbursement basis for all or an agreed upon portion of the costs incurred for training or other educational services. It does not include the type of awards included in item 3. immediately above.

4. Indirect costs will not be reimbursed on construction grants.
5. Indirect costs will not be reimbursed on grants to individuals.
6. Indirect costs for grants in support of conferences will not be allowed except in the most unusual circumstances and then only after negotiation (in advance of the award) between the applicant and the Grants Management Officer of the PHS awarding office.
7. Grants on which indirect costs are limited or prohibited by law or regulation will be awarded in accordance with the legal or regulatory restrictions.
8. When the grantee waives reimbursement of full indirect costs, either no indirect costs or only partial indirect costs will be awarded, as appropriate.

Further information concerning the establishment of indirect cost rates and the reimbursement of indirect costs is contained in Appendix II.

CHARGES FOR FACILITIES PURCHASED OR CONSTRUCTED BY STATE OR LOCAL GOVERNMENTS

The cost principles for State and local governments (OMB Circular A-87) provide two methods for determining the allowable costs of capital assets:

1. Depreciation or use allowances, where a portion of the cost is charged to the grant-supported activities (usually as an indirect cost) each year over a period of years corresponding to the useful life of the asset. Under this method, the costs of land are specifically unallowable.
2. Capital expenditures (if specifically approved by the PHS awarding office), where the entire cost of the asset including land, is charged to the grant-supported activities as a direct cost at the time of purchase or construction.

The following policies apply to PHS grants *other than construction grants*. The allowable costs of facilities, which includes the cost of buildings, land and improvements, purchased or constructed by State and local governments will generally be determined in accordance with the depreciation or use allowance method. The capital expenditure method may only be used if all of the following conditions are met:

1. The charge is specifically authorized by program legislation.
2. The facility is being specifically purchased or constructed to be used either in the performance of a PHS grant-supported project or activity, or several federally supported programs that include a PHS supported program and there is a long-term need for the facility.
3. Accomplishment of program objectives requires the purchase or construction of the facility. A general-purpose facility will not meet this condition if the facility is being purchased or constructed because of the need for additional space resulting from the expansion of programs supported by State or local funds or the expansion of federally supported programs that are currently housed in facilities that also house State or local programs.
4. The facility is not already owned by the State or locality. (This requirement does not apply to land already owned by the State or locality if the land was purchased in anticipation of constructing a building(s) that meets the preceding and following conditions.)
5. The Grants Management Officer of the PHS awarding office specifically approves the use of this method and additional approval is obtained from the PHS awarding office before purchase or construction. If more than one Federal program is to be performed in the facility and the full purchase or construction costs are to be allocated among them, all

responsible awarding offices must approve the use of this method. Approval before the purchase of land will not be required if the land is purchased in anticipation of constructing a building(s) that meets the preceding requirements. However, in such cases, approval must be obtained before constructing the building(s).

If the condition for land as stated in 4. and 5. above is not met, the cost of the building and land improvements may still be charged as a direct cost to the grant. However, the cost of land would be unallowable.

When the capital expenditure method is used, the full cost of the facility may be charged to the affected program(s) at the time of purchase or construction, or the costs may be charged to the program(s) over any period of time agreed on by the recipient and the awarding office. If more than one Federal agency is involved, all such agencies and the grantee must agree on a uniform period.

The use of the capital expenditure method may require the establishment of a special indirect cost rate applicable to the program(s) conducted in the facility (see Appendix II concerning special indirect cost rates).

The use of the capital expenditure method also makes the facility subject to the applicable requirements of 45 CFR 74, Subpart O (see "Postaward Administration—Property Management and Accountability").

COST TRANSFERS

Transfers of costs to, or from grant-supported projects or programs may sometimes be necessary to correct bookkeeping or clerical errors in original charges or may be appropriate when closely related work is supported by more than one funding source.

Transfers of costs to PHS grants by grantees, sub-grantees and contractors under grants that represent corrections of clerical or bookkeeping errors must be made promptly after the error is discovered. The transfers must be supported by documentation that contains a full explanation of how the error occurred and a certification of the correctness of the new charge by a responsible financial or administrative official of the recipient organization. An explanation which merely states that the transfer was made "to correct error" or "to transfer to correct project" is not sufficient. It should be noted that frequent errors in the recording of costs may indicate the need for improvements in the grantee's accounting system and/or internal controls. Therefore, where such errors occur, grantees are encouraged and may be required to evaluate the need for improvements in these areas and to make what improvements are deemed necessary.

Health professional and nursing capitation and financial distress grants are not subject to the policy stated above because of the general support nature of these awards and the latitude and flexibility allowed recipients in the use of these funds.

CLOSELY-RELATED WORK

When closely related work is supported by more than one funding source, the grantee may transfer costs from the originally charged funding source to a PHS grant, or between PHS grants, when all of the following conditions are met:

1. The cost is a proper and allowable charge to the grant.
2. The transfer is supported by documentation containing a full explanation and justification for the transfer and a certification of the propriety of the transfer by the principal investigator, project director, or other responsible program official of the recipient organization.
3. The transfer is reviewed and approved by a responsible financial or administrative official of the recipient organization.
4. The transfer will be made within 120 days of the original charge. In extraordinary cases, if a transfer is made after the 120-day period, an explanation of why the transfer was so late is required in addition to the explanation and justification indicated in item 2 above.

See also "Salaries and Wages—Support from Multiple Grants." Documentation of cost transfers by grantees must be maintained and be made available

for audit or other review pursuant to 45 CFR 74, Subpart D (see "Postaward Administration—Record Retention and Access").

APPLICABLE CREDITS

The term "applicable credits" refers to those receipt or negative expenditure types of transactions that operate to offset or reduce expense items that are allocable to grant-supported projects and activities as direct or indirect costs. Typical examples are purchase discounts, rebates, or allowances; recoveries or indemnities on losses and adjustments or overpayments or erroneous charges.

Applicable credits to direct charges made to PHS grants must be treated as an adjustment on the grantee's Financial Status Report, whether those credits accrue during or after the period of grant support. The PHS awarding office will notify the grantee of any additional actions that may be necessary (see "Postaward Administration Reporting—Expenditure Reports").

POSTAWARD ADMINISTRATION

The following sections deal with a number of post-award administrative requirements concerning changes from the approved application or budget, the disposition of grant-related income, and the use and disposition of property. The reporting, record and access retention, and financial management requirements are also discussed in subsequent sections of this document. PHS and HHS have established grant appeals procedures, as described in this document, whereby discretionary grantees who have been denied permission to incur particular expenditures or who have been advised that they have not observed the terms of the award or have otherwise failed to properly account for project funds may request that certain PHS awarding office or awarding agency determinations be reviewed.

CHANGES IN EXPENDITURES/ACTIVITIES

Recipients are, in general, allowed a certain degree of latitude in making postaward programmatic changes and budget revisions in those PHS nonconstruction discretionary grants awarded on the basis of an approved grant budget broken down by object class (personnel, travel, supplies, etc.) and specifying funds for those classes that are available to carry out the approved activities. Unless otherwise restricted by the terms of the award, documentation of the grant budget on the Notice of Grant Award, and reference to the approved application constitutes prior approval by the PHS awarding office Grants Management Officer for the performance of activities and the expenditure of funds for the specific purposes and items described in the grant application. For postaward changes, the grantee institution is permitted to rebudget within and between budget categories in the approved total direct cost budget of the project to meet unanticipated requirements or to accomplish certain programmatic changes, provided that, where required, prior approval is obtained in accordance with the guidelines set forth below.

Discretionary Grants

For discretionary grants other than construction grants,^{18a} prior approval must be obtained from the Grants Management Officer of the PHS awarding office for the following postaward programmatic changes:

1. Changes in the scope or objectives of the grant-supported activities.

^{18a}Policy regarding postaward changes to construction grants is specified at the end of this section on "Changes in Expenditures/Activities."

2. a. Under a research grant replacement or significant change in responsibilities of the approved project director or principal investigator or any other persons named and expressly identified as key project people by PHS in a Notice of Grant Award or by the grantee in the application.
b. Continuation of the project during any continuous period of more than 3 months without the active direction of an approved project director or principal investigator.¹⁹

These requirements will also be applicable to other types of grants if specified by statute, regulation, or special provision of the award. (See Change or Absence of Program Director, Project Director, or Principal Investigator under "Postaward Administration—Changes in Project.")

3. Transferring to a third party, by contracting or any other means, the actual performance of the substantive programmatic work. (See "Glossary.")²⁰
4. Where the need for patient care in the project has not previously been approved by PHS. (See "Patient Care" under "Costs/Activities Under PHS Grant-Supported Projects/Activities.")
5. Undertaking any activities disapproved or restricted as a condition of the award, including restrictions imposed by standard provisions.

For all nonconstruction discretionary grants under programs that require a grantee to obtain approval for a categorical budget as part of the application process, prior approval must also be obtained from the Grants Management Officer of the PHS awarding office for the following postaward budgetary changes:

1. A need for the award of additional Federal funds, excluding those situations where the need for additional funding results from an increase in the base upon which indirect costs are calculated because of an otherwise allowable rebudgeting action, e.g., rebudgeting into the personnel category that will increase allocable indirect costs.²⁰
2. Undertaking any expenditure(s) disapproved or restricted as a condition of the award, or by standard provisions such as the cost principles.
3. The transfer of amounts awarded for indirect costs to absorb increases in direct costs.
4. The transfer of amounts between construction and nonconstruction work supported by the same PHS grant.
5. The transfer of amounts previously awarded for trainee costs²¹ (stipends, tuition, and fees) to other categories of expense. Rebudgeting within the category of trainee costs or into the trainee costs category is allowable without PHS awarding office prior approval.
6. Each single contract for the procurement of general support services, including procurement of equipment and supplies, that will result in a charge of \$25,000 or 10 percent of the total approved direct cost budget, whichever is greater.

¹⁹These prior approval requirements do not apply to any grant made to a State or local government.

²⁰Amounts for additional indirect costs shall be provided in accordance with the policies on indirect costs in Appendix II. (See also Indirect Costs under "Costs Under PHS Grant-Supported Projects/Activities.")

²¹This excludes trainee travel which PHS does not consider to be a "trainee cost."

Methods for Grantees to Request Approvals

Under discretionary grants, all requests that require PHS awarding office prior approval must be submitted in writing to the Grants Management Officer designated on the Notice of Grant Award. All requests must bear the signature of an authorized official of the business office of the grantee organization as well as the principal investigator or program or project director.²²

The Grants Management Officer shall be responsible for reviewing the request with PHS program officials, as necessary, and for informing the grantee in writing of the final disposition of the request. *Grantees should ensure that the written approval or disapproval of such requests is signed (or countersigned) by the Grants Management Officer who signed the Notice of Grant Award, a grants management staff member acting for that official, or the individual identified at the time of award as the grantee's business management contact within PHS. Grantees who take action on the basis of letters signed by unauthorized officials do so at their own risk. Such responses will not be considered binding by or upon the Public Health Service.*

Whenever grantees contemplate rebudgeting or other postaward changes and are uncertain about the allowability of types or levels of cost or an activity(ies), particularly when such items are not mentioned in the regulations, cost principles, or other HHS or PHS policy documents, they are strongly encouraged to consult in advance with the designated Grants Management Officer.

Failure to obtain prior approval, when required, from either the grantee institution (see Institutional Prior Approval System immediately below) or the PHS awarding office, as appropriate, may result in the disallowance of costs. Authorized officials may grant a request for retroactive approval during the course of a project or program on an exception basis only if denying such approval would materially affect the successful performance of project activities. In the case of any such approval by an institutional official, the documentation maintained to support the approval must indicate the reasons why prior approval was not obtained in a timely manner, the way in which project objectives would be adversely affected in the absence of approval, and a certification that approval would have been given if the request had been timely. After the period of active PHS grant support, only PHS awarding office officials may authorize retroactive approvals even on types or levels of expenditure that would have been approv-

²²For subgrants and contracts under grants, the prior approval authority is usually the grantee. However, the grantee may not approve any action or cost which is inconsistent with the purpose or terms of the Federal grant. If an action by a subgrantee or contractor will result in a change in the overall grant project or budget requiring granting agency approval, the grantee shall obtain that approval from PHS before giving its approval to the subgrantee or contractor.

able by institutional officials had the request been made during the period of PHS support. Retroactive approvals may be granted, however, only where (a) the transaction would have been approved had the organization requested approval in advance; (b) the transaction is approved by an official who has the authority to grant such approvals (the Grants Management Officer or other official who has the authority to obligate the Government); and (c) the organization agrees to institute controls to ensure that prior approval requirements are met in the future. Additionally, even if the required prior approval is obtained under an Institutional Prior Approval System, where it is determined, through audit or otherwise, that the costs do not meet the required tests of allowability, allocability, necessity, reasonableness, etc., the costs may be disallowed.

Institutional Prior Approval System

PHS has selected the option provided in Section 74.176 to conditionally waive the requirement for PHS prior approval of certain costs for certain types of grantees. This is accomplished by means of Institutional Prior Approval Systems, which must be established by State or local government agencies, Federal institutions, hospitals, educational institutions, research institutes, and research foundations.

Where an institutional prior approval system is required, it must operate in accordance with the following standards:

1. The institution must designate an appropriate grantee institution official(s), who does not have direct responsibility for the conduct of grant-supported activities, to review and approve rebudgeting requests for those items that require institutional prior approval. The designated official(s) may not be the principal investigator, program director, project director, or any official having direct responsibility for the conduct of the project, or a subordinate of such individual. Where independence of the designated official(s) cannot be maintained, such as where the head of the grantee institution is also the project director on a grant, the institutional prior approval system will not apply to that grant, and required prior approvals must be obtained from the PHS awarding office.
2. The rebudgeting request must be reviewed by the designated official(s) for program propriety in relation to the PHS-approved objectives of the specific project supported by the grant to which the charges will be made.
3. The rebudgeting request must be reviewed by the designated official(s) to determine that the change is permissible within the policies and procedures of both the grantee institution and PHS.
4. The rebudgeting action must neither impair the institution's ability to complete the project or activity as approved nor require additional Federal funding, excluding those situations where the need for additional funding results from an increase in the amount of indirect costs that may be claimed because of an otherwise allowable rebudgeting action that increases the direct cost base against which indirect costs are calculated.
5. The funds must not be used for any purpose disapproved as a condition of the award.
6. The rebudgeting request and approval action must be fully documented in the grantee institution's files and retained in accordance with the record retention provisions of 45 CFR 74.

7. Grantee institutions may be more, but not less, restrictive concerning rebudgeting on the specified items. In addition, they may establish prior approval requirements within their own institutions for cost categories other than those specified or referenced in this document. The need to obtain approval for rebudgeting in these other categories may be at any dollar level set by the grantee institution.

The operation of the Institutional Prior Approval System as a whole, as well as individual actions taken under it, is subject to PHS awarding office review and audit.

PRIOR APPROVAL AUTHORITIES

Private Nonprofit Organizations

Private nonprofit grantee institutions, other than colleges, universities, hospitals, research institutes and research foundations, must obtain prior approval from the Grants Management Officer of the PHS awarding office for all proposed programmatic changes and rebudgeting actions for which prior approval is required. For prior approval authorities for subgrantees and cost-type contractors, see the sections on "Subgrantees and Contractors Under Grants" and "Prior Approval Authorities" in the Introduction.

State or Local Government Agencies or Indian Tribal Governments

State or local government agencies or Indian tribal governments are required to establish and use an Institutional Prior Approval System for obtaining prior approval for the following types of postaward budgetary changes under nonconstruction discretionary grants:

1. Purchase of each individual item of special-purpose equipment having an acquisition cost of \$1,000 or more, whether as a result of rebudgeting from another budgetary category into the equipment category or using funds awarded for the acquisition of equipment for items not described in the approved application.²³
2. Patient care costs in excess of the amount in the approved budget, provided the need for patient care in the project was specifically approved by the PHS awarding office.

These type of grantees must obtain prior approval from the Grants Management Officer of the PHS awarding office for all other proposed programmatic changes and rebudgeting actions that require such approval.

Colleges, Universities, Hospitals, Research Institutes, and Research Foundations

Colleges or universities, hospitals, research institutes, or research foundations are required to establish and use an Institutional Prior Approval System for

²³Where the acquisition of equipment results in a charge to the approved budget under a single contract that will exceed \$25,000 or 10 percent of the total direct costs for the budget period, whichever is greater, PHS prior approval is required. PHS prior approval is required for the acquisition of trailers or modular units.

obtaining prior approval for the following types of postaward budgetary changes under nonconstruction discretionary grants:

1. Purchase of each individual item of special-purpose equipment having an acquisition cost of \$1,000 or more, whether as a result of rebudgeting from another budget category into the equipment category or using funds awarded for the acquisition of equipment for items not described in the approved application.²³
2. Patient care costs in excess of the amount in the approved budget, provided the need for patient care in the project was specifically approved by the PHS awarding office.

Additionally, educational institutions must use the Institutional Prior Approval System for obtaining prior approval for domestic and foreign travel when such travel is not included in the approved budget and for cumulative expenditures for domestic travel in any budget period that will cause the amount awarded in the approved budget for such travel to be exceeded by \$500 or 25 percent of the budgeted amount, whichever is greater.

Colleges, universities, hospitals, and research institutes and foundations must obtain PHS prior approval for all other proposed programmatic changes and rebudgeting actions that require such approval.

Construction Grants

Under construction grants, the grantee (owner) must request PHS awarding office prior approval for unanticipated modifications or changes to previously approved construction contracts whenever:

1. The revision results from changes in the scope or objective of the grant-supported project, including proposed modifications that would materially alter the costs of the project, space utilization, or functional layout.
2. The revision increases the amount of Federal funds needed to complete the project.

After receipt of written prior approval from the PHS awarding office, the grantee may authorize the approved modification(s) of the construction contract. Other less substantive modifications to construction contracts may be accomplished without PHS awarding office prior approval. However, copies of all change orders to construction contracts must be retained as grant-related records (see "Postaward Administration—Record Retention and Access").

CHANGES IN PROJECT

This section covers policies on changes in approved PHS grant-supported activities initiated by grantees due to changes in personnel, changes in the status or organization of the grantee, or changes in the objectives or time frame of the approved project; it also includes PHS-initiated changes other than those which will be dealt with in the section on "Suspension, Termination, and Withholding." These changes are permitted when accomplished according to the guidelines below.

Beginning Date

Necessary changes in the beginning date of a grant-supported project should be requested before the issuance of an award document. Any costs incurred or resulting from obligations made before the beginning date of a budget period under a new award or competing continuation award and charged to that award are not allowable unless the costs involved are included in the approved budget and the costs are approved as preaward costs. (See Preaward (Preagreement) Costs under "Costs/Activities Under PHS Grant-Supported Projects/Activities.")

Changes in Protocol or Scope

In general, the principal investigator or project director of an approved PHS project grant may make minor changes in methodology, approach or other aspects of the project objectives. However, except as provided below, the grantee must obtain prior approval from the PHS awarding office for changes in scope, direction, the type of service delivery or training, or other areas that constitute a significant change from the objectives or purposes of the approved project. Principal investigators on research grants may make significant changes in methods or procedures that need only be reported to the awarding office in the progress report for the applicable period.

In the event of uncertainty as to whether a change is significant enough to require approval, questions should be referred to the PHS awarding office for a final determination.

Change in Status or Absence of Program Director, Project Director, or Principal Investigator

Whenever there is to be a significant change in the level of participation in the approved project by the project director, program director, or principal investigator, as named on the Notice of Grant Award, or other key people identified in the NGA or on the application—i.e., when the project will continue without the active direction of that individual during any continuous period of more than 3 months or when that individual either withdraws from the project entirely or proposes to devote substantially less effort to the project than was anticipated at the time of award—the grantee should notify the PHS awarding office as soon as such information is known, but no later than 30 days before the expected date of departure or change in participation level. Since approval of a project has, to some extent, been based on the participation and/or qualifications of the named program director, project director, or principal investigator, grantee institutions are required to notify the PHS awarding office of the proposed alternate plans for conducting the activity. In some cases, where required by law or regulation (including 45 CFR 74, Subpart L), or a special provision of the

award, PHS awarding office prior approval of these plans is required and must be requested before the actual change in status of the incumbent. (This prior approval requirement does not apply to any grants to State and local governments.) (See "Postaward Administration—Changes in Expenditures/Activities—Nonconstruction Grants.") Where prior approval is required, if the arrangements proposed by the grantee, including the qualifications of any proposed replacement, are not acceptable to PHS, the grant may be terminated. If the grantee wishes to terminate the project because it cannot make suitable alternate arrangements, it should notify the PHS awarding office of its intent, and PHS will forward closeout instructions.

Change of Grantee Organization

A change of grantee organization is the process whereby the legal and administrative responsibility for administering a grant-supported project or activity is transferred from one legal entity to another before the expiration date of the approved project period for the grant being transferred. Such a change may be accomplished under most PHS discretionary grants (including construction grants) but only as indicated below:

1. The grant to be transferred must have been terminated in accordance with 45 CFR 74, Subpart M and the "Suspension, Termination, and Withholding" section of this document; or
2. A noncompeting continuation award that is within an approved project period for the grant to be transferred must have been withheld in accordance with the policies in the "Suspension, Termination, and Withholding" section of this document, for any reason where the grantee's actions form the basis for the decision to withhold grant support; or
3. The original grantee has agreed to transfer responsibility to a replacement grantee for an active project that is to be transferred before the expiration of the approved project period; and
4. The need for the grant-supported project or activity that existed at the time of the award of the original grant must continue to exist at the time of the proposed award of the replacement grant, and there must be no significant change or reduction in the scope or objectives of that project or activity. If the objectives of the project are to be enlarged, there must be no diminution of services to any group that received services or benefits under the original award; and
5. The change of grantee organization must be made in a timely manner.

A change of grantee organization may not take place where it involves an award to an individual. However, a transfer by an individual fellow to a different department or institution, or a change in the fellow's sponsor is not considered a "change of grantee organization" and may be allowable with the prior approval of the PHS awarding office without regard to the conditions above.

A change of grantee action for a training grant or a resource grant would normally be permitted only when all of the permanent benefits attributable to the original grant can be transferred, including applicable equipment and the curriculum developed under a

training grant (see "Postaward Administration—Property Management and Accountability"), and may only be accomplished competitively.

When the principal investigator on a research project transfers from one domestic institution to another domestic institution, or from a foreign institution to a domestic institution, the project under the same principal investigator may be supported at the new institution for a period up to the remainder of the previously approved project period in an amount not to exceed that previously recommended for direct costs for the remaining period. The change may be made without competitive review provided that (1) the original grantee institution agrees in writing to relinquish the project, (2) the new institution submits a new application form for support of the project, (3) the investigator plans no significant change in research objectives and level of funding for direct costs from that proposed for the project as originally approved, and (4) the facilities and resources at the new location allow for successful performance of the project. If these conditions are not met or if other programmatic or administrative requirements are not met, the PHS awarding office may require a competitive review (see "Preaward Process—Internal Review Requirements").

A change of grantee organization may also be accomplished noncompetitively in the following situations for nonresearch grants (other than training or resource grants as indicated above):

1. A change of the organizational entity with legal and financial responsibility for the grant without a change in the organizational segment actually performing the programmatic aspects of the approved project may be made for a period of time up to the end of the previously approved project period.
2. Where there is insufficient time to obtain a competitive review because disruption of project activities would either seriously jeopardize the success of the project or endanger the physical or mental health of the persons served by the project, a noncompeting award may be made for a single budget period of no more than 18 month's duration, after which time the new recipient organization must compete for support.

When a grant is terminated either by mutual consent or unilaterally by the grantee, a written statement from the original grantee relinquishing its rights to the original grant must be provided in accordance with instructions from the PHS awarding office. Acceptance of a relinquishment statement by PHS does not guarantee PHS approval of a replacement application for the continued funding of a project. Where PHS terminates a grant for cause, if the grantee does not provide a relinquishment statement pending the exercise of its appeal rights (see "Postaward Administration—Grant Appeals Procedures"), a replacement grant may only be awarded under the circumstances described in item 2. immediately above. If this occurs, the Notice of Grant Award for the replacement grant will indicate that if the original grantee is successful in its appeal, the replacement grant may be terminated.

Eligible applicants for replacement grants under service programs will be limited to organizations serving, or proposing to serve, as a minimum, the same group(s) or community population served by the original grantee.

Successor in Interest and Name Changes

As a result of legislative or other action affecting the legal status of a grantee institution, such as a merger, divestiture, or other corporate change, PHS may recognize a new grantee organization as the successor in interest to the assets involved in PHS grant-supported activities. Such interest may be acquired incidentally to the transfer of all the assets of the grantee or all of that part of the assets involved in the performance of the grant-supported activity(ies). The new organization must meet the grant program's eligibility requirements in order to be recognized as the successor in interest. The current recipient of PHS grant support is responsible for promptly notifying the affected PHS awarding office(s) of the impending change. A successor in interest agreement must be executed by PHS, the transferor, and the transferee. This may be a single agreement for all affected PHS grants. (This also applies to name changes as explained below.) Before the execution of such an agreement, the grantee must submit the following documents to the PHS awarding office (or one of the PHS awarding offices) affected, as applicable:

1. A properly authenticated copy of the instrument by which the transfer of assets was effected, e.g., a bill of sale, certificate of merger, or decree of court;
2. A certified copy of the resolution of the Board of Trustees of the grantee organization authorizing the transfer of assets;
3. A properly authenticated copy of the certificate and articles of incorporation of the transferee, if such corporation was formed for the purpose of receiving the assets involved in the performance of the PHS grants;
4. An opinion of counsel for the transferor and the transferee that the transfer was properly effected in accordance with applicable law, and the effective date of transfer; and
5. A new application face page for each PHS grant, showing the new name of the organization and new principal officers, if any change occurred, and signed by the appropriate grantee officials.

If only the name of the grantee organization changes, and the rights and obligations of the grantee are not affected, the grantee shall notify the PHS awarding office of the change and provide the following documents:

1. A copy of the instrument which effected the name change, authenticated by an appropriate official of the State having jurisdiction;
2. An opinion of counsel for the grantee that the change of name was properly effected in accordance with applicable law; and
3. A list of all PHS grants awarded to that organization accompanied by a new application face page for each grant showing the new name of the organization and new principal officers, if any change occurred.

Neither successor in interest nor name change situations will be considered as "change of grantee organization" situations for purposes of applying the policies and procedures contained in that section.

CITIZENSHIP

PHS will not intercede in behalf of non-United States citizens who may be principal investigators or project directors, or otherwise participating in a project, and whose stay in the United States may be limited by their visa status. For this reason, the grantee institution shall determine, and the application should indicate, that the individual's visa will allow him or her to remain in the country a sufficient length of time to be productive on the project.

FEDERAL INCOME TAX

All recipients of PHS grant funds, whether such funds are received directly from PHS or indirectly under a subgrant, contract, or other assistance (for example, student assistance under a training grant), are responsible for and must adhere to all applicable Federal income tax regulations. Questions concerning the applicability of such regulations to grant funds should be directed to the Internal Revenue Service (IRS). Additional guidance for fellows and trainees is provided in IRS Publication 520, "Tax Information for American Scholars in the U.S. and Abroad," which may be obtained from IRS.

GRANT-RELATED INCOME

Recipients are accountable to PHS for certain kinds of grant-related income in accordance with 45 CFR 74, Subpart F. Contracts under a grant are subject to the terms of the contract with regard to the income generated by the activities. Grant-related income includes such income as general program income (see 45 CFR 74.42); proceeds from the sale of assets acquired with project funds; and royalties from copyrights on publications developed under, or patents and inventions conceived or first actually reduced to practice under, a grant-supported project. These requirements are set forth in 45 CFR 74, Subpart F and are summarized below:

All general program income, as defined in 45 CFR 74.42, earned during the period of PHS grant support shall be retained by the recipient and shall be treated in accordance with one, or a combination, of the following options:

1. Deduction alternative: Deducted from total allowable costs and third-party in-kind contributions for the purpose of determining the net costs on which the Federal share of costs will be based. When this alternative applies, the deduction must be made from current costs unless the terms of the award authorize deferral to a later period.
2. Cost sharing or matching alternative: Used to satisfy all or part of a cost sharing or matching requirement.
3. Additional costs alternative: Used for costs that are in addition to the allowable costs of the project for any purposes that further the objectives of the legislation under which the grant was made.

Option 1 above may always be selected by recipients and must be used if neither of the other alternatives is specified by the PHS awarding office on the

Notice of Grant Award. A subgrantee may not be permitted to use an option not permitted by the terms of the award to the grantee.

Illustrations of the application of these alternatives may be found in 45 CFR 74.42.

Interest earned by recipients as a result of a permissible use of general program income, e.g., where a statute or other grant term provides for the use of income to be deferred to a later period, should be retained by the recipient and treated as general program income.

In addition to the exemption granted by the Intergovernmental Cooperation Act of 1968 for States (see §74.47 of Part 74), the Indian Self-Determination and Education Assistance Act (P.L. 93-638) exempts Indian tribal organizations, as defined in the act, from accountability to the Federal Government for interest earned on advances of grant funds awarded pursuant to section 102, 103, or 104 of that act.

Records of the earning, receipt, and disposition of grant-related income for which the recipient is accountable must be maintained by the recipient in the same manner as required for the funds that gave rise to the income.

MILITARY SERVICE

PHS will not intercede in behalf of an individual in relation to military status.

PROPERTY MANAGEMENT AND ACCOUNTABILITY

General

Unless otherwise restricted by the terms of an award, the costs of equipment and supplies are allowable under PHS grant-supported projects and activities under the conditions set forth in the applicable cost principles and the policies in this policy statement. Property purchased, constructed, or fabricated with either PHS grant funds or any required grantee cost sharing or matching is considered to be "property acquired under a PHS grant-supported project" if some or all of the property's acquisition cost is a direct charge to project funds, i.e., a cost incurred under the total approved direct cost budget, whether that budget is a categorical budget or a single amount as in capitation grants. However, for research grants that are subject to an institutional cost sharing agreement, real property, equipment, and supplies would only be subject to these policies if at least some part of the acquisition cost was borne as a direct cost by a PHS grant, i.e., by Federal funds. Most property acquired under a PHS grant-supported project is subject to 45 CFR 74, Subpart O (see 45 CFR 74.130 for exceptions).

Generally, recipients may use their own property management policies and procedures provided, in the case of property subject to Subpart O, they observe

the requirements in 45 CFR 74, Subpart O and the following PHS policies. A summary of the applicability of the Part 74 equipment management requirements and policies to PHS grants and grantees is contained in Appendix IV.

The dollar threshold for determining the applicability of several of the requirements in Subpart O is based on the unit acquisition cost of an item of equipment. As defined in 45 CFR 74, the cost of an item of equipment to the recipient includes necessary modifications, attachments, etc. that make it usable for the purpose for which it was acquired or fabricated. When such accessories or attachments are acquired separately and serve to replace, enhance, supplement, or otherwise modify the equipment's capacity, and they individually meet the definition of equipment (see "Glossary"), the applicable PHS prior approval requirements must be observed for each item. The aggregate acquisition cost of an operating piece of equipment however will be used to determine the applicable provisions of 45 CFR 74, Subpart O.

If property is fabricated from individual component parts, each component must itself be classified as "equipment" if it meets the definition of "equipment" (see "Glossary"). In such cases, the aggregate acquisition cost of the resulting piece of equipment will determine the appropriate requirements for accountability in 45 CFR 74, Subpart O. For the purposes of Subpart O, the aggregate cost of the fabricated equipment will be used to determine whether the PHS awarding office will have the right to require transfer of title to a piece of fabricated equipment.

Recipients are required to be prudent in the acquisition of property under a grant-supported project. It is the recipient's responsibility to conduct a prior review of each proposed property acquisition to ensure that the property is needed and that the need cannot be met with property already in the possession of the organization. If prior approval is required for the acquisition, the recipient must ensure that appropriate approval is obtained in advance of the acquisition. The recipient's procurement practices must be in compliance with 45 CFR 74, Subpart P, and the section of this document on "Postaward Administration—Management Systems and Procedures."

Recipients of PHS grant funds other than Federal institutions cannot be authorized to use Federal supply sources. (See Federal Property Management Regulations, Amendment E-125, dated November 10, 1972.)

Surplus Property

Surplus property (real property, equipment, or materials that the General Services Administration (GSA) has determined is no longer required by any agency of the Federal Government) is available to eligible parties, as specified in the implementing regulations cited below, through sale (real property) or donation (personal property). The Federal property assistance

program for real property is administered by the Regional Office of Facilities Engineering and Construction in each HHS regional office pursuant to 45 CFR 12. The program for donation of surplus personal property is administered by GSA (see 41 CFR 101-44) through designated State agencies. While project funds may be used for the shipping and handling of donated surplus property, surplus personal property once under the control of a recipient organization is subject to the requirements of the governing GSA regulations rather than the requirements of 45 CFR 74, since such property is not considered to have been acquired with project funds.

Excess Federal property is equipment and materials with a useful life that is no longer required by the Federal holding agency and that has been reported to GSA for disposal. PHS does not provide excess Federal property to recipients.

Real Property

Real property may only be acquired when authorized by program legislation and when specifically provided for in the grant award.

Real property acquired or constructed under a PHS grant-supported project will be subject to the requirements of 45 CFR §74.134 regarding use, transfer of title, and disposition in addition to any program-specific or project-specific requirement(s) imposed by the terms of the award. In some cases, the governing statute for a PHS grant program will contain specific requirements regarding the length of the grantee's accountability obligations for real property, the Federal right of recovery, and waiver provision. In such cases, those provisions of 45 CFR 74 that are not inconsistent with the statute will still apply unless other terms of the award specify otherwise.

Alteration and renovation of real property undertaken under grant programs that have no specific statutory alteration and renovation or modernization authority is allowable. See "Alteration and Renovation" under "Costs Under PHS Grant-Supported Projects/Activities."

Equipment and Supplies

Under authority of Public Law 95-224 (which repealed the previous Public Law 85-934), nonprofit institutions of higher education and nonprofit organizations whose primary purpose is the conduct of scientific research are exempted from further obligation to the Federal Government for equipment and supplies acquired under a grant for support of basic or applied scientific research, although PHS has the right to require transfer of title to certain equipment as provided in 45 CFR 74.136. The exemption does not apply to other types of institutions nor to other types of grants, e.g., training grants, regardless of the type of institution. All other equipment and supplies acquired under PHS grant-supported projects and activities is considered "nonexempt."

For items of equipment having a unit acquisition cost of \$1,000 or more, PHS has the right to require transfer of the equipment, including title, to the Federal Government or to an eligible third party named by the PHS awarding office under the conditions specified in 45 CFR 74.136. This right applies to all types of PHS grantees, including Federal institutions, under all types of grants under the stipulated conditions.

Except in instances where PHS has exercised the right of transfer of equipment, nonexempt equipment shall be used as indicated in §74.137 or disposed of in accordance with §74.139. For "other uses" as specified in §74.137(d), PHS awarding office prior approval must be obtained before a recipient may make equipment available for use part-time for other purposes while it is being used in accordance with §74.137(a), (b), or (c). Income generated by such alternate uses is program income and is subject to 45 CFR 74.46 if it accrues afterwards. (See "Postaward Administration—Grant-Related Income.")

Exempt property still subject to the right of transfer, and nonexempt property before disposition may, if necessary, be exchanged for replacement equipment subject to the rules in 45 CFR 74.138.

Property acquired under a PHS grant-supported project is subject to the requirements for internal control specified in 45 CFR 74, Subpart H. Nonexempt property is also subject to the equipment management requirements in 45 CFR 74.140. A recipient's failure to establish a control system as required by Section 74.140(c) constitutes a material violation of the terms of the award. Therefore, the rights mentioned below are in addition to any other rights that PHS has in the event of a violation of grant terms (see particularly 45 CFR 74.7 and 74.113) and the sections of this document on "Postaward Administration—Financial Management" and "Postaward Administration—Suspension, Termination and Withholding."

If nonexempt equipment with a unit acquisition cost of \$1,000 or more is damaged beyond repair, lost or stolen before disposition under 45 CFR 74.139, the recipient may be accountable to PHS as described below.

If, at the time of the loss, theft, or damage, the recipient does not have a control system in effect as required by 45 CFR 74.140(c), and the damage, loss or theft was not due to an act of God (unless PHS waives this provision), the following applies:

1. If the equipment is replaced, the rules on replacement equipment (45 CFR 74.138) will apply except that the market value of the original equipment at the time it was damaged, lost or stolen is used instead of the amount received for trade-in or sale;
2. If the equipment is not replaced, an amount equal to the Federal share of the original equipment times the fair market value will be due PHS.

If the damage, loss or theft occurs despite the fact that the recipient has the required control system in effect, or the damage, loss or theft is due to an act of God, there will be no obligation to PHS for the equipment unless the recipient received compensation for the damage, loss, or theft from insurance, a reserve under a self-insurance program, or some other source. If the recipient is compensated, and replaces the equipment, 45 CFR 74.138 applies to the replacement equipment. If the recipient is compensated but does not replace the equipment, 45 CFR 74.139(b) applies as though the recipient had sold the equipment. The amount received for trade-in or sale is considered the lesser value of (1) the amount of compensation or (2) the market value of the equipment at the time it was damaged, lost or stolen.

Any amount due PHS upon the disposition of real property or equipment may either be in the form of a check made payable to PHS, or, at the option of the PHS awarding office, may be applied to allowable costs of the project. This option may only be exercised where the original project for which the property was acquired is still receiving grant support from the same PHS program.

PATENTS AND INVENTIONS

HHS's regulations on patents and inventions arising out of activities assisted by a grant are set forth in 45 CFR Parts 6 and 8.

PUBLICATIONS

Project directors, program directors, and principal investigators are encouraged to make results and accomplishments of their activities available to the public. PHS prior approval is not required for publishing the results of an activity under a grant. Responsibility for the direction of sponsorship of the activity should not be ascribed to PHS. Recipients shall place an acknowledgement of PHS grant support on any publication written or published with such support and, if feasible, on any publication reporting the results of, or describing, a grant-supported activity. An acknowledgement may be to the effect that "this publication was made possible by a grant from . . ." or "the project described was supported by a grant from . . ."

In the event that the recipient wishes to join with PHS in a simultaneous news release announcing the results of a project, the action should be coordinated with the PHS awarding office.

Three reprints of publications resulting from work performed under a PHS grant-supported project or activity must be submitted to the PHS awarding office.

Except as otherwise provided in the terms and conditions of the award, the recipient is free to arrange for copyright without approval when publications,

data,²⁴ or other copyrightable works are developed under or in the course of work under a PHS grant-supported project or activity. (See 45 CFR 74, Subparts F and O, and the terms of the award regarding to the PHS rights in copyrightable material and the disposition of royalties and other income earned from a copyrighted work.)

Any such copyrighted or copyrightable works, including materials developed by a fellow(s) or trainee(s) under awards whose primary purpose is to further the education or training of such individuals, shall be subject to a royalty free, nonexclusive, and irrevocable license to the Government to reproduce, publish, or otherwise use them, and to authorize others to do so for Federal Government purposes. Whenever any work subject to this copyright policy may be developed in the course of a grant (or with grant support) by a contractor or subcontractor under a grant, the written agreement (contract) must require the contractor to comply with these requirements and can in no way diminish the Government's right in that work. Recipients may arrange for publication of initial reports of original research, supported in whole or in part by PHS grant funds, in primary scientific journals and copyright by the journal unless the journal's copyright policy would preclude individuals from making, or having made, by any means available to them, without regard to the copyright of the journal, and without royalty, a single copy of any such article for their own use.

MANAGEMENT SYSTEMS AND PROCEDURES

Applicant organizations are expected to have certain systems, policies, and procedures in place for managing their own funds, equipment, and personnel before receiving PHS grant support. Demonstration of the applicant's management capabilities may be one of the evaluative criteria used in the review process (see "Preaward Process—Internal Review Requirements"). PHS will allow recipients to use their established organizational policies, consistently applied regardless of the source of funds, provided that, at a minimum, they meet the standards and requirements set forth in 45 CFR 74, and those set forth below.

FINANCIAL MANAGEMENT AND NON-FEDERAL AUDITS

Recipients are required to meet the standards and requirements for financial management systems and non-Federal audits set forth or referenced in 45 CFR 74, Subpart H.

²⁴For this purpose, "data" means writings, films, sound recordings, pictorial reproductions, drawings, designs or other graphic representations, procedural manuals, forms, diagrams, work flow charts, equipment descriptions, data files and data processing or computer programs.

If the PHS awarding office determines either by means of a preaward financial evaluation or through postaward monitoring that a grantee's financial management systems do not meet the standards of Subpart H, award terms more restrictive than those prescribed in 45 CFR 74 may be imposed (see 45 CFR 74.7). In such cases, the grantee will be notified in writing by the PHS awarding office as to why the special terms were imposed and what corrective action is needed. These requirements pertain to both PHS grant funds and funds representing non-Federal matching or cost sharing required as a term of the award.

PROCUREMENT

Most procurements of supplies, equipment, construction services, and other services under PHS grant-supported projects and activities are subject to the procurement standards prescribed by 45 CFR 74, Subpart P, as explained in the applicability section of that subpart (Section 74.160). Consortium arrangements are not procurements and are not subject to these standards. However, they are subject to the rules below on contracting for substantive programmatic work and on written agreements.

In the procurement of goods or services, including consultant services, nongovernmental recipients must make positive efforts to use small business concerns and minority-owned business enterprises as sources of such goods or services. For this purpose, "small business" is defined by using the criteria contained in Part 121 of Title 13, 45 CFR 1-1.701-1. Generally, if no standard for an industry's field of operation is provided in that regulation, "a small business concern" means an independently owned and operated business with less than 500 employees that is not dominant in its field of operation. Such a concern may include, but is not limited to, an individual, a partnership, a corporation, a joint venture, an association, or a cooperative. In addition, the concern must make a significant contribution to the U.S. economy through payment of taxes and/or use of American products, materials, and labor. A "minority-owned business enterprise" is a business, at least 50 percent of which is owned by minority group members, or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members.

State and local governmental and Indian tribal governmental recipients are (1) required to take steps to ensure that small and minority businesses are utilized where possible, (2) required to take similar appropriate affirmative action in support of women's business enterprises, and (3) encouraged to procure goods and services from labor surplus areas.

Contracts for Substantive Programmatic Work

Grantees may contract for the performance of substantive programmatic work (see "Glossary") under discretionary grants only with PHS prior approval.

Contracting for substantive programmatic work includes the establishment of consortium agreements whereby a research project is carried out by the grantee and one or more cooperating institutions that are separate legal entities independent of the grantee.

It is the intent of PHS that the grantee, as the direct and primary recipient of PHS grant funds, perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party, or provide funds to an ineligible party. In cases where a significant portion of the project's activities are proposed to be carried out by a subgrantee or contractor, the grantee must be able to document the reasons why it, rather than the ultimate performer of the activity(ies), should be the direct recipient of PHS funds.

Contracts for General Activities

See "Glossary" for definition of "general activities." If the charge to the approved budget for a single contract under a discretionary grant will exceed the greater of \$25,000 or 10 percent of the total direct costs approved for the budget period, the grantee must obtain PHS prior approval. In cases of reasonable doubt as to whether a given activity is "substantive programmatic work" or a "general activity," the grantee should consult the designated Grants Management Officer.

All Contracts

In situations where a grant recipient enters into a service-type contract the term of which is not concurrent with the budget period of the award, the costs of the contract may be charged to the budget period in which the contract is executed even though some of the services will be performed in a succeeding period, provided (1) the PHS awarding office has been made aware of this situation either at the time of application or through postaward notification, (2) the project has been recommended for a project period extending beyond the current year of support, and (3) there is a legal commitment on the part of the recipient to carry out the terms of the contract. Costs will be allowable only to the extent that they are for services that are provided during the period of PHS support. In order to limit liability in the event that continued Federal funding is not forthcoming, it is recommended that recipients insert a clause in such contracts of \$10,000 or less stipulating that payment beyond the expiration of the current budget period is contingent on continued Federal funding. The procurement standards prescribed by Subpart P of 45 CFR 74 specify termination provisions for contracts in excess of \$10,000.

The arrangements for the conduct of activities that are contracted out shall be formalized in a contract (written agreement) between the recipient and the third party. The contract must, as applicable, state the activities to be performed, the time schedule, the

grant policies and requirements that are applicable to the contractor (these may be incorporated by reference where feasible), other policies and procedures to be followed, the maximum amount of money for which the grantee (or subgrantee) may become liable to the third party under the agreement, and the cost principles to be used in determining allowable costs in the case of cost-type contracts. The contract must not affect the grantee's overall responsibility for the direction of the project and accountability to the Government. The agreement shall, therefore, reserve sufficient rights and control to the grantee to enable it to fulfill its role. Consortium arrangements must also be formalized in a written agreement.

A consortium arrangement establishes a collaborative arrangement, not an assistance relationship, between the grantee and the other consortium participants. However, the other participants and the grantee's arrangements with them are subject to the rules and policies in 45 CFR Part 74 and this document that apply to subgrantees and subgrants. A statement to this effect should be contained in the written agreement.

The following requirements are applicable to contracting situations where PHS prior approval is required.

The information provided by the applicant or recipient in its application or postaward request to contract will form the basis for the awarding office decision to approve or disapprove the contracting. Even if the grant application referred to a contracting but did not explicitly and clearly state a firm intention on the part of the recipient to contract, a postaward prior approval request must be initiated. This information must include:

1. A description of the activities or functions involved;
2. A justification for their performance by a third party;
3. A breakdown of and justification for the estimated costs;
4. The type of contract expected to be awarded;
5. The kinds of organizations or other parties solicited, and
6. The method of selection.

If a selection(s) has already been made, the selected party(ies) must be identified, the reasons for selection must be explained, and all relevant relationships known to exist or planned between the third party(ies) and the grantee must be fully described. Failure to disclose all relevant information may result in the disallowance of payments to the third party.

Where approval to contract was previously provided and the activities are expected to continue without significant change during a subsequent budget period, the noncompeting continuation application need not repeat this detailed information, but should indicate that the arrangements are expected to continue as previously approved, and should reflect the related budgetary needs. Where previously approved contracted activities are expected to change significantly, complete information concerning the proposed changes must be provided.

Approval of contracting may be deferred pending submission of additional information by the applicant or grantee or may be conditioned on the receipt of additional information. The applicant or recipient may, at its option, submit the contract document as a means of providing this information. If that option is elected, any resulting PHS approval does not constitute a legal endorsement of the contract document by the Federal Government nor does such approval establish PHS as a party to any of the contract provisions.

SAFETY PRECAUTIONS

The Government is not legally responsible for accidents, illnesses, or claims arising out of any work undertaken with the assistance of a PHS grant. The grantee institution is expected to take necessary steps to insure or protect itself and its personnel and to comply with the applicable standards, including those issued pursuant to the National Occupational Safety and Health Act of 1970 (29 CFR 1910) and the Atomic Energy Act of 1954 (42 USC 2021). See also the requirements regarding the use of human subjects under "Preaward Process—Public Policy Requirements."

STANDARDS OF CONDUCT FOR EMPLOYEES

Each recipient organization must have written rules for preventing officers, employees, consultants or board members from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others such as those with whom they have family, business, or other ties. Such rules should reflect State and local laws and must cover financial interests, gifts, gratuities and favors, nepotism, and other areas such as political participation and bribery. These rules must also indicate the conditions under which outside activities, relationships, or financial interests are proper or improper, and provide for notification of these kinds of activities, relationships, or financial interests to a responsible and objective institution official. For the requirements of a code of conduct applicable to procurements under grants, see the procurement standards prescribed by 45 CFR 74, Subpart P.

The rules of conduct must contain a provision for prompt notification of violations to a responsible and objective grantee official, and must specify the type of administrative action that may be taken against an individual for violations. Administrative actions, which would be in addition to any legal penalty(ies), may include oral admonishment, written reprimand, reassignment, demotion, suspension, or separation. Suspension or separation of a project director or program director or other key official should be reported promptly to the appropriate PHS awarding office (see "Postaward Administration—Changes in Project").

A copy of the rules of conduct must be given to each officer, employee, board member, and consultant of the recipient organization who is working on the grant-supported project or activity and the rules must be enforced to the extent permissible under State or local law, or to the extent to which the grantee determines it has legal and practical enforcement capacity.

The rules need not be formally submitted to and approved by the PHS awarding office; however, they must be made available for a review upon request, for example, during a site visit.

MONITORING

As indicated in previous sections of this document, PHS requires that grantees employ sound management practices to ensure that program objectives are met, and that project funds are properly spent. To the extent possible, PHS places reliance on the controls and policies established by grantees. However, in order to fulfill their role in regard to the stewardship of Federal funds, PHS awarding offices monitor their grants to identify potential problems and areas where technical assistance might be necessary.

The names of the individuals responsible for monitoring the programmatic and business management aspects of a project or activity will be provided to the grantee at the time of award.

Monitoring of a project or activity shall continue for as long as PHS retains a residual financial interest in the project or activity, whether or not PHS is providing active grant support. This may include grantees that continue to have an obligation for property acquired under a PHS grant-supported project or activity, and owners of facilities constructed under a grant with a statutory or regulatory requirement that the facility be used for a specific purpose for a specified period of time.

See also 45 CFR 74, Subparts I and J and the "Reporting" section of this document.

REPORTING

PHS grant programs, in general, have requirements for both financial and programmatic performance reporting. Both expenditure and progress reports are generally submitted on an annual basis. At the discretion of the PHS awarding office, such reports may be required at more frequent intervals, but no more often than quarterly, unless indicated by a special provision on the Notice of Grant Award according to 45 CFR 74.7 and 74.72(e). The form or format of required progress reports may vary depending on the type of grant program.

Other reporting requirements may include invention reporting, reporting to the appropriate payment points (in accordance with instructions received from

the payment office), and specialized programmatic reports. Information on performance, expenditure, and invention reporting is provided below.

Grantees are expected to publish and provide information to the public on the objectives, methodology, and findings of their PHS-supported research activities.

Programmatic Performance (Progress) Reports

Subpart J of 45 CFR 74 sets forth principles and procedures for reporting program performance and allows PHS programs to determine the frequency of such reports, within limits, and to issue instructions for the content in addition to the content suggested by Subpart J.

Annual progress reports must be submitted with all applications for competing or noncompeting continuation support in accordance with the instructions accompanying the application forms, unless a different date for submission of the annual performance report is specified by the PHS awarding office. Some PHS programs may require narrative and/or quantitative performance data at more frequent intervals. Where quarterly or semi-annual reports are required, they are due 30 days after the close of the period for which the report is being submitted.

The requirements for performance reporting under construction grants or grants supporting both construction activities, including acquisition or modernization, and nonconstruction activities will be specified by the PHS awarding office.

The original and two copies of a final progress report must be submitted to the PHS awarding office within 90 days after the expiration or termination of a nonconstruction project or a project supporting both construction and nonconstruction activities. The report should be prepared according to instructions provided by the PHS awarding office and should include, at a minimum, a summary statement of progress toward the achievement of the originally stated aims, a list of the results (positive or negative) considered significant, and a list of publications resulting from the project, with plans, if any, for further publication. Three copies of reprints of publications not previously submitted should accompany the progress report.

Expenditure Reports

A report of expenditures is required as documentation of the financial status of grants according to the official accounting records of the grantee organization. For all PHS nonconstruction grants, the Financial Status Report is used for this purpose. (See 45 CFR 74 Subpart I.) The report, when required on an annual basis, must be submitted for each budget period no later than 90 days after the close of the budget period. The PHS awarding office may require this report no more frequently than quarterly, except as

provided in 45 CFR 74.7 and 74.72(e). Where quarterly or semi-annual reports are required, they are due 30 days after the close of the period for which the report is being submitted. The report must cover any extension in time of the budget period authorized by the PHS awarding office. The final report of expenditures, which must be submitted within 90 days of the expiration or termination of a grant unless an extension of time for submission is allowed by the PHS awarding office, must have no unliquidated obligations and must indicate the exact balance of unobligated funds.

Estimated Expenditures. Where an unobligated balance of Federal funds is estimated to remain under a nonconstruction discretionary grant at the end of a budget period (as reported in the grantee's continuation application), the Grants Management Officer of the PHS awarding office may select one of the following options:

1. Subtract the estimated unobligated balance from the Federal share of the approved budget amount proposed in the continuation award if one is to be issued.
2. Use the estimated unobligated balance to increase the Federal share of funds authorized in the proposed continuation award for additional purposes requested and justified by the grantee and approved by the PHS awarding office.
3. Withdraw the estimated unobligated balance from the current award authority.
4. Ignore the estimated unobligated balance when such amount is \$250 or less, or there is good reason to believe that the estimate may not be sound.

If the grantee estimates a deficit, the Grants Management Officer and the grantee should discuss (a) administrative measures the recipient should institute to ensure that the project does not incur a deficit, and (b) the possibility of submission of a request for supplemental funds.

Actual Expenditures. Upon receipt of a Financial Status Report (FSR) showing actual obligations of funds, the Grants Management Officer, for ongoing projects, will compare the total of any unobligated balance shown and the funds awarded for the current budget with the PHS share of the approved budget for the current budget period.

If the funds available exceed the PHS share of the approved budget for the current budget period, the Grants Management Officer may select one of the following options:

1. Withdraw the excess funds by issuing a revised award notice for the current budget period.
2. In response to a written request from the grantee, revise the current award notice to authorize the grantee to spend the excess funds for additional approved purposes; or
3. Notify the grantee in writing that it is restricted from using the excess funds in the current budget period, and that the excess funds will be taken into account when the next continuation award is made.

If the funds available are more than \$250 short of the PHS share of the approved budget for the current budget period, the Grants Management Officer will either:

1. Make an administrative supplemental award as necessary to make the available PHS funds equal to the PHS share of the approved budget unless the awarding office has information which would indicate that the additional funds are not needed by the grantee; or
2. Negotiate with the grantee a mutually satisfactory revised budget and issue a revised Notice of Award to make the PHS share of the approved budget equal to the PHS funds available.

If funds are available for obligation, the awarding office should make a supplemental award to provide additional funds to the grantee in accordance with item 1 immediately above. If funds are not available for obligation, or if the additional funds are not needed by the grantee, a revised budget must be negotiated and documented in accordance with item 2 immediately above.

If the funds available are less than \$250 short of the PHS share of the approved budget, the awarding office will normally not make any adjustment unless specifically requested by the grantee.

For both estimated and actual expenditure situations, the Grants Management Officer is to select the options that will utilize the unobligated balance in the most responsible and expeditious manner available to promote program objectives without creating an unjustifiably high level of continuation costs for succeeding appropriations.

Unobligated funds remaining at the end of a project period that will not be expended revert to the Federal Government. If paid to the grantee, such amounts must be returned to the Federal Government or must be reflected by an appropriate accounting adjustment in accordance with instructions from the Grants Management Officer of the PHS awarding office or from the payment office. Neither withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period nor withdrawal of the unobligated balance as of the expiration of a grant constitutes "termination" (see "Postaward Administration—Suspension, Termination, and Withholding").

The permissibility of carryover and options in regard to unobligated balances under mandatory (formula) grants are contained in programmatic regulations.

PHS expects recipients to maintain accurate and timely accounting records with the proper classification of expenditures. Through full utilization of the 90 days available for submission of annual and/or final reports of expenditures, the grantee should be able to file accurate reports and reduce later amendments and revisions to a minimum. When a revised report is necessary, the following will apply. (See Appendix II of this policy statement in regard to indirect cost adjustments.) Revised expenditure reports representing additional claims by the grantee that were not

reported to PHS within the 90 days provided, may be submitted to the Grants Management Officer of the PHS awarding office with an explanation. This should be done as promptly as possible but no later than 1 year from the due date of the original report, i.e., 15 months following the end of the budget period. Any such revised report received after that date will not be accepted, and will be returned to the grantee. Where the submission of a revised final expenditure report results in additional claims by the grantee, PHS will normally make an upward adjustment if funds are available, although not legally obligated to do so. In the case of the submission of a revised annual expenditure report, the policy stated above governs if, as a result of less carry-over funds than anticipated, a continuation budget period has been underfunded. Where the revision results in a balance due to PHS, the revision must be submitted to the Grants Management Officer of the PHS awarding office whenever the overcharge is discovered, no matter how long the lapse of time since the original due date of the report. Whenever an adjustment is to be made, the PHS awarding office will advise the grantee of actions to be taken to reflect the adjustment.

Invention Reports

According to HHS patent regulations (45 CFR 6 and 8), all inventions made in the course of or under any PHS research grant or fellowship award shall be promptly and fully reported to the Assistant Secretary for Health, HHS, and in any event shall be reported prior to the publication of any description of the invention. This requirement has been extended to training grants, traineeships, and scholarships. The report must be completed in accordance with instructions provided by the PHS awarding office. (NOTE: Regulations regarding inventions are currently under revision and may impact the information stated above.)

In addition to immediate invention reporting, each application for competing or noncompeting continuation support of a PHS grant-supported research project must include either a listing of all inventions made during the preceding budget period or a certification that no inventions were made during the applicable period.

A Final Invention Statement and Certification is required within 90 days following the expiration or termination of support on an applicable project. All inventions that were conceived or first actually reduced to practice during the course of work under the project from the original effective date of support through the date of expiration or termination, whether or not previously reported, shall be listed on the statement. Each statement will require the signature of the project director or principal investigator and an official authorized to sign on behalf of the grantee organization.

Overdue Reports

Grantees are allowed a reasonable period of time in which to submit required financial and performance reports (see 45 CFR 74, Subparts I and J). Failure to submit required reports within the time allowed may result in suspension or termination (of an active grant), withholding of additional awards for the project, or other enforcement actions, including withholding of payments or converting to the reimbursement method of payment (see "Award Process—Payment"). Continued failure to submit required reports may result in the imposition of special award provisions, or cause other eligible projects or activities involving that grantee organization or the individual responsible for the delinquency to not be funded.

If at any time the grantee provides an acceptable explanation regarding the late submission of a report, the PHS awarding office may waive the reporting requirement or set a new due date. However, once a report becomes overdue such action will be taken by the PHS awarding office only if the reasons why the grantee is unable to submit the report in a timely manner are legitimately beyond its control, or if the purposes for which the report is to be used can be accomplished through other means. Failure to meet a new date may result in the awarding office taking action stated in the paragraph above.

Submission of a required report does not necessarily fulfill the grantee's responsibility. Such reports must also meet the content requirements in regulations or other grant terms. Where reports need to be revised in order to be accepted, the grantee must provide a revised report by the due date indicated by the PHS awarding office or immediate fund cutoff or other enforcement actions may be taken with regard to the delinquency.

If a report required to be submitted to a payment office becomes overdue under either discretionary or formula grants, the payment office, following reasonable notice to the grantee, will make no further payments to the grantee until the overdue report is received or the delinquency is corrected by waiving the reporting requirements or setting a new due date. Cash withheld during the period of delinquency, if otherwise payable, will be released when payments are resumed.

RECORD RETENTION AND ACCESS

Financial and programmatic records, supporting documents, statistical records, and all other records of a grantee or subgrantee that are required by the terms of a grant or subgrant or may reasonably be considered pertinent to a grant or subgrant, must be retained for the time period(s) specified in 45 CFR 74, Subpart D. The determination as to when the retention period begins and ends differs for some types of grant-related records, e.g., property records. Ac-

cess to such records is also governed by the provisions of 45 CFR 74, Subpart D. See 45 CFR 74, Subpart P in regard to record retention and access requirements for contracts under grants.

SUSPENSION, TERMINATION, AND WITHHOLDING

A decision to suspend a grant may be made after it has been determined that a grantee has materially failed to comply with the terms of an award but that there is a possibility the grantee may take corrective measures. A decision by a PHS awarding office to terminate a grant may be made if appropriate corrective actions (or the acceptable promise of such actions) are not taken during the period of suspension or if the deficiency is so serious as to warrant immediate termination. A grant, or portion thereof, may also be terminated at a grantee's initiative. Subpart M of 45 CFR 74 contains the policies that pertain to suspension and termination. Termination for cause may be appealed under the PHS and HHS grant appeals procedure (see "Postaward Administration—Grant Appeals Procedures").

Withholding of support means a decision not to make a noncompeting continuation award within a previously approved project period. Withholding may occur if a grantee has failed to make satisfactory progress, or if adequate Federal funds are not available to support the project, or it may be used as a means of protecting PHS interests. Withholding may also occur where the grantee has not complied with the terms of the award or has failed to provide adequate stewardship of Federal funds to an extent that indicates that PHS support should not continue beyond the current budget period, but where the situation is not serious enough to warrant termination. The decision to withhold support, i.e., the decision to let a grant expire at the end of its current budget period as shown on the Notice of Grant Award, and not make a noncompeting continuation award is subject to the PHS grant appeals procedures.

HHS also has in effect regulations at 45 CFR 76 which provide for the debarment and suspension of individuals and institutions from eligibility to receive grants or other forms of financial assistance or contracts under HHS discretionary programs. The grounds to such measures set forth in the regulations are specified criminal actions and/or fiscal abuses by persons who are responsible for Federal funds.

AUDIT

An audit is a systematic review or appraisal made to determine whether:

1. Financial operations are properly conducted.
2. Financial reports are presented fairly and accurately.
3. Applicable laws, regulations, and other grant terms have been complied with.
4. Resources are managed and used in an economical and efficient manner.
5. Desired results and objectives are being achieved in an effective manner.

Any or all of these elements may be reviewed, at the discretion of the Federal Government, during or after PHS support of the activity. However, 45 CFR 74, Subpart H requires recipients to comply with OMB requirements for audits conducted by, or at the direction of, the recipient.

The OMB requirements explain the scope, frequency, and other aspects of the audits. For State and local grantees subject to OMB circular A-102, such audit reports shall be submitted to the cognizant Federal audit agency.

See "Costs Under PHS Grant-Supported Projects/Activities" for the allowability of the costs of grantee (subgrantee)-initiated audits.

Recipients must follow a systematic method for ensuring timely and appropriate resolution of audit findings and recommendations, whether discovered as a result of Government-initiated or recipients-initiated audits.

Grantees are usually allowed 30 days from the date of request to respond to the responsible audit resolution official (Action Official) concerning audit findings. Failure to submit timely responses may result in cost disallowance or other actions by PHS or HHS. At the completion of the audit resolution process, the grantee will be notified of the Action Official's final decision. The grantee may appeal this decision according to the applicable appeals procedures. (See "Postaward Administration—Grants Appeals Procedures.") Refunds owed to the Government as a result of audit disallowances must be made in accordance with instructions issued by the action official or finance office.

CLOSEOUT

PHS grants will be closed out as soon as possible after expiration of a grant that will not be extended or after termination of a grant in accordance with 45 CFR 74, Subpart M. Closeout includes timely submission of all required reports, disposition of real property, equipment and supplies, adjustments for amounts due the grantee, and adjustments for amounts due PHS and in the hands of grantees for any reason, including unobligated balances. The PHS awarding office will issue instructions concerning the disposition of unobligated balances in the hands of the grantee. For those organizations receiving their funds through the Departmental Federal Assistance Financing System (DFAFS), all final reports must be submitted to DFAFS and to the PHS awarding office as appropriate. It is the responsibility of the grantee to reconcile reports submitted to DFAFS and to the PHS awarding office. Closeout of a grant does not affect the requirements for equipment accountability or record retention nor does it affect the Federal Government's right to conduct an audit and recover amounts based on the results of the audit.

GRANT APPEALS PROCEDURES

HHS has a policy permitting grantees to appeal certain postaward adverse administrative decisions made by HHS officials. (See 45 CFR 16.)

PHS has established a first level of appeal which must be exhausted before an appeal to the HHS Grant Appeals Board. The following determinations may be appealed under the authority of 42 CFR 50, Subpart D, the PHS grant appeals procedure which is only available in regard to PHS discretionary grants and cooperative agreements:

1. Termination, in whole or in part, of a grant for failure of the grantee to carry out its approved project in accordance with the applicable law and the terms and conditions of such assistance, or for failure of the grantee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant.
2. A determination that an expenditure not allowable under the grant has been charged to the grant, or that the grantee has otherwise failed to discharge its obligation to account for grant funds.
3. The disapproval of a grantee's written request for permission to incur an expenditure during the term of a grant. (The failure of a PHS awarding office to respond to such a request within 30 days of the postmark date of the grantee's request shall be considered a disapproval.)
4. A determination that a grant is void.

As a first step in appealing an adverse determination, the grantee must submit a request for review to the appropriate PHS or regional official indicated in the written notification of adverse determination, and must follow the procedures contained in the notification concerning the timing of the request for review and the information to be supplied. Under the PHS procedure, a review committee consisting of officials not involved in the adverse determination will be appointed to consider the case. The committee will prepare a written decision based on its review for the signature of the committee chairman. If the review committee's decision is adverse to the grantee, or if a grantee's request for review is rejected on jurisdictional grounds, the grantee has the option of submitting a request to the Executive Secretary of the Departmental Grant Appeals Board for a further review of the case by that board in accordance with the provisions of 45 CFR 16.

Disputes related to the establishment of indirect cost rates, research patient care rates, and certain other cost allocations used in determining amounts to be reimbursed under PHS grants—e.g., cost allocation plans negotiated with State or local governments, computer, fringe benefit, and other negotiated special rates—may be appealed in accordance with the HHS procedures contained in 45 CFR 75. (That regulation establishes the first level of review in the position of the Regional Director in each HHS regional office.) If the decision under 45 CFR 75 is adverse to the grantee, it may request a further review by the Departmental Grant Appeals Board under 45 CFR 16.

DEBT COLLECTION

The Federal Claims Collection Standards (4 CFR Parts 101-105) require that, except where prohibited by law, PHS charge interest on all delinquent debts owed to PHS by grantees. Debts are considered delinquent 30 days after notification to the grantee of the indebtedness. The interest will be computed at the

prevailing quarterly interest rates issued by the Department of the Treasury. Should a grantee appeal a monetary adverse determination through 42 CFR Part 50, Subpart D and/or 45 CFR Part 16, collection will be suspended pending a final decision on the appeal. If the determination is sustained (either fully or partially) the interest on the sustained amount will be computed beginning 30 days after the original notification to the grantee of the indebtedness.

APPENDIX I

PHS AWARDING OFFICES

Regional Offices

PHS Region I
John F. Kennedy Federal Building
Boston, Massachusetts 02203

PHS Region II
26 Federal Plaza
New York, New York 10007

PHS Region III
P.O. Box 13716
Philadelphia, Pennsylvania 19101

PHS Region IV
101 Marietta Tower, N.W.
Atlanta Georgia 30323

PHS Region V
300 South Wacker Drive
Chicago, Illinois 60606

PHS Region VI
1200 Main Tower Building
Dallas, Texas 75202

PHS Region VII
601 East 12th Street
Kansas City, Missouri 64106

PHS Region VIII
19th & Stout Streets
Denver, Colorado 80202

PHS Region IX
50 United Nations Plaza
San Francisco, California 94102

PHS Region X
1321 Second Avenue
Seattle, Washington 98101

States in Region

Connecticut, Maine, Massachusetts, New
Hampshire, Rhode Island, Vermont

New Jersey, New York, Puerto Rico, Virgin
Islands

Delaware, District of Columbia, Maryland,
Pennsylvania, Virginia, West Virginia

Alabama, Florida, Georgia, Kentucky,
Mississippi, North Carolina, South Carolina,
Tennessee

Illinois, Indiana, Michigan, Minnesota, Ohio,
Wisconsin

Arkansas, Louisiana, New Mexico,
Oklahoma, Texas

Iowa, Kansas, Missouri, Nebraska

Colorado, Montana, North Dakota, South
Dakota, Utah, Wyoming

Arizona, California, Hawaii, Nevada, Northern
Mariannas, American Samoa, Guam, Trust
Territories of Pacific Islands

Alaska, Idaho, Oregon, Washington

Office of the Assistant Secretary for Health¹

National Center for Health Services Research
Federal Center Building #2
3700 East-West Highway
Hyattsville, Maryland 20782

Office of Adolescent Pregnancy Programs
5600 Fishers Lane
Rockville, Maryland 20857

Office of Health Maintenance Organizations
Park Building
12420 Parklawn Drive
Rockville, Maryland 20857

Office of Health Research, Statistics, and
Technology
5600 Fishers Lane
Rockville, Maryland 20857

**Alcohol, Drug Abuse, and Mental Health
Administration**

Office of the Administrator
5600 Fishers Lane
Rockville, Maryland 20857

National Institute of Mental Health
5600 Fishers Lane
Rockville, Maryland 20857

National Institute on Alcohol Abuse and
Alcoholism
5600 Fishers Lane
Rockville, Maryland 20857

National Institute on Drug Abuse
5600 Fishers Lane
Rockville, Maryland 20857

Center for Disease Control

CDC Procurement and Grants Office
255 E. Paces Ferry Road, N.E.
Atlanta, Georgia 30305

National Institute for Occupational Safety and
Health
5600 Fishers Lane
Rockville, Maryland 20857

Food and Drug Administration

Office of Extramural Research
Office of the Associate Commissioner for Science
Food and Drug Administration
5600 Fishers Lane
Rockville, Maryland 20857

Health Resources Administration¹

Bureau of Health Professions
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Bureau of Health Planning
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Bureau of Health Facilities
Center Building
3700 East-West Highway
Hyattsville, Maryland 20782

Health Services Administration¹

Bureau of Community Health Services
5600 Fishers Lane
Rockville, Maryland 20857

Bureau of Health Personnel Development and
Service
5600 Fishers Lane
Rockville, Maryland 20857

Indian Health Service
5600 Fishers Lane
Rockville, Maryland 20857

National Institutes of Health

National Library of Medicine
9000 Rockville Pike
Bethesda, Maryland 20205

National Cancer Institute
9000 Rockville Pike
Bethesda, Maryland 20205

National Heart, Lung, and Blood Institute
9000 Rockville Pike
Bethesda, Maryland 20205

National Eye Institute
9000 Rockville Pike
Bethesda, Maryland 20205

National Institute of Allergy and Infectious
Diseases
9000 Rockville Pike
Bethesda, Maryland 20205

National Institute of Arthritis, Diabetes,
and Digestive and Kidney Diseases
9000 Rockville Pike
Bethesda, Maryland 20205

National Institute of Child Health
and Human Development
9000 Rockville Pike
Bethesda, Maryland 20205

¹Awarding offices may change due to the creation of the Health Resources and Services Administration.

National Institute on Aging
9000 Rockville Pike
Bethesda, Maryland 20205

National Institute of Dental Research
9000 Rockville Pike
Bethesda, Maryland 20205

**National Institute of Environmental Health
Sciences**
P.O. Box 12233
Research Triangle Park, North Carolina 27709

National Institute of General Medical Sciences
9000 Rockville Pike
Bethesda, Maryland 20205

**National Institute of Neurological and
Communicative Disorders and Stroke**
9000 Rockville Pike
Bethesda, Maryland 20205

Division of Research Resources
9000 Rockville Pike
Bethesda, Maryland 20205

APPENDIX II

INDIRECT COST AND RESEARCH PATIENT CARE RATES

This appendix provides detailed information concerning the establishment and use of indirect cost rates and research patient care rates. The section of this document titled "Costs Under PHS Grant Supported Projects/Activities" describes the general rules on allowability of such costs.

INDIRECT COSTS

Definitions

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 modified total direct costs). When a rate is established for a specific activity or program (e.g., research) the rate represents the ratio of the total indirect costs allocated to the direct base costs of the activity or program.

Provisional Indirect Cost Rate—A temporary rate established for a given period to permit funding and reporting of indirect costs pending establishment of a permanent rate for the period. Indirect costs provided on the basis of such a rate will be adjusted (upward or downward) when a permanent rate is established.

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

Predetermined Indirect Cost Rate—A permanent rate established for a future period based on an estimate of the costs for that period. This type of rate is not generally subject to subsequent adjustment.

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.

Currently Effective Indirect Cost Rate—A rate authorized by the appropriate Division of Cost Allocation, Regional Administrative Support Center (or its predecessor organization, the Office of the Regional Comptroller) or other designated organization for use in reimbursing indirect costs under HHS grants.

Indirect Cost Proposal—The documentation prepared by a grantee organization 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 costs rate(s).

Negotiation Agreement—The document that formalizes the establishment of indirect cost rates and provides information on the proper application of the rates.

Indirect Cost Proposals

In order to be reimbursed for indirect costs, a grantee must first establish an appropriate indirect cost rate. To do this, the grantee institution must prepare an indirect cost rate proposal and submit it to the Division of Cost Allocation (DCA), Regional Administrative Support Center responsible for the HHS region in which the grantee is located. (If the grantee is under the negotiation cognizance of an agency other than HHS, instructions will be provided by the appropriate Federal agency.) However, submission of a formal indirect cost proposal may not be required when the organization is receiving only PHS training grants (see the section of this appendix titled "Indirect Cost Reimbursement on Training Grants"). Local government agencies are also not required to submit their indirect cost proposals unless so requested by the cognizant agency (see the section of this appendix titled "Special Procedures for Local Government Agencies").

A proposal must be submitted in a timely manner for each fiscal year in which indirect costs are claimed and must be developed in accordance with the cost principles appropriate to the type of organization involved. Grantees that fail to comply with this requirement will be considered as not having a currently effective indirect cost rate. In the absence of this rate, PHS grants awarded to the organization will not provide for the reimbursement of indirect costs. If a rate is subsequently established based on the late submission of an indirect cost proposal, the award may be amended to provide for indirect cost reimbursement if the amendment can be made in the same Federal fiscal year as the initial award. However, reimbursement will be limited to the period after the date the proposal was submitted. Failure to submit a timely proposal reflecting a permanent rate may also result in the disallowance of indirect costs previously reimbursed based on the use of a provisional indirect cost rate. In such cases, the grantee will receive notification from the Grants Management Officer of the PHS awarding office¹ that it will be allowed 30 days to submit the required proposal. If the proposal is not submitted within the 30-day period, PHS will take action to recover the unsubstantiated amounts.

¹Grantees of the National Institutes of Health (NIH) will receive this notification from the Indirect Cost Management Section, Division of Financial Management, NIH.

A proposal will be considered timely if:

- a. An organization that has not previously established an indirect cost rate with HHS submits its initial indirect cost proposal as soon as possible after being notified that a grant providing for the reimbursement of indirect costs will be awarded preferably before the date of the award, but no later than 3 months after the beginning date of the grant budget period.
- b. An organization that has previously established an indirect cost rate with HHS submits a new indirect cost proposal within 6 months after the close of each grantee fiscal year.

If an organization is unable to submit a proposal by the prescribed due date, it may request an extension of time from the appropriate DCA. This request must contain a justification for the extension and must specify the date the proposal will be submitted, and should be submitted on or before the due date of the proposal.

HHS has published brochures, listed below, providing guidance on the preparation and submission of indirect cost proposals. A single copy of a brochure may be obtained from the DCA responsible for the area in which the applicant or grantee is located, as listed in this appendix. Multiple copies of the brochures may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

- OASC - 1 A Guide for Colleges & Universities—Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Grants and Contracts with the Department of Health and Human Services.
- OASC - 3 A Guide for Hospitals—Cost Principles and Procedures for Establishing Indirect Cost and Patient Care Rates for Grants and Contracts with the Department of Health and Human Services.
- OASC - 5 A Guide for Nonprofit Institutions—Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Grants and Contracts with the Department of Health and Human Services.
- OASC - 10 A Guide for State and Local Government Agencies—Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government.

Negotiation of Rates

The DCA will review indirect cost proposals and based on these reviews will negotiate appropriate indirect cost rates with grantee organizations. If an audit is considered necessary, the DCA will request the audit from the HHS Audit Agency. The results of each negotiation will be formalized by a Negotiation

Agreement signed by the appropriate HHS regional official and an authorized representative of the grantee. Each Agreement will include the agreed upon rate(s) and information directly related to the use of the rate(s) (e.g., type of rate, effective period, direct cost base); the treatment of fringe benefits as either direct or indirect costs; general terms and conditions of the agreement; special terms and conditions of the agreement, if any; and any additional information that may be needed by the users of the Agreement (e.g., the direct charging of a type of cost that is normally treated as indirect).

Disputes arising in the negotiation of indirect cost rates will be resolved in accordance with informal appeals procedures contained in 45 CFR 75, and, if necessary, 45 CFR 16. (See Postaward Administration—Appeals Procedures.)

Establishment of Rates for Subawards

Indirect costs may also be paid to a subgrantee or cost type contractor performing under a grant-supported project. If a subaward provides for the reimbursement of indirect costs, the grantee will be responsible for negotiating appropriate indirect cost rates with the subawardee. (Indirect costs paid by the grantee to the subawardee will, however, be included in the grantee's direct cost budget as part of the total cost of the subaward.) Negotiations between the grantee and the subawardee shall be based on the cost principles applicable to the subawardee organization. The procedures followed by the grantee in conducting the negotiations will be subject to review and audit by, or on behalf of, HHS. If a grantee requires assistance in connection with the negotiations, it should request such assistance from the appropriate DCA.

If the subawardee is required to negotiate an indirect cost rate or a research patient care rate directly with HHS (that is, if the organization is also a direct recipient of HHS support), the grantee will not be required to negotiate the indirect cost rate. In these cases, HHS will negotiate indirect cost rates applicable to all of the organization's HHS-supported activities, including those conducted under subawards. Although the grantee will not be primarily responsible for these negotiations, it may participate in them if either HHS or the grantee considers such participation necessary or desirable.

Another exception to this general policy is where the subaward is a subgrant for training purposes and is made to an institution of higher education, a hospital, or other nonprofit organization. In these cases, the procedures applicable to the reimbursement of indirect costs on training grants will apply. (See "Indirect Cost Reimbursement on Training Grants" in this Appendix.)

Special Procedures for Local Government Agencies

Local government agencies are not required to submit their indirect cost proposals to the DCA or other cognizant agency unless so requested. Agencies that are not required to submit indirect cost proposals must nevertheless substantiate their claims for indirect cost reimbursement by preparing an indirect cost rate computation, as described in the "Guide for State and Local Governments" (OASC-10). The agency must retain the computation and supporting documentation in accordance with the record retention and access requirements in subpart D of 45 CFR 74 (see "Postaward Administration—Record Retention and Access").

The local government agency must make an initial rate computation based on its estimate of the operating costs that will be incurred during the fiscal year in which a claim for indirect cost reimbursement will be made, and a subsequent rate computation after the actual costs of that period are known. If the difference between the estimated and actual costs results in an over reimbursement to the grantee, an adjustment must be made. An adjustment may also be made if the difference results in an under-reimbursement to the agency. In either case, the adjustment may be accomplished by the agency's electing to treat the estimated rate as either a "fixed rate" or a "provisional rate." The procedures for making the adjustment are described in the section of this Appendix titled "Reimbursement of Indirect Costs." However, once an election is made, the type of rate chosen may not be changed unless the change is approved by the DCA. Fixed rates may not be used if the federally supported programs that provide for the reimbursement of indirect costs are expected to terminate or be substantially reduced before the "carry-forward" adjustment can be accomplished. If this situation occurs after a local government agency elects to use a fixed rate, a change to a provisional rate should be made after notification to the DCA.

Where a local government agency is not required to submit an indirect cost proposal to the DCA or other cognizant agency (in which case there would be no published Negotiation Agreement), the PHS awarding office will accept the indirect cost rate proposed by the local government agency as if it were the established HHS indirect cost rate.

Special Indirect Cost Rates

The use of a single indirect cost rate applicable to all activities conducted by an organization or to each broad program conducted by the organization, (e.g., research) is generally desirable as a means of simplifying the procedures associated with the reimbursement of indirect costs. In some instances, however, this would result in a significantly inequitable distribution of costs. Where these inequities exist, it may be necessary to establish "off site" or other

special rates to properly reflect the amount of indirect costs applicable to certain activities conducted by the organization. Similarly, when the indirect costs generated by a major division(s) of an organization differs significantly from those generated by other divisions, it may be necessary to establish a separate rate(s) for that division(s).

Off site and other special indirect cost rates will be established only when all of the following conditions are present:

1. An activity is conducted in a physical or administrative environment that generates a significantly different level of indirect costs than the other activities of the organization.
2. The special rate would be substantially lower or higher than the rate applicable to other activities.
3. The rate would apply to a material amount of federally supported direct costs.

Special indirect cost rates will also be established when a program's authorizing legislation imposes restrictions on the reimbursement of certain types of indirect costs that would otherwise be properly allocable to that program.

A separate rate will be established for a major division of an organization only where the aggregate activities conducted within the division meet the above conditions.

A special indirect cost rate will not be established where the only reason for such a rate is to fulfill cost sharing, matching, or other cost participation requirements. However, where in-kind contributions are treated as direct costs, a special indirect cost rate may be established to permit the grantee to receive credit for such contributions.

The organization's indirect cost proposal should reflect special rates or separate rates for major divisions of the organization in those instances where the organization believes that its activities require such rates as indicated above. More specific guidance on the situations which may require the use of special rates is included at the end of this section. Where a situation(s) indicating the need for a special rate exists at an organization but the organization does not believe that a special rate is appropriate, its indirect cost proposal must include a description of the situation and a statement indicating its reason for not developing a special rate.

Where an organization conducts activities at several different locations but believes that a composite rate covering all activities at such locations is appropriate, the locations must be specified in the organization's indirect cost proposal. If use of the composite rate is accepted by the DCA, the locations covered by the rate will be listed in the Negotiation Agreement.

Indirect cost proposals reflecting off site rates must be accompanied by (1) a precise, comprehensive statement describing the circumstances under which activities are considered off site, (2) a statement of the organization's policy concerning the treatment of projects or programs that are performed partially off

site, and (3) a listing of specific off site locations. The listing of specific off site locations is not required when the locations are frequently changed. Guidance on the preparation of the required statements is included at the end of this section. If an off site rate is established, the grantee's statements and the listing of off site locations will be negotiated as part of the overall indirect cost negotiation process and will be included in the Negotiation Agreement.

Grantees must specify in grant applications and expenditure reports (see "Postaward Administration Reporting") whether the grant-supported activities are conducted entirely on site, entirely off site, or partially off site. If the activities are conducted partially off site, the grantee must specify which portion is conducted off site. (Activities conducted at several different locations covered by a composite rate would be considered "on site.") The grantee's statements and treatment of off site activities must conform to its established policies, consistently applied regardless of the source of funds.

Specific Situations That May Require the Use of Special Indirect Cost Rates

- A. The activity is conducted at a location other than on the organization's premises and indirect costs associated with the organization's facilities, such as operation and maintenance expenses, and depreciation and/or use charges, are not applicable to the activity. Similar costs associated with the facility in which the activity is conducted (e.g., rental costs) are normally treated as direct costs to specific projects or are treated as a separate indirect cost pool applicable only to activities conducted in this environment. (This is the most common situation that may require the use of a special rate. This special rate developed is termed "off site.")
- B. The activity enjoys a higher degree of autonomy than the organization's other activities and certain lower level administrative and supporting functions included in the "normal" indirect cost rate such as departmental administration, procurement services, operation and maintenance of facilities, etc., are not applicable to the activity. The costs of administering and supporting the activity are treated as direct costs or as a separate indirect cost pool applicable to the activity.
- C. The activity is conducted in a facility that was specifically constructed and equipped with Federal funds to house a particular federally supported program; and the depreciation and/or use charges included in the organization's normal indirect cost rate are not applicable to the activity.
- D. The activity itself is part of the indirect cost pool. (For example, the National Library of Medicine supports projects conducted in college and university libraries. Special treatment is necessary since the library represents one of the com-

ponents in the university's normal indirect cost rate. This type of project has a twofold effect: (1) a special rate may be needed to allocate the indirect costs within and outside the library that are applicable to the project; and (2) the indirect costs applicable to other projects require adjustment to preclude a double recovery of costs.)

Statement Concerning Off Site Activities

The organization's statement describing the circumstances under which activities are considered off site must be based on the actual conditions existing at the organization. Where possible, the statement should be expressed in terms of either (a) ownership of the facilities in which off site activities are conducted, (b) distance of the activities from the organization's principal place(s) of business, (c) geographical location of the activities, or (d) a combination of ownership, distance, or location. If the statement cannot be expressed in terms of ownership, distance, or location (or any combination thereof), it should be expressed in terms of the specific "indirect" services provided to on site activities that are not provided to off site activities. Suggested language that may be used in developing the statement is provided below:

Conditions at Grantee Organizations

1. All activities conducted in facilities that are not owned by the organization are considered off site.
2. All activities conducted outside of a certain distance from the organization's principal place(s) of business are considered off site.
3. All activities conducted outside of a certain geographical location are considered off site.
4. All activities conducted in facilities not owned by the organization and all activities conducted at field locations where no permanent facilities are used are considered off site.
5. All activities conducted in nonowned facilities, with certain exceptions, are considered off site.
6. All activities conducted outside of a certain distance from the organization's principal place(s) of business, with certain exceptions, are considered off site.
7. All activities conducted outside of a certain geographical location with certain exceptions, are considered off site.
8. A statement in terms of ownership, distance, location (or any combination thereof) cannot be provided.

Suggested Language

"All activities conducted in facilities not owned by the organization are considered off site."

"All activities conducted outside of a radius of (number of miles) miles from the organization's principal place(s) of business are considered off site."

"All activities conducted outside of the city (county, State) of (name of city), are considered off site."

"All activities conducted in facilities not owned by the organization and all activities conducted at field location where no permanent facilities are used are considered off site."

"All activities conducted in facilities not owned by the organization, with the exception of those conducted in (name of facilities), are considered off site. Activities conducted in (names of same facilities as above) are considered on site."

"All activities conducted outside of a radius of (number of miles) miles from the organization's principal place(s) of business, with the exception of those conducted in (names of facilities), are considered off site. Activities conducted in (names of same facilities as above) are considered on site."

"All activities conducted outside of the city (county, State) or (name of city), with the exception of those conducted in (name of facilities), are considered off site. Activities conducted in (names of same facilities as above) are considered on site."

"All activities that are not provided (list indirect services included in on site rate, but excluded from off site rate) or which are charged directly for the costs of these services, are considered off site."

Statement on the Treatment of Partially Off-Site Projects

The grantee's statement of its policy on the treatment of projects or programs that are partially performed off site must specify whether the project or program is apportioned between its on site and off site components. Suggested language that may be used in developing this statement is provided below.

Projects Apportioned

"Projects partially performed off site are apportioned between their on site and off site components in instances where ... (insert the circumstances under which projects are apportioned)."

Projects Not Apportioned

"Projects partially performed off site are not apportioned between their on site and off site components. If 50 percent or more of the indirect cost rate base costs of the project are determined to be on site, the entire project is treated as on site. If less than 50 percent of the indirect cost rate base costs are determined to be on site, the entire project is treated as off site."

Reimbursement of Indirect Costs (Excluding Training Grants)

For grant-supported projects that may be reimbursed the full amount of applicable indirect costs, the negotiated or authorized indirect cost rate will serve as the basis for determining the appropriate amount of reimbursement.

The dollar amount of indirect costs applicable to a given grant-supported project or program will be determined by multiplying the appropriate indirect cost rate(s) by the direct cost base of the project or program.

However, in the case of research grants, if a recipient provides cost sharing in a direct cost category used in computing the direct cost base (such as direct salaries), any associated indirect cost may count as cost sharing but may not be paid by the grant. This restriction does not apply if the recipient is a nonprofit organization subject to OMB Circular A-122.

In applying indirect cost rates to individual grants, the rates established for the periods in which the direct costs are actually incurred under the grants will be applied to those costs. Because in many cases a grant budget period will not coincide with a grantee's fiscal year, it will frequently be necessary to use rates established for two different successive fiscal years when making final settlement of indirect costs.

The selection of the rate(s) and the direct cost base will be determined from the information contained in the Negotiation Agreement.

Each expenditure report submitted by the grantee must reflect the proper amount of indirect costs applicable to the grant based on the most current rate(s) available at the time the report is submitted. If a provisional rate(s) is used in the report, a subsequent adjustment will be necessary when a permanent rate(s) applicable to the grant is established. In these cases, the grantee will submit a summary expenditure report adjustment sheet reflecting the adjustments to each grant (upward or downward) resulting from the difference between the provisional rate(s) and the permanent rate(s). The revision of individual expenditure reports to reflect these adjustments is not required. The adjustment sheet will be submitted to the Division of Financial Management, National Institutes of Health (NIH) (regardless of the PHS awarding office involved) within 1 year after the date of the Negotiation Agreement establishing the permanent rate(s) and will cover all grants covered by the agreement. A separate adjustment sheet must be submitted for each Federal fiscal year covering the grants having a budget period beginning within that year. In addition, if adjustments are required for grants awarded by more than one HHS or PHS granting agency, a separate adjustment sheet must be submitted for each one. All adjustment sheets, including those for other HHS granting agencies, should be submitted to NIH, which will be responsible for coordinating the reviews of the sheets by the appropriate

agencies. Upward adjustments will not be considered if the adjustment sheet(s) is not submitted within the 1-year period. A suggested adjustment sheet format as well as detailed instructions on the preparation and submission of the adjustment sheet may be obtained from the Indirect Cost Management Section, Division of Financial Management, NIH, Room B1B05, Building 31, Bethesda, Maryland 20205. Any additional funding due to the grantee will be provided subject to the availability of funds.

When a permanent rate(s) covering the entire reporting period is used in the expenditure report, no subsequent adjustment is required. However, if the funds provided to the grantee under the grant are not sufficient to permit a full recovery of applicable indirect costs, (e.g., where rebudgeting has increased the direct cost base used in the calculation of indirect costs) or where the application of permanent rates to actual base expenditures creates an upward adjustment. In such cases, the grantee may request additional funds by submitting a separate summary expenditure report adjustment sheet. A separate adjustment sheet must be submitted for each Federal fiscal year covering all grants having a budget period beginning within that fiscal year. The adjustment sheets must be submitted as soon as the grantee determines the amount of necessary additional funding. Such additional funding will be provided subject to the availability of funds.

When a grant was awarded without funds for the reimbursement of indirect costs because the grantee was delinquent in submitting its indirect cost proposal, such costs will not be allowed on the expenditure report submitted for the grant. If the award was amended to provide for indirect cost reimbursement, the indirect costs allowed on the expenditure report (and the summary expenditure report adjustment sheet, if required) will be computed on the same percentage basis as was used to compute the amount provided to the grantee in the amended award. Submission of the adjustment sheet will be required under the conditions described above.

In situations where a currently effective indirect cost rate is not available at the time of award because the grantee has never established a rate and is unable to establish its initial rate before the date of award, a provisional amount equaling one-half of the indirect costs requested by the grantee, up to a maximum of 10 percent of direct salaries and wages, will be included in the award and the balance reserved by the PHS awarding office. If the grantee submits a timely indirect cost proposal, i.e., within 3 months of the beginning date of the award (unless an extension is granted by the DCA), and establishes a rate, the award may be amended to provide additional funds representing the difference between the amount initially awarded and the amount based on the approved rate. The amendment must be made in the same Federal fiscal year in which the initial award was made. If this is not possible, any additional

funds needed to permit full indirect cost reimbursement will be provided to the grantee (subject to the availability of funds) during the indirect cost settlement process. If the grantee establishes an indirect cost rate before the submission of its expenditure report for the budget period, the grant will be subject to the normal indirect cost settlement procedures. If the grantee does not establish the rate before the submission of the expenditure report, its claim for indirect cost reimbursement will be disallowed.

Local government agencies that are not required to submit indirect cost proposals and elect to treat their estimated indirect cost rates as fixed rates will use the fixed rates applicable to each budget period to compute the indirect costs included in their grant applications and expenditure reports. No subsequent adjustments to the amounts included in the expenditure report will be required. The grantee will, however, be required to comply with the "carry forward" procedures described in "A Guide for State and Local Government Agencies."

Local government agencies that are not required to submit indirect cost proposals, and elect to treat their estimated indirect cost rates as provisional must subsequently develop a rate based on the actual costs of the period. These agencies will use the appropriate provisional rates in their grant applications and, where possible, the actual rates in their expenditure reports. Requirements for subsequent adjustments to the amount of indirect costs included in the expenditure report will depend on whether an actual rate is used in the report. If an actual rate(s) covering the entire reporting period is used in the expenditure report, adjustments will be required only where an audit or other review of the actual rate results in a change in the rate. If a provisional rate is used in the expenditure report, subsequent adjustments (upward and downward) will be required when the actual rate is established. Additional adjustments will be required if an audit or other review of the actual rate results in a change in the rate. However, if changes in the rates do not affect the dollar amount of indirect costs reimbursed to the grantee, or the adjustments are upward adjustments that the grantee does not wish to claim, no adjustment is required. When adjustments are required they will be made through the submission of a revised expenditure report (or summary expenditure report adjustment sheet, if specified by the PHS awarding office).

Indirect Cost Reimbursement on Training Grants

Indirect cost reimbursement under training grants and subawards to organizations other than State and local governments are limited to 8 percent of total direct costs, excluding tuition and related fees and expenditures for equipment. (See the section titled "Indirect Cost" in the main body of this document). The submission of a formal indirect cost proposal to support the 8 percent rate is not normally required.

However, recipients are responsible for determining whether their actual indirect cost rate applicable to training awards equals or exceeds the 8 percent limitation and for maintaining adequate documentation to permit verification as to whether the actual rate equals or exceeds the 8 percent limitation. In those cases where actual indirect costs for training grants exceed the 8 percent reimbursement limitation, excess (unreimbursable) indirect costs may be used to satisfy a matching requirement, if applicable.

The Grants Management Officer is responsible for ensuring that costs which are normally considered to be of an "indirect type" are not allowed as direct charges to PHS training grants unless:

1. Such treatment is consistent with the institution's accounting policies, and
2. The cost can be identified specifically and exclusively with the activities performed under the training grant and would not have been incurred but for those activities.

If a recipient determines that its actual indirect cost rate is less than 8 percent, or if an audit discloses that the actual rate is less than 8 percent, the grantee must develop an actual indirect cost rate based on the applicable cost principles and submit an indirect cost proposal according to the procedures in the section of this Appendix titled "Indirect Cost Proposals" (or the section titled "Establishment of Rates for Subawards" in the case of a subgrant). In these cases, award and settlement of indirect costs under the training grant will be according to the procedures described in the section of this Appendix titled "Reimbursement of Indirect Costs."

The following procedures should be used to determine whether their actual applicable indirect costs equal or exceed the 8 percent limitation. These procedures are designed only to *estimate* the actual rate and are not intended to prescribe the manner in which the actual rate should be developed.

A. *For those institutions that have established either (a) a single indirect cost rate applicable to all institutional programs, or (b) a rate whose base includes the direct costs of activities conducted under PHS training grants:*

1. If the established rate is based on direct salaries and wages (S&W), convert the S&W rate to a rate based on total direct costs. The total direct cost base must include the same activities used to develop the S&W base.
2. If the established rate is based on total direct costs, the rate will be considered as being applicable to training grants.

B. *For those institutions that have established a rate only for research programs:*

1. Segregate the direct costs of research programs and the indirect costs allocated to the programs from all other costs incurred by the institution.

2. Eliminate capital expenditures and unallowable costs (as defined in the applicable cost principles) from the costs of the non-research activities. (Note: Unallowable costs that represent functions such as fund raising, public relations, and membership activities, should not be eliminated when such functions are carried out by institutional personnel and/or occupy institutional space—see paragraph 3 below.)

3. Classify the remaining costs of the non-research activities as either direct costs or indirect costs. The direct costs should consist of the costs of all activities that benefit from the services represented by the institution's indirect costs. The direct costs must also include the "unallowable functions" described in paragraph 2 above. The indirect costs should consist of the same types of costs or cost categories that were used in developing the research indirect cost rate (e.g., general administration and general expenses, and operation and maintenance expenses). However, in the case of educational institutions, the indirect cost category "Student Administration and Services" (as defined in OMB Circular A-21) should be included in the development of the "nonresearch" rate regardless of whether it was included in the development of the research rate.

4. Compute an indirect cost rate by dividing the indirect costs allocated to nonresearch activities by the total direct costs of the activities.

C. *For those organizations without an established indirect cost rate:*

Educational institutions should develop a rate based on the "Simplified Method" described in Section H of OMB Circular A-21. The Simplified Method is illustrated in the brochure entitled "A Guide for Colleges and Universities" (OASC-1, revised).

In developing this rate, the institution should classify as direct costs, those unallowable costs and that represent functions (e.g., fund raising, public relations) where such functions are carried out by institutional personnel and/or occupy institutional space.

For this purpose only, the rate developed by the institution should be based on total direct costs in lieu of the direct S&W base prescribed in the cost principles. Also for this purpose only, the indirect cost categories used in the development of the rate should include the cost category "Student Administration and Services" in addition to the indirect cost categories listed under the Simplified Method.

Hospitals should develop a rate based on the "Simplified Method" described in Section VIII of the Department's cost principles for hospitals

(45 CFR 74, Appendix E). An illustration of the Simplified Method is included in the brochure entitled "A Guide for Hospitals" (OASC-3, revised).

For this purpose only, the two-stage computation described under the Simplified Method is not required. The indirect cost categories "Depreciation," "Operation of Plant," "Maintenance of Plant," and "Housekeeping" should be handled in the same manner as the "Administrative and General" and "Dietary" cost categories.

The rate developed by the hospital should be based on total direct costs.

Other nonprofit organizations should develop a rate based on the "Simplified Method" described in Section II of the brochure entitled "A Guide for Nonprofit Institutions" (OASC-5, revised). The rate developed by the institution should be based on total direct costs.

RESEARCH PATIENT CARE RATES

Research patient care rates or amounts (collectively referred to as "rates") are established, by negotiation with the Division of Cost Allocation (DCA), Regional Administrative Support Center for the HHS region in which the recipient is located. These negotiations are based on a research patient care proposal submitted by the grantee or a hospital providing patient care under a grant to another organization to substantiate its claim for reimbursement. The requirement for submission of research patient care proposals does not apply, however, to hospitals that are awarded \$25,000 or less in research patient care costs for any single grant budget period, nor to those patient care services (such as special nursing and dietary services) that are needed to meet special research protocol demands and are approved as direct "line items" in the grant.

Research patient care proposals, must be submitted in a timely manner for each hospital fiscal year during which such costs will be claimed, and must be prepared according to the Department's cost principles for hospitals (45 CFR 74, Appendix E). Failure to comply with this requirement may result in the disallowance of research patient care costs. "A Guide for Hospitals" (OASC-3, revised) shall be followed in preparing and submitting research patient care proposals, including timing requirements and the types of rates that should be reflected in the proposal, e.g., predetermined, provisional, or final, as explained in that document.

Grantees will be responsible for conducting research patient care rate negotiation with the hospital receiving a subgrant or contract under a grant in instances where the DCA determines that there is a sufficient arms-length relationship between the two organizations to permit an independent and objective proposal evaluation and negotiation. In these cases, the proposals submitted by the hospital to the grantee will be prepared on the same basis as those submitted

by the grantee. The procedures followed by the grantee in conducting the evaluations and negotiations will be subject to review and audit by, or on behalf of, the Department. If the grantee requires advice in connection with the evaluations and negotiations, it should address such requests to the Division of Cost Allocation. In all other cases, the hospital's research patient care rates will be established by DCA, with participation by the grantee if necessary or desirable. Questions regarding acceptable documentation or other aspects of the negotiation process or requests for extensions of time should be directed to the DCA or the grantee, as appropriate.

If a hospital is also required to submit an indirect cost proposal, both the indirect cost and research patient care proposals must be submitted at the same time and must be based on the same source documentation. Negotiations on both types of rates will be conducted concurrently.

The results of the research patient care rate negotiation will be formalized in a Negotiation Agreement reflecting the agreed-upon rates and information directly related to the use of the rates, other terms and conditions of the agreement, and additional information, as necessary. (See "Postaward Administration—Grant Appeals Procedures" concerning the resolution of disputes arising in the negotiation of these rates.)

A determination of the amount of research patient care costs chargeable to the grant will be made on the basis of the most current rates available at the time of submission of the Financial Status Report (see "Postaward Administration—Reporting"). If provisional rates are used, a downward adjustment to the research patient care costs claimed on the Financial Status Report will be required where the permanent rates applicable to the grant result in a decrease in costs. An upward adjustment to these costs may also be permitted if the additional costs are approved by the Grants Management Officer. In either case, a detailed adjustment sheet will be submitted immediately after the permanent rates are established and must provide sufficient information to show how the adjustment was determined.

Hospitals that are awarded \$25,000 or less in research patient care costs for any single grant budget period are not required to submit research patient care proposals. If the hospital is performing under a grant to another type of organization, the grantee will negotiate reasonable fees for research patient care costs. If the hospital is a grantee hospital, it must support its claims for the reimbursement of research patient care costs by preparing a research patient care rate computation for each fiscal year during which the costs are claimed. The computation must be based on Section IX.B.23 of the Department's cost principles for hospitals (Appendix E to 45 CFR Part 74) and must conform to the proposal formats shown on pages 9 through 11 of "A Guide for Hospitals." The computation, along with the

supporting documentation described in the guide, must be retained by the hospital for possible review and audit by, or in behalf of, the Department. The retention period shall be according to the Department's records retention regulations (Subpart D of 45 CFR Part 74). The rates developed by the hospital will be treated as predetermined rates. However, the patient care costs reflected in the hospital's expenditure reports based on these rates will be subject to adjustment if an audit or other review by, or in behalf of, PHS results in a reduction in the rates.

Costs of Services Provided by Affiliated Organizations

In instances where an organization or institution ("parent") establishes a closely affiliated but separately incorporated entity ("grantee foundation") to facilitate the administration of research or other programs supported by Federal funds, the costs incurred by the parent organization in support of the grantee foundation may be reimbursed under PHS grants only if one of the following conditions is present:

1. The grantee foundation is charged for, and is legally obligated to pay for, the services provided by the parent organization.
2. The affiliated institutions are subject to a State or local law that prescribes how Federal reimbursement for the costs of the parent organization's services will be expended and requires that a State or local official acting in his or her official capacity approves such expenditures.
3. There is a valid written agreement between the affiliated organizations whereby the parent organization agrees that the grantee foundation may retain Federal reimbursement

of parent organization costs. The parent organization may either direct how the funds will be used, or may permit the grantee foundation that discretion.

4. The affiliated organizations submit joint applications and a PHS grant award is made to them jointly.

In the absence of any of the above-described conditions, the costs of the services provided by the parent organization to the grantee foundation are not allowable for reimbursement. However, the services would be acceptable as third-party in-kind contributions for purposes of cost sharing, matching, or other cost participation under the conditions described in "Preaward Process—Non-Federal Sources Funds."

If one of the conditions described under items 1, 2, and 3 above has been met, the costs will be included in the indirect cost rate negotiated with the grantee foundation and no special reference to the costs will be included in the Negotiation Agreement. The Negotiation Agreement will be issued in the name of the grantee foundation.

If the condition described under item 4 above has been met, a special "Joint Rate Negotiation Agreement" will be issued in the name of the grantee foundation. The agreement will contain a rate based on the combined costs of the grantee foundation and the parent organization, a rate reflecting only the costs incurred by the grantee foundation, where segregable; and a special notation indicating that the joint rate should be used only when awards are made jointly to the two affiliated organizations.

**HHS REGIONAL ADMINISTRATIVE SUPPORT CENTERS
DIVISION OF COST ALLOCATION**

Region	DCA Address	For Grantees Located
I	John Fitzgerald Kennedy Federal Building Government Center Boston, Massachusetts 02203	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
II	Federal Office Building 26 Federal Plaza New York, New York 10007	New Jersey, New York, Canada, Puerto Rico, Virgin Islands, England, Beirut
III	Federal Office Building 3535 Market Street P.O. Box 13716 Philadelphia, Pennsylvania 19101	Delaware, Maryland, Pennsylvania, Washington, D.C., West Virginia, Virginia
IV	101 Marietta Street, N.W. Atlanta, Georgia 30323	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina Tennessee
V	Federal Office Building 300 South Wacker Drive Chicago, Illinois 60607	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
VI	Federal Office Building 1200 Main Tower Dallas, Texas 75202	Arkansas, Louisiana, Texas, New Mexico, Oklahoma
VII	Federal Office Building 601 East 12th Street Kansas City, Missouri 64106	Iowa, Kansas, Missouri, Nebraska
VIII	Federal Office Building 1961 Stout Street Denver, Colorado 80202	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
IX	Federal Office Building 50 United Nations Plaza San Francisco, California 94102	American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territories of Pacific Islands, Northern Mariannas
X	Arcade Building 1321 Second Avenue Seattle, Washington, 98101	Alaska, Idaho, Oregon, Washington

APPENDIX III CONSTRUCTION

The following represents a highlighting of policies and procedures in addition to 45 CFR 74 and governing programmatic regulations applicable to PHS construction grants.¹ Various sections of this policy statement refer to grant-supported construction, which may include modernization and alteration and renovation as well as new construction. However, unless specified by the terms of the award, the requirements contained in this appendix are only applicable to construction grants.

DESIGN REQUIREMENTS FOR PHS-ASSISTED CONSTRUCTION

An applicant for a PHS construction grant must assure that it will not advertise for bids or negotiate a contract for any part of the grant-supported activity until working drawings and specifications have been approved. One set of design standards against which these drawings and specifications will be reviewed is program-specific and is meant to ensure that the facility will suitably accommodate the service to be provided there. These standards are set forth in programmatic regulations and in other program policy issuances. In addition to these standards, there are general design requirements applicable to all PHS assisted construction.

The design requirements that are to be included in the review and evaluation of all working drawing and specifications are as follows:¹

1. Life Safety Code - National Fire Protection Association (NFPA) Publication No. 101 and supplements that apply for the code classification and type of occupancy of the particular facility.
2. Elimination of architectural barriers to the physically handicapped—The Architectural Barriers Act of 1968, as amended, Federal Property Management Regulation 101-19.6, and American National Standard A-117. (R1971)—These requirements are contained in Technical Handbook 4.12. "Design of Barrier-Free Facilities." See also the "Public Policy Requirements" section in the main body of this policy statement.
3. Protection of the natural environment, including protection against natural disasters—National Environmental Policy Act of 1969. With respect to earthquakes, structures will be evaluated in accordance with the lateral forces provisions of the Uniform Building Code.

¹The design of facilities to be constructed or altered with PHS grant funds will be evaluated for compliance with design requirements contained in the most recent edition of Technical Handbook 2.1, "Information for Project Applicants and State Agencies of Design and Construction-Related Activities." This handbook is part of HHS's Facilities Engineering and Construction Manual, which is available from the HHS Regional Office of Facilities Engineering or the Office of Facilities Engineering, HHS, Washington, D.C.

4. Uneconomical, hazardous, or unnecessary use of flood plains for construction—Executive Order 11988.
5. Flood insurance coverage—Section 102 of the Flood Disaster Protection Act (P.L. 93-234). See also the "Public Policy Requirements" section in the main body of this policy statement.
6. Provisions for potable water supply—Safety of Public Water Systems Act (Title XIV of the Public Health Service Act).
7. Preservation of historical and archaeological sites—Section 106, National Historic Preservation Act of 1966 and the Historical and Archeological Preservation Act of 1960 as amended. See also the "Public Policy Requirements" section in the main body of this policy statement and the listing of State Historic Preservation Officers in this appendix.
8. The conservation of vital energy resources (gas, oil, electricity, etc.) is of national significance. Facility design will be evaluated on the basis of American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) standards for energy conservation, and
9. Conservation of petroleum and natural gas—Executive Order 12185.
10. Where necessary, special structural and other features to protect life and to minimize damage to facilities from tornados.
11. Clean Air Act, 77 Statute 392, as amended by Executive Order 11752.

Where State or local codes or requirements exceed the design requirements set forth in Technical Handbook 2.1 or standards incorporated in it, the more stringent requirements will be applied. Where State or local codes are proposed to be used as a basis for facility design in lieu of the HHS design requirements, a prior determination must be made by the appropriate HHS Office of Facilities Engineering that the specific State or local code is equivalent to, or exceeds, HHS requirements.

RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

See the "Public Policy Requirements" section in the main body of this policy statement.

ALLOWABLE COSTS

Applicants for construction grants may include a project contingency fund in initial cost estimates to provide for the cost of unanticipated charges. Such funds will be limited to 5 percent of construction and equipment costs before bids are received and will be reduced to 2 percent after a contract has been awarded.

Under construction grant programs, costs incurred before an award for architect's fees and consultants fees necessary to the planning and design of the project are allowable if the project is approved and funded.

Funding

When phased² construction methods are employed, the grantee will normally be authorized to proceed with construction and to receive grant payments before approval of later phase contract awards, provided a guaranteed maximum price is obtained by the grantee, before the award of the first construction contract, for completion of the total project within the amount of funds available to meet the cost of the project.

REQUIREMENTS FOR PHS GRANT-SUPPORTED CONSTRUCTION

PHS prior approval requirements for contracting under discretionary grants are found under the heading entitled "Postaward Administration—Changes in Expenditures/Activities."

PHS will only find acceptable those contracting methods that:

1. Ensure that all qualified contractors are given an opportunity to bid and have their bids fairly considered; and
2. Guarantee, insofar as possible, that the contract(s) will result in the completion of a facility (ready for occupancy) that conforms to the design and specifications approved by the PHS awarding office (or any appropriate modification thereof with PHS awarding office approval, as required), at a cost that is within the owner's ability to pay (the term "owner" refers to the legal entity that holds (or will hold) title to the property on which the grant-supported construction is performed, and is generally the applicant or grantee.)

Therefore, PHS-assisted prime construction contracts under grants must conform to the following requirements.

All construction work must be procured either by formal advertising resulting in lump-sum, fixed-price contracts, unless other procurement methods are authorized (see below) that nevertheless allow for competition.

The grantee (owner) must obtain PHS awarding office approval of plans and specifications both before bids or proposals are solicited and before the award of a prime construction contract. The procurement methods to be employed must also be reviewed by the Regional Office of Facilities Engineering and Construction, or the Office of Facilities Engineering, HHS. In those construction programs where a State agency has final approval authority, the State agency must concur in the contract award. The grantee (owner) is responsible for ensuring that the project is constructed to completion in accordance with the approved plans or specifications or for obtaining necessary approvals for changes (see "Postaward Administration—Changes in Expenditures/Activities.").

²"Phased (fast track) construction" refers to the practice of developing portions of the construction work into packages ready for bidding before total completion of design documents. (Design documents are considered complete when they are adequate for construction of a usable facility or designated portion thereof for a realistic bid price.)

The grantee (owner), including the firms acting for it in a professional capacity, must take adequate steps to ensure that the total cost of all contracts, i.e., total cost of construction, awarded under a project will be within the amount of funds available for the project.

This can be accomplished by accurate price estimating and/or the use of bid alternates. A precise description of the scope of work, specifications, materials, and construction techniques in the invitation to bid will facilitate accurate cost estimating by both the bidder and the grantee (owner's) professional representatives. The description of scope of work becomes especially important when multiple contracts will be let in support of the same project, since each contractor must know exactly what is involved in the portions of the job he is bidding on. Invitations for bids must stipulate a time for completion of the project, expressed either in calendar days or as a fixed date, for each prime contract to be awarded under the project.

Where more than one PHS (HHS) program will support a construction project or where the PHS-supported project is less than the entire facility of construction to be bid, the grantee must obtain bids that provide, to the maximum extent possible, the costs for that portion of the total job that will be financed by PHS funds. This may be done by showing the cost for each building or site in the project if it consists of more than one building or construction site and may be divided for bidding and construction purposes, or by identifying to the extent possible or prorating the applicable costs when the project is a single site or contains common space and may not be divided for bidding and construction purposes.

Where practicable, the grantee (owner) may request in the invitation for bids, alternates to the base bid that are keyed to specified and explicitly stated changes in the project scope, materials, or construction techniques. Alternates may be used when the amount of the low bid exceeds the amount of funds available to the owner to award a contract, and the grantee (owner) must make adjustments to the project so as to reduce costs in order to award a contract within the funds available. Additive alternates may be used when available funds exceed the amount of the low bid, thus making it possible to incorporate necessary features that otherwise would not have been included in the project. Alternates that are selected will be included in determining the low aggregate bid. If all bids exceed the funds available even after the steps described above have been taken, the grantee (owner) may:

1. Decline to award the contract(s) and instead issue a revised invitation to bid containing changes in specifications or other factors affecting price that have been approved by the PHS awarding office.
2. Negotiate with the low bidder (this is an exception to formal advertising), or if that bidder should refuse, in writing, to negotiate, negotiate with the next lowest bidder. Any changes in design and specifications resulting from such negotiations must be approved by the PHS awarding office. If efforts to negotiate are unsuccessful, all bids shall be cancelled, and the project shall be rebid.

3. If a construction management firm is currently employed by the grantee (owner), authorize that firm to perform the construction work after obtaining PHS awarding office prior approval. The price for the work involved must not exceed the line item prices stipulated in the construction management contract ("guaranteed maximum price") as approved by the PHS awarding office. (See below in regard to the requirements for a "construction management agreement.")
4. Enter into a design—construct contract for a functionally equivalent facility by the methods described below.

CONSTRUCTION MANAGEMENT SERVICES

Construction management services are management services that may be procured on a negotiated basis rather than by formal advertising. These services include technical consultation during the design stage of a project and organization and direction of construction activities during the construction phase. The services of construction managers may also be procured by formal advertising in those cases where State or local governments prohibit the procurement of construction management services on a negotiated basis. Where bids are taken the bidders should be prequalified.

The construction management contract must place total financial responsibility on the construction manager to complete construction of the project at or below guaranteed maximum price. If the contract exceeds \$100,000, the construction manager shall be required to provide 100 percent performance and payment bonds to ensure the grantee (owner) that the facility can be completed within the amount of available funds (see 45 CFR 74, Subpart C).

When a construction management firm is retained by the grantee (owner), a guaranteed maximum price must be obtained from the construction manager before PHS will authorize the award of the first construction contract. This requirement shall apply whether or not phased construction techniques are employed. Each portion of the work for which a separate contract is expected to be let shall be separately priced as a individual line item in the guaranteed maximum price contract.

Contracting for construction work on a project covered by a construction management agreement as in item 3 above is subject to the requirements for bidding and award of contracts, except that bids may be obtained by prequalification and selective solicitation. When prequalification and selective solicitation are used, the construction manager must (1) issue, no more than 6 months in advance of the date of the invitation to bid, a "sources sought" announcement in newspapers or other publications having general circulation in the area specifically describing the nature of the construction work required, the separate contracts that will be let, and the standards for prequalification; (2) prequalify all firms that respond to the announcement and which are determined to meet the prequalification standards; (3) establish bidders lists for each of the invitations to bid, including at least all firms qualified as in (2), and that may also include other known qualified firms; (4) by written invitation, solicit bids

from all firms on the bidders list; (5) consider bids from any contractor who requests permission to bid and who is determined by the grantee (owner) to meet the prequalification standards; (6) advertise the project formally if fewer than three responsive bids of proposals are received in response to the selective solicitation.

DESIGN-CONSTRUCT CONTRACTS

In design-construct contracting, construction firms respond to a request for proposals by submitting building designs that they claim will meet the grantee's (owner's) performance requirements within a guaranteed maximum price covering all architectural, engineering, and construction services required.

The design-construct firm must be selected in a manner that will allow maximum feasible competition. Because of the nature of design-construct contracting, the following departures from formal advertising are authorized:

1. Cost must be treated as a competitive factor although the grantee (owner) may insert in the request for proposals a specified maximum permissible figure.
2. A contract may be awarded regardless of the number of proposals received or the number of firms that are determined to have met qualification standards.
3. The grantee (owner) may negotiate cost or design with one or any number of firms.

The selection of a design-construct firm must be accomplished by a process that includes public announcement of requests for proposals, provided that at least one form of the announcement receives nationwide distribution; consideration of all proposals from firms which are determined to be qualified; and selection based on the firm's qualifications and responsiveness to the criteria in the request for proposals.

On all design-construct projects, the grantee (owner) must ensure a firm total cost by including a provision in the contract that extra costs resulting from errors or omissions in the design-construct firm, and must justify cost on the basis of comparability with similar construction.

OTHER CONSTRUCTION CONTRACT REQUIREMENTS AND OPTIONS

At the option of the grantee (owner), a liquidated damage provision may be included in the construction contract for assessment of damages when the contractor has not completed construction by the date specified in the contract. Where there is an assessment of damages, any amounts paid belong to the owner.

If it is discovered, either during or after the period of performance of a PHS-assisted construction contract, that an employee is entitled to wages but cannot be located for purposes of payment, or otherwise does not accept payment, the grantee shall require the contractor to turn over unclaimed wages to the grantee organization.

The grantee must notify the Grants Management Officer of the PHS awarding office that an escrow account has been established in the employee's name. The account must be maintained for 2 years following the completion of the contract, or such longer periods as may be required by state or local law. Upon expiration of this period the Federal share of any amounts still unclaimed must be refunded to PHS.

The contractor and/or the grantee shall make reasonable efforts to find any such employee to reduce the likelihood of future claims against them. If any payments are made to the employee or his legal representative from the escrow account, a complete report must be made to the PHS awarding office when the account is closed.

Labor standards and equal employment opportunity requirements for federally assisted construction must be included in the information provided to bidders on construction contracts under PHS grants and be included in the contract documents for all such projects (see 45 CFR 74, Subpart P and Appendix F of this document).

Unanticipated changes or modifications to previously approved construction contracts shall be handled in accordance with 45 CFR 74, Subpart L and the section entitled "Postaward Administration—Changes in Expenditures/Activities" of this document.

REQUIREMENTS FOR FEDERALLY ASSISTED CONSTRUCTION CONTRACTS REGARDING LABOR STANDARDS AND EQUAL EMPLOYMENT OPPORTUNITY

The following clauses must be included in the information furnished to bidders or PHS construction grants and must be included in the contract documents for all such projects.

A. Equal Employment Opportunity

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The contractor will, in all solicitations or advertisements for employee placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

- c. The contractor will send to each labor union representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment
- d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The contractor will include the portion of the sentence immediately preceding paragraph a. and the provisions of paragraph a. through g. in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24,

1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

B. Certification of Nonsegregated Facilities

(Applicable to contracts and subcontracts exceeding \$10,000 which are not exempt from the provisions of paragraph A, "Equal Opportunity," of this form.)

1. By entering into an agreement related to the work described in the contract documents the contractor or subcontractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit employees to perform their services at any location under its control where segregated facilities are maintained. The contractor or subcontractor further certifies that it will not maintain or provide for employees any segregated facilities at any establishments under its control and that it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The contractor or subcontractor agrees that a breach of this certification is a violation of paragraph A, "Equal Opportunity." As used herein, the term "segregated facilities" means waiting rooms, work areas, and washrooms, restaurants and other eating areas, time clocks, restrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The contractor further agrees that (except where identical certifications are obtained from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of paragraph A, "Equal Opportunity;" that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

"NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATION OF NON-SEGREGATED FACILITIES"

A certification of nonsegregated facilities, as required by the May 9, 1967, order (32 Federal Register 7439, May 19, 1967) on elimination of segregated facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of "Equal Employment Opportunity." The certification may be submitted either for each subcontract or for all subcontracts during a period, i.e., quarterly, semiannually or annually.

2. The penalty for making false statements in certifications required by paragraph B.1 is prescribed in 18 U.S.C. 1001.

C. Solicitations

The following notice shall be included in, and shall be part of, all solicitations for offers and bids on all Federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas:

"NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (Executive Order No. 11246)

1. The Offeror's or Bidder's attention is called to the 'Equal Opportunity Clause' and the 'Standard Federal Equal Employment Opportunity Construction Contract Specifications' set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for Minority Participation in Each Trade	Goals for Female Participation in Each Trade
(Insert Goals for Each Year)		

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth herein under paragraph D and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good-faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the 'covered area' is (State, County, and City)."

D. Equal Opportunity Clauses

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) (Applicable to all Federally assisted contracts in excess of \$10,000 to be performed in designated geographical areas.)

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
 - d. "Minority" includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligation under the Equal Employment Opportunity Clause, and to make a good-faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good-faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good-faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goal set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its union have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
 - f. Disseminate the Contractor's Equal Employment Opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its Equal Employment Opportunity obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the

policy with all management personnel and with all minority and female employees at least once a year; and by posting the company Equal Employment Opportunity policy on bulletin boards accessible to all employees at each location where construction work is performed.

- g. Review, at least annually, the company's Equal Employment Opportunity policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 - h. Disseminate the Contractor's Equal Employment Opportunity policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's Equal Employment Opportunity policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
 - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the Equal Employment Opportunity policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's Equal Employment Opportunity policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
 10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
 11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
 12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Employment Opportunity clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contracts Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
 13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
 14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company Equal Employment Opportunity policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

E. Minimum Wages

1. All mechanics and labors, employed or working directly upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor, which is attached hereto and made a part hereof, regardless of any contractual relationships which may be alleged to exist between the Contractor or Subcontractor and such laborers and mechanics and the wage decision shall be posted by the Contractor at the site of the work in a prominent place where it can easily be seen by the workers.
2. The Owner shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent to the Department of Health and Human Services. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees to be used, the Owner shall submit the question together with his recommendation through the Department of Health and Human Services to the Secretary of Labor for final determination.
3. The Owner shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obliged to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the Owner, shall be referred to the Secretary of Labor for determination.
4. If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any cost reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: Provided, however, the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

F. Payrolls and Basic Records

1. The Contractor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve them for a period of three years thereafter for all laborers and mechanics, including apprentices and trainees, working at the site of the work. Such records shall contain the name and address of each employee, his correct classification, rate of pay (including rates of contribution for, or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Contractor has obtained approval from the Secretary of Labor as

provided in paragraph E.4, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

2. The Contractor shall submit weekly a copy of all payrolls to the Owner. The prime contractor shall be responsible for the submission of copies of payrolls of all Subcontractors. Each such copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classification set forth for each laborer or mechanic, including apprentices and trainees, conform to the work he performed. Submission of the "Weekly Statement of Compliance" required under this contract and the Copeland Regulations of the Secretary of Labor (29 CFT Part 3) shall satisfy the requirement for submission of the above statement. The Contractor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by paragraph E-4.
3. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the Owner that their employment is pursuant to an approved program and shall identify the program.
4. The Contractor will make the records required under the Labor Standards clauses of the contract available for inspection by authorized representatives of the Owner, U.S. Department of Health and Human Services, and the U.S. Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

G. Apprentices and Trainees

1. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed, in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph 2 of this paragraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work actually performed. The Contractor will be required to furnish to the Owner or a representative of the U.S. Department of Labor written evidence of the registration of its program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

2. Trainees

Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a

program which has received prior approval evidenced by formal certification, by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid not less than the rate specified in the approved program for his level of progress. Any employee listed in the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor will be required to furnish the Owner or a representative of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

3. Equal Employment Opportunity

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

H. Compliance with Copeland Regulations

1. The Contractor shall comply with the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) which are incorporated herein by reference. In addition, the Weekly Statement of Compliance required by these regulations shall also contain a statement that the fringe benefits paid are equal to or greater than those set forth in the minimum wage decision.

I. Contract Work Hours and Safety Standards Act—Overtime Compensation and Safety Standards (40 U.S.C. 327-330)

1. The Contractor shall not require or permit any laborer or mechanic, including apprentices and trainees, in any workweek in which he is employed on any work under this contract to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic, including apprentices and trainees, receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, whichever is the greater number of overtime hours. The "basic rate of pay" as used in this provision shall be the amount paid per hour, exclusive of the Contractor's contribution or cost for fringe benefits, and any cash payment made in lieu of providing fringe benefits, or the basic hourly rate contained in the wage determination, whichever is greater.¹
2. In the event of any violation of the provisions of paragraph I.1, the Contractor shall be liable to any affected employee for any amounts due and to the United

States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including apprentices and trainees, employed in violation of the provisions of paragraph I.1, in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by paragraph I.1.¹

3. The Contractor shall not require or permit any laborer or mechanic, including apprentices and trainees, employed in the performance of this contract to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation (29 CFR Part 1926, 36 FR 7340, April 17, 1971) pursuant to Section 107 of the Contract Work Hours and Safety Standards Act.

J. Withholding of Funds

1. The Owner may withhold or cause to be withheld from the Contractor as much of the accrued payments or advances as may be considered necessary (a) to pay the laborers and mechanics, including apprentices and trainees, employed by the Contractor or any Subcontractor on the work, the full amount of wages required by the contract, and (b) to satisfy any liability of any Contractor for liquidated damages under paragraph I hereof entitled "Contract Work Hours and Safety Standards Act—Overtime Compensation and Safety Standards (40 U.S.C. 327-330)."
2. If the Contractor or any Subcontractor fails to pay any laborer or mechanic, including apprentices and trainees, employed or working on the site of the work, all or part of the wages required by the contract, the Owner may, after written notice to the prime contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

K. Subcontracts

1. The Contractor will insert in all subcontracts, paragraphs E through L inclusive, entitled: "Minimum Wages," "Payrolls and Basic Records," "Apprentices and Trainees," "Compliance with Copeland Regulations," "Contract Work Hours and Safety Standards Act—Overtime Compensation and Safety Standards (40 U.S.C. 327-330)," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment," and shall further require all Subcontractors to incorporate physically these same paragraphs in all subcontracts.
2. The term "Contractor" as used in such paragraphs in any subcontract shall be deemed to refer to the Subcontractor except when the phrase "Prime Contractor" is used.

L. Contract Termination—Debarment

1. A breach of paragraphs E through K inclusive, respectively entitled "Minimum Wages," "Payrolls and Basic Records," "Apprentices and Trainees," "Compliance with Copeland Regulations," "Contract Work Hours and Safety Standards (40 U.S.C. 327-330)," "Withholding of Funds," "Subcontracts" may be grounds for termination of the contract and for debarment as provided in 29 CFR 5.6.

¹Exclude from construction contracts on projects insured under FHA/HUD Section 242 of the National Housing Act.

APPENDIX IV

PROPERTY MANAGEMENT SUMMARY FOR NON-PROFIT AND GOVERNMENTAL ORGANIZATIONS BY TYPE OF RECIPIENT

Applicability of 45 CFR Part 74 Equipment Management Standards to PHS Awards/Recipients (to be used in conjunction with 45 CFR 74, Subpart 0)

		Non-Profit Institutions of Higher Education					
		Grants for Applied Or Basic Scientific Research	All Other Grants	Hospital All Grants	State & Local Government All Grants	Other Non-profit ¹ All Grants	Federal Institutions All Grants
Acquisition		Subject to applicable prior approval and procurement policies. (See "Postaward Administration" and Appendix B of this document.)	Subject to applicable prior approval and procurement policies. (See "Postaward Administration" and Appendix B of this document.)	Subject to applicable prior approval and procurement policies. (See "Postaward Administration" and Appendix B of this document.)	Subject to applicable prior approval and procurement policies. (See "Postaward Administration" and Appendix B of this document.)	Subject to applicable prior approval and procurement policies. (See "Postaward Administration" and Appendix B of this document.)	Subject to applicable prior approval and procurement policies. (See "Postaward Administration" and Appendix B of this document.)
Title		Yours in recipient (acquiring party) on acquisition. Title to equipment acquired by a third-party contractor may vest in the grantee or subgrantee, if required by the terms of the contract.	Yours in recipient (acquiring party) on acquisition. Title to equipment acquired by a third-party contractor may vest in the grantee or subgrantee, if required by the terms of the contract.	Yours in recipient (acquiring party) on acquisition. Title to equipment acquired by a third-party contractor may vest in the grantee or subgrantee, if required by the terms of the contract.	Yours in recipient (acquiring party) on acquisition. Title to equipment acquired by a third-party contractor may vest in the grantee or subgrantee, if required by the terms of the contract.	Yours in recipient (acquiring party) on acquisition. Title to equipment acquired by a third-party contractor may vest in the grantee or subgrantee, if required by the terms of the contract.	Yours in recipient (acquiring party) on acquisition. Title to equipment acquired by a third-party contractor may vest in the grantee or subgrantee, if required by the terms of the contract.
Use (74.137)		Exempt	<ol style="list-style-type: none"> 1. Primary <ol style="list-style-type: none"> a. Project or program for which acquired as long as used and b. Shared use (see 74.137(b)) 2. Secondary uses (when no longer needed for original project or program) in the following order of priority: <ol style="list-style-type: none"> 1. Projects or programs currently or previously sponsored by PHS. 2. Projects or programs currently or previously sponsored by other Federal agencies, including at the recipient's option such projects or programs which the recipient is supporting through subgrants or non-Federal grants. 3. Other part time use (while being used as above) required PHS awarding officer (not applicable—see 74.137(d) and the "Postaward Administration—Property Management and Accountability" section of this document. 	Same as "Educational Institutions—All Other Grants."	Same as "Educational Institutions—All Other Grants."	Same as "Educational Institutions—All Other Grants."	Exempt
Transfer of Title (for items costing \$1,000 or more) (74.134)		Applicable—subject to conditions specified (74.134) only if PHS notice of intent to transfer received by grantee while equipment still needed for project or program for which acquired.	Applicable—subject to conditions specified (74.134) only if PHS notice of intent to transfer received before other permissible disposition occurs, i.e. sale or retention with reimbursement to PHS.	Applicable	Applicable	Applicable	Applicable under conditions specified (74.134)
Repurchase (74.138)		Subject to 74.138 only if acquisition cost of \$1,000 or more and while subject to right of transfer.	Applicable	Applicable	Applicable	Applicable	Subject to 74.138 only if acquisition cost of \$1,000 or more and while subject to right of transfer.
Disposition/Accession (74.139)		Exempt	Unit acquisition cost less than \$1,000—reuse, sell, or otherwise dispose of with no obligation to PHS. All other equipment—retain or sell—Reimbursable PHS (74.139)	Same as "Educational Institutions—All Other Grants"	Same as "Educational Institutions—All Other Grants"	Same as "Educational Institutions—All Other Grants"	Exempt

¹ For purposes of prior approval and property accountability, non-profit organizations whose primary purpose is the conduct of scientific research shall be considered in the same category as "non-profit institutions of higher education."

² If the vests in the contractor, the equipment is not subject to the requirements of 45CFR Part 74, Subpart 0.

APPENDIX V

COST ESTIMATE OUTLINE

THIS IS A SUGGESTED FORMAT AND IS NOT TO BE CONSTRUED AS A REQUIRED FORM.

Estimate the costs in which the *Federal Government* is requested to participate.

- 1. Demolition \$ _____
- 2. General Alteration and Renovation
(e.g., carpentry, masonry, painting) \$ _____
- 3. Plumbing \$ _____
- 4. Heating, Ventilation, and Air Conditioning \$ _____
- 5. Electrical \$ _____
- 6. Architect's and Engineer's Fee \$ _____
- 7. Other Costs (specify) \$ _____
- 8. TOTAL ALTERATION AND RENOVATION COSTS
(to Federal Government) \$ _____
- 9. Fixed Equipment \$ _____

LIST SOURCE AND AMOUNT OF FUNDS FOR TOTAL ALTERATION AND RENOVATION PROJECT:

PHS SOURCES AND AMOUNTS:

ALL SOURCES AND AMOUNTS OTHER THAN PHS:

Total net square feet of floor area in alteration and renovation proposal _____

Estimated cost per net square foot, excluding fixed equipment \$ _____

APPENDIX VI

STATE HISTORIC PRESERVATION LIAISON OFFICERS

ALABAMA

Director, Alabama Department
of Archives and History
Chairman, Alabama Historical
Commission
Archives and History Building
Montgomery, Alabama 36104
(205) 269-7783

ALASKA

Director, Department
Natural Resources
323 East Fourth Avenue
Anchorage, Alaska 99501
(206) 583-0150 — ask for
Anchorage 274-4676

AMERICAN SAMOA

Territorial Historic
Preservation Officer
Department of Public Works
Government of American Samoa
Pago Pago, American Samoa 96799

ARIZONA

Director, State Parks Board
1688 West Adams
Phoenix, Arizona 85007
(602) 271-4174

ARKANSAS

Director, Arkansas Department
of Parks and Tourism
State Capitol
Little Rock, Arkansas 72201
(501) 371-2535

CALIFORNIA

Director, Department of
Parks and Recreation
State Resources Agency
Post Office Box 2390
Sacramento, California 95811
(916) 445-2358

COLORADO

Chairman, State Historical
Society
Colorado State Museum
200 14th Avenue
Denver, Colorado 80203
(303) 892-2136

CONNECTICUT

Director, Connecticut
Historical Commission
59 South Prospect Street
Hartford, Connecticut 06106
(203) 566-3005

DELAWARE

Secretary of State of Delaware
Acting Director, Division of
Historical and Cultural Affairs
Hall of Records
Dover, Delaware 19901
(303) 678-4653

DISTRICT OF COLUMBIA

Acting Director, Office of Housing
and Community Development
14th and E Streets, N.W.
Washington, D.C. 20004
(202) 629-5033

FLORIDA

Director, Division of Archives,
History & Records Management
Department of State
401 East Gaines Street
Tallahassee, Florida 32304
(904) 488-1480

GEORGIA

Chief, Historic Preservation
Section
Department of Natural Resources
270 Washington Street, S.W.
Atlanta, Georgia 30334
(404) 656-2840

STATE HISTORIC PRESERVATION LIAISON OFFICERS—Continued

GUAM

Director, Department of Commerce
Government of Guam
Post Office Box 682
Agana, Guam 96910
(Overseas Operator)-646-1261

HAWAII

Chairman, Department of
Land & Natural Resources
Post Office Box 621
Honolulu, Hawaii 96809
(415) 556-0220 — ask for
Honolulu 548-2211

IDAHO

Director, Idaho
Historical Society
610 North Julia Davis Drive
Boise, Idaho 83706
(208) 384-2120

ILLINOIS

Director, Department of
Conservation
602 State Office Building
400 South Spring Street
Springfield, Illinois 62706
(217) 782-6302

INDIANA

Director, Department of
Natural Resources
608 State Office Building
Indianapolis, Indiana 46204
(317) 633-6344

IOWA

Director, State Historical
Department
Division of Historic Preservation
B-13 MacLean Hall
Iowa City, Iowa 52242
(319) 353-6949

KANSAS

Executive Director
Kansas State Historical
Society
120 West 10th Street
Topeka, Kansas 66612
(913) 296-3251

KENTUCKY

Director, Kentucky
Heritage Commission
401 Wapping Street
Frankfort, Kentucky 40601
(502) 564-4476

LOUISIANA

Director, Department of Art,
Historical & Cultural
Preservation
Old State Capitol
Baton Rouge, Louisiana 70801
(504) 389-5086

MAINE

Director, Maine Historical
Preservation Commission
31 Western Avenue
Augusta, Maine 04330
(207) 289-2133

MARYLAND

Acting Director, Maryland
Historical Trust
2525 Riva Road
Annapolis, Maryland 21401
(301) 267-1212

MASSACHUSETTS

Executive Director
Massachusetts Historical
Commission
40 Beacon Street
Boston, Massachusetts 02108
(617) 727-8470

MICHIGAN

Director, Michigan
History Division
Department of State
Lansing, Michigan 48918
(517) 373-0510

MINNESOTA

Director, Minnesota
Historical Society
690 Cedar Street
St. Paul, Minnesota 44101
(612) 296-2747

STATE HISTORIC PRESERVATION LIAISON OFFICERS—Continued

MISSISSIPPI

Director, State of Mississippi
Department of Archives &
History
Post Office Box 571
Jackson, Mississippi 39205
(601) 354-6218

MISSOURI

Director, Missouri State
Park Board
Post Office Box 176
1204 Jefferson Building
Jefferson City, Missouri 65101
(314) 751-4422

MONTANA

Administrator, Recreation
and Parks Division
Department of Fish & Game
Helena, Montana 59601
(406) 449-2535

NEBRASKA

Director, The Nebraska State
Historical Society
1500 R Street
Lincoln, Nebraska 68508
(402) 432-2793

NEVADA

Administrator, Division
of State Parks
201 South Fall Street
Carson City, Nevada 89701
(702) 885-4370

NEW HAMPSHIRE

Commissioner, Department of
Resources & Economic
Development
Post Office Box 856
Concord, New Hampshire 03301
(603) 271-2411

NEW JERSEY

Commissioner, Department of
Environmental Protection
Post Office Box 1420
Trenton, New Jersey 08625
(609) 292-2885

NEW MEXICO

State Planning Officer
State Capitol
403 Capitol Building
Santa Fe, New Mexico 87501
(505) 827-2974

NEW YORK

Deputy Commissioner for
Historic Preservation
Board of Historic Preservation
Parks and Recreation
South Swan Street Building
Albany, New York 12223
(518) 474-0468

NORTH CAROLINA

Acting Director, Division of
Archives and History
Department of Cultural Resources
109 East Jones Street
Raleigh, North Carolina 27611
(919) 829-7305

NORTH DAKOTA

Superintendent, State Historical
Society of North Dakota
Liberty Memorial Building
Bismarck, North Dakota 58501
(701) 224-2667

OHIO

Director, The Ohio
Historical Society
Interstate 71 at 17th Avenue
Columbus, Ohio 43211
(614) 466-3852

OKLAHOMA

Mr. George H. Shirk
1108 Colcord Building
Oklahoma City, Oklahoma 73102
(405) 236-3571

OREGON

State Parks Superintendent
300 State Highway Building
Salem, Oregon 97310
(503) 378-6305

STATE HISTORIC PRESERVATION LIAISON OFFICERS—Continued

PENNSYLVANIA

Executive Director
Pennsylvania Historical
& Museum Commission
Box 1026
Harrisburg, Pennsylvania 17120
(717) 787-2891

**COMMONWEALTH OF
PUERTO RICO**

Institute of Puerto Rico
Culture
Apartado 4184
San Juan, Puerto Rico 00905
(Commercial) 9-(809) 723-0090
extension 232

RHODE ISLAND

Director, Rhode Island
Department of Community
Affairs
150 Washington Street
Providence, Rhode Island 02903
(401) 277-2850

SOUTH CAROLINA

Director, State
Archives Department
1430 Senate Street
Columbia, South Carolina 29211
(803) 758-5816

SOUTH DAKOTA

Director, Office of
Cultural Preservation
Department of Education
and Cultural Affairs
State Capitol
Pierre, South Dakota 57501
(605) 224-3458

TENNESSEE

Executive Director, Tennessee
Historical Commission
170 2nd Avenue North, Suite 100
Nashville, Tennessee 37219
(615) 741-2371

TEXAS

Executive Director
Texas State Historical
Survey Committee
Post Office Box 12276
Capital Station
Austin, Texas 78711
(512) 475-3092

**TRUST TERRITORY OF
THE PACIFIC ISLANDS**

Chief, Land Resources Branch
Department of Resources and
Development
Trust Territory of the
Pacific Islands
Saipan, Mariana Islands 96950

UTAH

Director, Division of
State History
603 East South Temple
Salt Lake City, Utah 84102
(801) 328-5755

VERMONT

Director, Vermont Division
of Historic Sites
Pavilion Building
Montpelier, Vermont 05602
(802) 828-3226

VIRGINIA

Executive Director, Virginia
Historic Landmarks Commission
221 Governor Street
Richmond, Virginia 23219
(804) 770-3143

VIRGIN ISLANDS

Planning Director
Virgin Islands Planning
Charlotte Amalie
St. Thomas, Virgin Islands 00801
(Commercial) 9-(809) 774-1726

WASHINGTON

Director, Washington State
Parks & Recreation Commission
Post Office Box 1128
Olympia, Washington 98504

STATE HISTORIC PRESERVATION LIAISON OFFICERS—Continued

WEST VIRGINIA

West Virginia Antiquities
Commission
Old Mountainlair
West Virginia University
Morgantown, West Virginia 26506
(304) 292-1527

WISCONSIN

Director, State Historical
Society of Wisconsin
816 State Street
Madison, Wisconsin 53706
(608) 262-3266

WYOMING

Director, Wyoming
Recreation Commission
604 East 25th Street, Box 309
Cheyenne, Wyoming 82001
(307) 777-7695

**NATIONAL TRUST FOR
HISTORIC PRESERVATION**

Board President, National Trust
for Historic Preservation
740-748 Jackson Place, N.W.
Washington, D.C. 20006
(202) 638-5200

APPENDIX VII

POLICIES GOVERNING FOREIGN INSTITUTIONS AND INTERNATIONAL ORGANIZATIONS

Although most of the policies contained in this policy statement are fully applicable to grants made in foreign institutions and international organizations, a few of the requirements are different. These requirements are set forth below.

ELIGIBILITY

In general, foreign institutions and international organizations are eligible to receive only research project grants, including conference grants. (See below for the types of support not available.) For an international conference, i.e., a meeting so designated by its sponsor or one to which open invitations are issued on an equal basis to potential participants in two or more countries (other than the United States and Canada), the U.S. representative organization of an established international scientific or professional society is the eligible grantee regardless of the conference site. Grant support for such conferences held outside the United States or Canada is limited to specific activities such as the support of an individual panel or colloquium, and is not available for general conference support.

Other types of PHS grants, such as National Research Service Awards, program projects, centers, resources, health services, and construction may *not* be made to foreign institutions or international organizations unless the program has been specifically designed for support of such projects in a foreign setting and has had prior approval from the PHS agency head.

Grants may not be made to individuals in a foreign location (i.e., outside of the United States and its territorial possessions). Occasionally, however, a fellowship award is made to an American citizen or a noncitizen national to study in a foreign institution. (A noncitizen national is a person who although not a citizen of the United States owes permanent allegiance to the United States, such as a resident of American Samoa.)

It should be noted that foreign grant applications must be in the upper half of the research grant priority scores as recommended for approval by the final review group at a given review cycle in order to be approved for funding. However, a priority score in the upper one-half is not an automatic guarantee for funding.

CHANGE OF GRANTEE ORGANIZATION

A change of grantee may not take place where it will involve the transfer of a grant to or between foreign institutions or international organizations.

COSTS

The costs which are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations with the following exceptions:

1. *Alterations and Renovations.* Unallowable.
2. *Customs and Import Duties.* Unallowable.
3. *Indirect Costs.* With the exception of the American University, Beirut, and the World Health Organization, indirect costs will not be paid (either directly or through a subaward) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.
4. *Patient Care.* Patient care costs under foreign grants will be provided only in exceptional circumstances and then only with the prior approval of the PHS awarding office.
5. *Cost Sharing.* Foreign institutions and international organizations shall meet the statutory requirement for cost sharing on research project grants through the non-recovery of indirect costs.

PROJECT PERIODS

The initial project period and each competing continuation thereof for foreign grants may not be authorized for more than 3-year segments.

PAYMENTS TO FOREIGN GRANTEES

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, PHS will *not* compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Awards to foreign institutions and international organizations are not paid through the Departmental Federal Assistance Financing System, nor are they eligible to be paid under a Letter of Credit. These grants will be paid by U.S. Treasury Check on a quarterly basis; that is, the amount of the annual award will usually be paid in four equal installments.

PUBLIC POLICY REQUIREMENTS

1. *Civil Rights.* The Civil Rights requirements contained in the section on Public Policy Requirements do not apply to grants made to foreign institutions and international organizations.
2. *Animal Welfare.* The animal welfare requirements contained in the section on Public Policy Requirements do not apply to grants made to foreign institutions and international organizations.

APPENDIX VIII

POLICIES GOVERNING FEDERAL GRANTEES

Some of the policies contained in this policy statement must be modified for grants awarded to other Federal departments or agencies. Where the policies are different from those contained elsewhere in this policy statement, the changed requirements are set forth below.

ELIGIBILITY

Federal institutions are eligible to receive certain types of PHS project grants. This eligibility includes, but is not necessarily limited to, grants for research, training and demonstration projects. However, Federal institutions must meet the eligibility requirements of the grant program from which support is sought.

Although the performance site may be at a level lower than the agency or department level, when an award is made to an eligible Federal institution the Federal agency or department will be the designated grantee, and must assume responsibility for the project. Federal institutions must also ensure that their own authorizing legislation will allow them to receive a PHS grant and be able to comply with the grant award terms. A document certifying both the assumption of responsibility and authority to receive a grant must be submitted at the time of application. The certification must be signed by the head of the responsible Federal department or independent agency or a designee who reports directly to the department or agency head. (In the case of the Department of Defense, the Departments of the Army, Navy, and Air Force shall be considered "the Federal department" and their Secretaries as the "responsible Department head.") The certification requirement does not apply to Veterans Administration hospitals, Bureau of Prisons (Department of Justice) hospitals, PHS hospitals (including Indian Health Service hospitals and St. Elizabeth's Hospital), or other PHS organizational segments. However, PHS organizational segments other than the hospitals specifically cited above may only seek PHS grant support under exceptional circumstances, as determined by the Director, Office of Management, PHS. Such circumstances may include situations where a project cannot be supported within the mission of the applicant PHS agency or organizational segment, the activity cannot be performed elsewhere, its nonpursuit would have an adverse or potentially important impact on the PHS mission, and a grant is determined to be the appropriate means of carrying out the activity.

ALLOWABILITY OF COSTS

Costs allowed under grants to Federal institutions shall be determined by the established policies of the institution consistently applied to both its own activities and grant-supported activities. In the absence of a governing institutional policy, the cost principles for state and local governments will apply.

COST SHARING

Federal institutions receiving PHS research grants are not required to provide cost sharing.

INSTITUTIONAL ALLOWANCES UNDER FELLOWSHIPS

Institutional allowances may be requested by Federal institutions sponsoring a predoctoral or postdoctoral fellow, unless otherwise restricted by law or regulations. Federal institutions may request up to \$2,000 per year for an institutional allowance.

INDIRECT COSTS

Indirect costs will not be provided to Federal institutions.

PAYMENT OF GRANTS

Under PHS grants, the Department of Defense will normally be paid by Treasury Check after submission of the appropriate interagency form. Payments to all other Federal departments and agencies will normally be accomplished by transfers of funds between appropriations.

PRIOR APPROVAL AUTHORITIES

Federal institutions are required to establish and use an Institutional Prior Approval System for obtaining prior approval for the following types of postaward budgetary changes under nonconstruction discretionary grants:

1. Purchase of each individual item of special-purpose equipment having an acquisition cost of \$1,000 or more, whether as a result of rebudgeting from another budgetary category into the equipment category or using funds awarded for the acquisition of equipment for items not described in the approved application. However, where the acquisition of equipment results in a charge to the approved budget *under a single*

contract that will exceed \$25,000 or 10 percent of the total direct cost for the budget period, whichever is greater, PHS awarding office prior approval is required. PHS awarding office approval is always required for the acquisition of trailers or modular units.

2. Patient care costs in excess of the amount on the approved budget, provided the need for patient care in the project was specifically approved by the PHS awarding office.

Federal institutions must obtain prior approval from the Grants Management Officer for all other proposed programmatic changes and rebudgeting actions that require such approval.

ACQUISITION OF PROPERTY

Under the authority of Public Law 95-224 (which repealed the previous Public Law 85-934), nonprofit institutions of higher education and nonprofit organizations whose primary purpose is the conduct of scientific research are exempted from further obligation to the Federal Government for equipment and supplies acquired under a grant for support of basic or

applied scientific research, although PHS has the right to require the transfer of title to certain equipment as provided in 45 CFR 74.136. Except as provided below, PHS will consider all property acquired under a PHS grant awarded to a Federal institution as "exempt" for determining which provisions of 45 CFR 74, Subpart O, will apply.

For items of equipment having a unit acquisition cost of \$1,000 or more, PHS has the right to require transfer of the equipment, including title, to the PHS or to an eligible third party named by the PHS awarding office under the conditions specified in 45 CFR 74.136. This right applies to Federal institutions under all types of grants under the stipulated conditions.

PATENTS AND INVENTIONS

Inventions resulting from grants supporting the activities of Federal employees, i.e., grants to Federal institutions, shall be reported simultaneously to the Assistant Secretary for Health pursuant to the terms of the award and to the employing agency under the terms of Executive Order 10096, as amended.

APPENDIX IX

GRANTS TO FOR-PROFIT ORGANIZATIONS

Under a few HHS discretionary grant programs, for-profit organizations are not barred by the authorizing statute from receiving grants. However, for many years HHS policy has been not to award grants to for-profit organizations. These organizations have been eligible to receive procurement contracts but not grants.

With the passage of the Federal Grant and Cooperative Agreement Act (Public Law 95-224, 41 U.S.C. 501-509) and the issuance of OMB guidance for implementing the Act, the Department has determined that this policy is no longer appropriate. That Act makes choice of funding instrument—grant, cooperative agreement or contract—dependent upon factors other than kind of recipient. The OMB guidance states that grants may be made to for-profit organizations when deemed by the agency to be consistent with legislative intent and program purposes. Accordingly, the Public Health Service has determined that eligibility for certain research assistance awards including, where appropriate, cooperative agreements, will be opened to for-profit organizations.

It should be noted that no profit will be provided to for-profit organizations through financial assistance awards. A profit is considered to be any amount in excess of actual direct and indirect costs incurred in conducting an assistance project which is allowable, allocable, and reasonable.

Organizations operated for profit will be eligible to receive research financial assistance awards under the following authorities: Sections 301, 340, 356, and 404 or the PHS Act (42 U.S. Code, Sections 241, 256, 263d and 285), Section 20 of the Occupational Safety and Health Act (29 U.S. Code, Section 669), and Section 501 of the Federal Mine Safety and Health Act (30 U.S. Code, Section 951).

For-profit organizations will be subject to the same administrative requirements currently applicable to non-profit institutions, except for the following:

1. *Cost Principles*—There are no cost principles applicable to for-profit organizations receiving financial assistance awards. Therefore, the cost principles for Contracts with Commercial Organizations set forth in 41 CFR Subpart 1-15.2 will generally be used. PHS has elected the option provided in 41 CFR 1-15.102 of not authorizing independent research and development costs. For hospitals, however, the cost principles in Appendix E to 45 CFR Part 74 will be used.

2. *Property*—Title to real property, equipment, and supplies acquired by a for-profit recipient under a financial assistance award or subaward shall vest upon acquisition in the Federal Government. The management, control, and disposition of property in the hands of grantees will be governed by the rules applicable to contractors which are set forth in Part 3-56 of the HHS Procurement Regulations and Subpart 103-27.54 of the HHS Personal Property Management Manual.

3. *Cost Sharing*—The legal requirements for cost sharing will be met through separate cost sharing agreements negotiated for each research project. Cost sharing amounts will be determined in accordance with Department of Health and Human Services policy.

4. *Patents and Inventions*—The requirements set forth in 45 CFR Parts 6 and 8 as implemented by PHS govern the development and reporting of patents and inventions. Disposition of royalties or equivalent income earned on patents and inventions arising out of activities developed under financial assistance awards or subawards shall be governed by determinations made or agreements entered into under 45 CFR Part 6 and 8 on a case-by-case basis only. Disposition of rights on inventions made by small business firms is subject to Chapter 18 of Table 35 U.S. Code.

5. *General Program Income*—The additional costs alternative described in 45 CFR 74.42(e) is not an allowable alternative.

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