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Public Health Service

GRANTS POLICY STATEMENT



U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

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Public Health Service

**GRANTS POLICY
STATEMENT**

DHEW Publication No. (OS) 77-50,000
(Rev.) October 1, 1976

**U.S. DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE**

Public Health Service

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PREFACE

The Public Health Service (PHS) is the principal health component of the Department of Health, Education, and Welfare. PHS, which is under the direction of the Assistant Secretary for Health, is comprised of six major agencies. The six PHS agencies are listed below with a description of their primary areas of concern:

The Alcohol, Drug Abuse, and Mental Health Administration, which 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;

The Center for Disease Control, which is responsible for the national program of prevention and control of communicable and vector-borne diseases and for the control of certain other noninfectious conditions;

The Food and Drug Administration, the Nation's first consumer protection agency, which is concerned with research and regulation in such areas as food, drugs, cosmetics and medical devices;

The Health Resources Administration, which is responsible for health planning, research, evaluation and development of health resources and needs, including manpower and health facilities, and the collection and dissemination of health data;

The Health Services Administration, which is responsible for the improvement of the delivery of health services to the American people; and

The National Institutes of Health, which 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.

The basic mission of PHS, as a whole, is to protect and advance the Nation's health. One of the very important activities that PHS carries out in pursuit of this mission is that of awarding grants in support of efforts that help PHS and the recipient institutions to achieve mutually beneficial goals.

PHS administers a diverse array of grant programs concerned with the whole spectrum of health concerns reflected in the missions of its several agencies as outlined above. The six PHS agencies and the ten PHS regional offices are responsible for the award, administration and monitoring of these grant programs under a variety of legislative authorities, governing regulations, policies and procedures.

The administration of a grant 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 the grantee institution and the Federal Government are climbing and Federal spending is being closely watched for its inflationary impact and cost effectiveness. For these reasons, grantee institutions 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. Grantee institutions 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 the grantee institution as a partnership, with the grantee providing the effort and expertise necessary to carry out approved activities and PHS providing financial assistance under established policies and guidelines. In furtherance of its role in this relationship, PHS has established Grants Management Offices in each of its headquarters and regional 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 grants administration framework within which PHS staff and responsible grantee institution officials must operate. Any questions relating to its preparation or subject matter should be directed to this office.

John C. Droke
Director
Office of Administrative Management

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INTRODUCTION

The award and administration of grant funds are subject to applicable laws, regulations, and policies that have been duly promulgated. This booklet presents a compilation of the salient features of such policies as of October 1, 1976. To use this booklet effectively, grantee institutions should maintain, or have access to, copies of the referenced documents, which present additional detailed guidance on the subject policy. In addition, as with any publication, the policies in this booklet are subject to amendment by policies adopted subsequent to the above date. Consequently, grantee institutions are obligated to assure themselves that they become aware of any new amendments as soon as they are issued and announced to the public. This can best be done by arranging to obtain, or to have access to, the following documents:

Code of Federal Regulations (Titles 42 and 45): Title 42 sets forth Public Health Service (PHS) program regulations; Title 45 includes administrative regulations applicable to all HEW grants. They are available in booklet form from the U.S. Government Printing Office.¹

Federal Register: This publication is used to announce major proposed and final rulemaking issuances, including announcements of new programs and regulations, as well as policies issued by the Office of Management and Budget, the Department of Health, Education, and Welfare, and the Public Health Service. It is available from the U.S. Government Printing Office on a subscription basis. The current price is \$5 per month or \$45 per year.

HEW Grants Administration Manual: This HEW manual sets forth general requirements that all HEW agencies must incorporate into their policy documents. The PHS accomplishes this by issuing PHS supplementations (see below) to the HEW manual chapters. The HEW manual is available from the U.S. Government Printing Office on a subscription basis. The current price is \$15.70 (plus \$3.95 for oversea mailing), including new chapters as they are issued. The price is subject to change without notice.

PHS Supplementations to the HEW Grants Administration Manual: These PHS supplementations are used to implement for PHS the policies contained in the HEW manual. They are also used to establish and implement PHS grants administration policies in areas not covered by the HEW manual. PHS supplementations, therefore, constitute the basic PHS policy document applicable to its grant programs. References

¹ Write to Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

to these issuances appear in parentheses throughout this booklet immediately following subject headings, wherever appropriate.

PHS supplementations are issued by the Division of Grants and Contracts, Office of Administrative Management, PHS.² They are routinely mailed as they are issued to the business offices of grantee institutions on record. See Chapters PHS: 0-1, 0-2, and 1-20 for additional information regarding the PHS policy issuance system.

Applicability

Except where PHS has been delegated responsibility to act for all HEW components in certain specific areas, such as the protection of human subjects and institutional cost sharing agreements, the policies set forth in this booklet are intended to apply only to grants made by constituent agencies and regional offices of the Public Health Service and not necessarily to those made by other components of HEW. These policies should be applied to all grants having budget periods beginning on or after October 1, 1976. Any hardships or difficulties experienced by current grantees in making changes that may be required by this document should be reported immediately to the appropriate PHS Grants Management Officer.

Order of Precedence

In the event there are conflicting or otherwise inconsistent policies applicable to PHS grants, the following order of precedence shall prevail:

1. Federal legislation
2. Federal regulations other than 45 CFR Part 74
3. Terms and conditions of the award document
4. PHS supplemental chapters to the *HEW Grants Administration Manual* issued subsequent to October 1, 1976
5. Policies issued in this booklet
6. 45 CFR Part 74

Superseded Publications

As of October 1, 1976, this booklet supersedes DHEW Publication Nos. (OS) 74-50,000 and 76-50,000, dated July 1, 1974, PHS Grants Policy Statement, and the Health Grants Manual (as used by Title V Social Security Program).

It should be noted that the following publications were previously superseded:

- PHS Publication 1301; July 1, 1967; *PHS Grants for Research Projects*
- PHS Publication 1302; July 1, 1967; *PHS Grants for Training Projects*
- DHEW Publication (NIH) 72-8; July 1, 1972; *Grants for Research Projects*
- DHEW Publication (NIH) 73-9; December 1, 1972; *Grants for Training Projects*

² Write to Division of Grants and Contracts, OAM, PHS, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

GLOSSARY

The following are definitions of terms most commonly used in the award and administration of PHS grants.

Budget—The financial expenditure plan approved by PHS to carry out the purposes of the grant-supported project. The budget is comprised of both the Federal share and any non-Federal share of such plan and any subsequent authorized rebudgeting of funds (see *Prior Approval* below) ; except that for those programs that do not involve Federal approval of the non-Federal share of costs, such as research grants, the term "budget" means the financial expenditure plan approved by PHS, including any subsequent authorized rebudgeting of funds, for the use of Federal funds only. Any expenditures charged to an approved budget consisting of Federal and non-Federal shares are deemed to be borne by the grant in the same proportion as the percentage of Federal/non-Federal participation in the overall budget.

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

Direct Assistance—A grant under which goods or services are furnished in lieu of cash. Direct assistance generally involves the detail of Federal personnel or the provision of supplies, such as vaccines. Prerequisite to the use of direct assistance is authorization by statute or regulation and preestablishment of agreements between PHS and the grantee.

Grant—An award of financial or direct assistance to an eligible recipient under programs that provide for such assistance based on review and approval of an application, plan, or other document(s) setting forth a proposed activity or program.

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

Grantee—The institution, public or private corporation, organization, agency, or other legally accountable entity that receives a

grant and assumes legal and financial responsibility and accountability both for the awarded funds and for the performance of the grant-supported activity. In certain cases, a grantee may be an individual.

Grants Management Officer—The individual designated to serve as the PHS official responsible for the business management aspects of a particular grant project(s). The Grants Management Officer serves as the counterpart to the business officer of the grantee institution and is the focal point for matters such as interpretations of grant policies and provisions. He/she works closely with the program or project officer who is responsible for the scientific, technical, and programmatic aspects of the grant project. (See *Program/Project Officer* below.)

In-Kind Contributions—In-kind contributions represent the value of noncash contributions provided by the grantee or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and the value of goods and services directly benefiting and specifically identifiable to the grant-supported activity.

Local Government—A unit of government below the State level, including specifically a county, municipality, city, town, township, school district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government, exclusive of institutions of higher education and hospitals. This term also includes federally recognized Indian tribal governments.

Maintenance of Effort—A requirement contained in certain legislation, regulations, or administrative policies stating that a grantee must maintain a specified level of financial effort in a specific area in order to receive Federal grant funds, and that the Federal grant funds may be used only to supplement, not supplant, the level of grantee funds.

Prior Approval—Written permission provided by an authorized official in advance of an act that would result in either (1) the obligation or expenditure of funds or (2) the performance or modification of an activity under the grant-supported project, where such approval is required. Prior approval must be obtained from the designated Grants Management Officer for the grant involved, except that certain grantee institutions may approve some rebudgeting actions under an Institutional Prior Approval System. (See *Prior Approval of Use of Grants Funds Including Rebudgeting* under "General Policies.") Documentation of the approved budget on the Notice of Grant Award constitutes prior

approval for the performance of activities and the expenditure of funds for specific purposes and items described in the grant application unless otherwise restricted by the Notice of Grant Award.

Program Director/Project Director/Principal Investigator—A qualified individual designated by the grantee and, where required, approved by PHS to direct the project or program being supported by the grant. This individual is responsible to grantee institution officials for the proper management and conduct of the project or program. The grantee institution is, in turn, legally and financially responsible and accountable to PHS for performance of the grant-supported activity.

Program/Project Officer—The PHS official who is responsible for the technical, scientific, and programmatic aspects of a grant project. Such individuals are involved in many day-to-day contacts with project staff of the grantee institution and work closely with the Grants Management Officer in the administration of grants.

Project Costs—Those costs, direct and indirect, incurred to carry out an approved grant-supported project. Only project costs incurred during the budget period indicated on the Notice of Grant Award are allowable unless specific approval to include other costs is given by PHS. (See *Grant-Supported Activities/Project* above and *Preaward Costs* under "Costs.")

Project Period—The total time for which support of a project has been approved, including any extensions thereof.

State Government—Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, exclusive of State institutions of higher education and hospitals.

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

Terms and Conditions—All legal requirements imposed on a grant by the Federal Government whether by statute, regulations, the grant award document itself, or other documents.

Types of Grants

Grants can be classified in several ways, for example, on the basis of purpose (research, training, service, etc.) or on the basis of method of award (formula or discretionary). Set forth below is a brief glossary of commonly used designations without regard

to classification systems. Therefore, these designations are not mutually exclusive. A specific grant might be described by more than one of these terms.

Biomedical Research Support—A grant to assist an eligible institution to maintain, develop, and advance its biomedical research capabilities. An eligible institution must have received a minimum level of PHS research project grant funds within a given period of time in order to qualify for such a grant.

Capitation—A grant awarded to an eligible institution to provide, maintain, or improve its educational program in areas such as nursing, allied health, and health-professional education. The amount of such an award is based on enrollment factors, including the number of full-time students and the potential for increased enrollments.

Conference—A grant awarded to support the costs of meetings clearly within the areas of PHS program interests.

Consortium—A grant made to one institution in support of a research project in which the program is being carried out through a cooperative arrangement between or among the grantee institution and one or more participating institutions.

Construction—A type of facilities assistance grant made to provide support for building, expanding, and modernizing health facilities. (See *Facilities Assistance* below.)

Consultation and Education—A grant awarded to develop and coordinate the effective provision of health services and to increase public awareness of the nature of particular health problems and of the types of services available.

Continuing Education—A grant, usually short term, made to provide support for additional or updated training to professionals, paraprofessionals, or nonprofessionals working in a given health field.

Demonstration—A grant, generally of limited duration, made to establish or demonstrate the feasibility of a theory or approach.

Discretionary or Project—A grant made in support of an individual project in accordance with legislation that permits PHS to exercise judgment in selecting the project, the grantee, and the amount of the award.

Facilities Assistance—A grant made for the acquisition, remodeling, expansion, or leasing of existing facilities, or the construction of new facilities, and for the initial equipping of such facilities.

Fellowship—An award made in behalf of an individual to support specific training that will enhance that individual's level of com-

petence in the particular health area of concern. Under certain programs, fellowship recipients may be subject to service and payback requirements.

Financial Distress—A grant awarded to an eligible institution that is in serious financial difficulty to meet operational costs required to maintain a certain level, quality, or type of health services or educational program, or that has special need for financial assistance to meet accreditation requirements.

Formula—A grant in which funds are provided to specified grantees on the basis of a specific formula, prescribed in legislation or regulations. The formula is usually based on such factors as population, per capita income, enrollment, mortality, and morbidity. In some cases, such as formula grants to States, these grants are mandatory.

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

Research—A grant made in support of 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.

Service—A grant made to support costs for the purpose of organizing, establishing, providing, or expanding the delivery of health services to a specified community or area.

Study and Development—A grant awarded to study and develop innovative and experimental programs leading to an established health services delivery component.

Training—A grant awarded to an organization to support costs of training 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.

APPLICATION AND FUNDING

Nonconstruction Project Grants

All PHS discretionary project grants, except those for construction, are funded in accordance with the project period system. Under this system, projects that will continue for more than 1 year may be programmatically approved for support in their entirety, or a portion thereof, but funded in annual increments called "budget periods." The total project period comprises the original project period and any extensions thereof.

The length of a project period is determined by PHS on the basis of (1) the length of time requested by the applicant to complete the project, (2) the frequency of an in-depth review desirable for proper management of the grant project, (3) limitations on the length of the project period recommended by an appropriate review group, and (4) statutory and regulatory requirements. However, except where specifically permitted by legislation or regulation, an initial project period or competitive extension thereof may not exceed 5 years (3 years for foreign grants).

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 at those levels. 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, 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 and PHS. Funding of a noncompeting continuation grant within a previously approved project period may be withheld for justifiable reasons. See Withholding of Support under "Changes in Project" for details.

The following information is pertinent to the application and funding processes of the project period system. Additional information may be found in the Changes in Project section.

Applications

New

New applications are those submitted for a project or program not currently receiving health agency support. If approved, they must compete for available funds in accordance with funding priorities.

Application forms and information concerning deadlines for submission of applications can be obtained by contacting the appropriate headquarters or regional office. A listing of the regional offices is provided in the appendix to this policy statement. Research grant application forms for some programs may be obtained from the requesting institution's application control office or from the Division of Research Grants, National Institutes of Health.

Continuation

Funds for subsequent budget periods within an approved project period must be requested in an annual application, which is routinely mailed to the grantee several months before the beginning date of the next budget period. If the form is not received at the proper time, it is the responsibility of the grantee institution to request this application form. In the case of research grants to institutions with designated application control offices, a listing of continuing projects is supplied to that office. The level of funding for the ensuing budget period will be determined from review of the application within the framework of the approved level of support, the progress reported, and the availability of funds, and may be subject to negotiation between the grantee and PHS.

Competing Extension

Unless restricted by the governing legislation or regulations, when a grant nears the end of the period approved for support and the grantee wishes to continue the project, a competing extension application must be submitted in accordance with the established deadline dates for the program. The competing extension application will be reviewed in the same manner as a new application and must compete for available funds. If approved, the extended period of support is treated as a continuation of the original project period.

Supplement

If, during the current budget period, funding is required over and above that in the approved budget, and such funds are not otherwise available, a supplemental application may be submitted. If awarded, the additional amount becomes part of the current grant.

Program expansion: Supplemental applications for expansion of a project or program scope or research protocol are subject to the same deadlines, processing, and competition for available funds as a new application.

Administrative increases: Requests for supplemental funds to meet increased administrative costs that take effect during a current budget period, such as fringe benefits or organization-wide or other salary increases not included in the grant application, may be requested in an application or letter signed by an authorized grantee official. Such requests are usually noncompeting but are subject to PHS approval and the availability of funds. Requests for supplemental funds to meet increased administrative costs for subsequent years may be included in the application for continuation support.

Funding

The initial grant award provides funds for the conduct of the project during the first budget period and indicates the support recommended and expected to be made available annually for each of the remaining budget periods comprising the project period. A budget period is normally 12 months and is funded from a single annual appropriation. 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, or to accommodate a change in the grantee's business cycle.

Grant funds, including authorized carryovers, may be obligated or expended by a grantee only to the extent authorized by PHS in an approved budget shown on a Notice of Grant Award and permitted under the authorities given to the grantee for the rebudgeting of funds documented in an approved budget. (See Prior Approval of Use of Grant Funds Including Rebudgeting under "General Policies.")

Unobligated Balances (Estimated or Actual)

At the option of PHS, estimated or actual unobligated balances remaining at the end of a budget period may be treated in the following ways:

1. As an offset (deduction) from the continuation award, if there is one.
2. As a carryover for use in a subsequent budget period, as additional

funding authorized for purposes requested and justified in the continuation year application.

3. As a refund to the Government.

Construction Grants

For construction grants, usually one award is made on the basis of one application covering the entire project and may span more than 1 year. The project period concept and annual award basis are therefore not generally applicable to construction grants.

Formula Grants

Formula grant funds are awarded annually on the basis of a specific formula, for the length of time and after review of a plan or application as specified in the governing legislation or regulations. The project period concept is not applicable to these grants.

The authorizing legislation for most PHS formula grant programs under which States are the eligible recipients contains provisions that a State must, as a requisite to receiving allotted funds, have a State Plan or application that has been reviewed and approved by appropriate Federal officials. The State Plan or application must set forth the State's plans for providing the health services or facilities required by the authorizing legislation and must document the State's provisions for complying with other Federal requirements for use of the allotted funds. Such provisions usually include insuring scope and quality of services; insuring compatibility with other health activities of the State; maintaining personnel standards, including merit systems and equal employment opportunity requirements; providing procedures for informing the public of kinds and locations of services available; maintaining records and proper accounting procedures, etc.

The PHS has adopted a simplified system of administering those formula grant programs requiring approval of a State Plan or application that are administered on a decentralized basis by the PHS regional offices and, at the option of the appropriate PHS agency head, for such formula grant programs administered by headquarters offices (see Chapter PHS:5-501). Under this system, the State Plan or application documents are incorporated by reference in a certification after an onsite review of the documents, usually in the State's offices, satisfies the PHS reviewers that applicable requirements have been met. The PHS reviewers use a State Plan/Application Checklist to ascertain compliance with legislative and regulatory requirements.

The certification, a proposed budget, and any required supporting documents must be submitted to the Office of the State Govern-

nor for review and comment prior to submission to PHS. A minimum of 45 days must be allowed for this purpose. The signature of the Governor or his designee on the budget form will indicate that the State agency administering the formula grant program(s) has complied with this requirement. While a new certification is not required annually, a budget and any required supporting documents must be submitted each year as a prerequisite to the receipt of allotted funds. The requirement to afford the Governor the opportunity to review and comment also applies to formula grant programs to States not administered under the simplified system. Action will be taken on State Plans or applications that are not in compliance with Federal requirements and standards in accordance with the provisions of Chapter PHS:5-500.

In addition, the State Plan or application must be reviewed by the Statewide Health Coordinating Council (SHCC) for conformance with the provisions of the State Health Plan required by Section 1524 of the PHS Act. A period of 60 days is allowed for this review. (See Health Systems Agencies under "General Policies" for the corresponding review requirement for project grants.)

The Notice of Formula Grant Award is the official notification to the State agency designated to administer the particular formula grant program that the State Plan or application has been approved.

COSTS

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 institution, less applicable credits.

The principles for identifying and measuring such costs, as well as for determining their allowability and allocability, are prescribed in Subpart Q, Title 45, Code of Federal Regulations, Part 74 (45 CFR 74). Subpart Q prescribes four separate sets of cost principles. Each grantee is subject to only one set, according to the classification of that grantee; however, a subgrantee or cost-type contractor under a PHS grant is subject to the cost principles according to its classification, which may not necessarily be the same as that of the grantee. When the cost-type contractor is a profit-making organization, it is subject to the cost principles found in the Federal Procurement Regulations (41 CFR Subpart 1.15.2). The four sets of cost principles and their applicability are as follows:

45 CFR 74	Applicable to—
Appendix C	State and local government agencies
Appendix D	Institutions of higher education
Appendix E	Hospitals
Appendix F	Nonprofit organizations

Generally, the cost principles permit a grantee institution to establish and use its own accounting system for determining costs as long as it is based on sound accounting concepts consistently applied to all institutional activities regardless of the source of funds used to support those activities. Also, while costs may be treated either as direct or indirect costs depending on the accounting system being used, certain types of expenses are usually considered as indirect costs (see Indirect Costs under this section). If such costs are charged directly to a grant-supported project, the grantee must assure that similar types of costs are charged as direct costs in all other work of the institution.

Additional information regarding direct costs, indirect costs, and applicable credits is presented below.

Direct Costs

A direct cost is any cost that can be identified specifically with a particular cost objective. Applicable HEW cost principles govern with respect to general rules of allowability, unallowability, or circumstances of allowability of costs charged to grant-supported projects. These general rules may be qualified by legislation, regulations, or PHS policy applicable to a particular grant-supported project or class of projects. If a grantee is uncertain whether a cost is allowable, the grantee should contact the appropriate PHS Grants Management Officer. Outlined below are examples of allowable and unallowable expenditures most frequently encountered as direct costs under one or more PHS grant programs.

Advertising.—Allowable for recruitment of staff for project, procurement of scarce items used in conduct of project, disposal of scrap or surplus materials, and bid advertising under construction grant programs.

Air Conditioning.—Usually this is a utility cost for which the grantee is responsible as a normal operating expense reimbursed through the payment of indirect cost. If the grantee proposes to charge air-conditioning equipment as a direct cost item, the equipment will be defined and treated as general-purpose equipment. (See Property Management under "General Policies.")

Alteration and Renovation.—Alteration and renovation costs that constitute new construction, relocation of exterior walls, roofs, and floors, or completion of unfinished shell space to make it suitable for human occupancy are considered to be construction; therefore, their associated costs are unallowable as charges to PHS grant-supported projects unless the program legislation specifically authorizes alteration and renovation or construction. Such expenditures, if allowable, would be subject to policies governing construction. (See Construction under this section and Construction Grants under "General Policies.")

Alteration and renovation costs that do not constitute construction, as above, are allowable, subject to the limitations set forth in Chapter PHS: 1-44 and summarized below. Such costs are allowable to adapt space or utilities within a completed structure to accomplish the objective of the grant-supported activity, provided that (1) the grantee is not an individual or a foreign institution, (2) the building has a usable life consistent with program purposes and is architecturally suitable for conversion, (3) the alteration and renovation is essential to the project supported by the grant, and (4) the space involved will actually be occupied by the project. In situations where the space is rented, in order for the

costs of the alteration and renovation to be allowable, the grantee must secure a lease for the length of the project. (See Rental or Lease of Facilities and Equipment under this section.)

Limitations on allowable costs:

1. The amount budgeted or used for alteration and renovation under a single grant during any consecutive 3-year period cannot exceed the lesser of \$75,000 or 25 percent of the total funds approved for direct costs for such 3-year period, unless a waiver is obtained from PHS in accordance with the provisions of Chapter PHS:1-44.
2. The amount of grant funds rebudgeted for alteration and renovation during a budget period cannot exceed \$1,000 without the prior approval of PHS.

If project funds in excess of \$10,000 are used for all or part of an alteration and renovation project, the grantee must be in compliance with the equal employment opportunity provisions of Executive Order 11246, as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

Animals.—Charges for the acquisition, care, and use of experimental animals are allowable. (See Laboratory Animals, Care and Treatment under "General Policies.")

Bad Debts.—Not allowable.

Bonding. —Allowable. Grantees shall observe their regular requirements and practices with respect to bonding and insurance. PHS will not impose additional bonding and insurance requirements, including fidelity bonds, except in the case of construction grants (including alteration and renovation) exceeding \$100,000, loan guarantee programs, and grants to individuals.

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 grantee institution that is consistently applied.

Books and Periodicals.—Allowable where required for the conduct of the project. Such items may be allowable as indirect costs when obtained for libraries for the general use of institution staff and students.

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 employees working on a grant-supported project. (See Fringe Benefits under this section.)

Communications.—Costs resulting from local and long-distance telephone calls, telephone surveys, telegrams, postage, etc., necessary to the project, and not treated as indirect costs, are allowable.

Construction.—Allowable only when (1) the program legislation includes specific construction authority and (2) PHS specifically authorizes such costs. (See Construction Grants under “General Policies.”)

Allowable and unallowable construction costs include, but are not limited to, the following :

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
2. Unallowable Costs
 - a. Relocation of utilities
 - b. Offsite improvements
 - c. Consultant fees not related to actual construction
 - d. Donated equipment
 - e. Equipment purchased through a conditional sales contract
 - f. Bonus payments to contractors
 - g. Damage judgment suits
 - h. Fund-raising expenses
 - i. Legal services not related to site acquisition

Consultant Services (Chapter PHS: 1-45).—The use of project funds for the payment of fees to consultants (from both within and outside the grantee organization) is allowable under the conditions indicated below. Charges to project funds may include fees, travel, and supporting costs (per diem or, where applicable, subsistence). Consultant fees are not generally paid to an employee of the Federal Government. (For exceptions, see Federal (U.S. Government) Employees under this section.)

It is expected that (1) grantee organizations will normally have their own policies with respect to use of consultants, (2) those policies will apply regardless of the source of support, and (3) they will include the following as minimum standards for documentation in support of the use of consultants :

1. There must be evidence that the services to be provided are essential and cannot be provided by persons receiving salary support under the grant.
2. There must be evidence that a selection process has been employed to secure the most qualified person available and that the selection has been approved by a senior officer of the grantee organization.
3. There must be evidence that the charge is appropriate considering the qualifications of the consultant, his/her normal charges, and the nature of the services rendered.

Special conditions, in addition to those above, applying to educational institutions are :

1. If the consultant is an employee of the grantee institution, the consultation must be across departmental lines and in addition to regular duties, or it must involve a separate or remote operation, and the work performed is in addition to the consultant's regular departmental workload.
2. The determination as to compliance with the above provisions may be made at the grantee level only by the head of the institution or his/her designated representative.

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

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

Contingency Funds or Reserves.—Use of project funds for contingency accounts or reserves is generally not allowable. Contingencies may be allowable where they arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy, such as accrued vacation costs.

Unless otherwise restricted by the terms and conditions of the award, grantees may use grant-related income to develop and maintain a reserve fund to offset underestimates of funding needs for approved activities and for complying with State requirements for prepaid health care services. Amounts placed in such reserves may not be used for matching. (See 42 CFR 50, Subpart A, section 50.107).

Contraceptive Costs.—Allowable when contraceptives are prescribed by a physician in connection with services provided as an integral part of the grant-supported project.

Contracts for Materials and General Support Services.—Allowable. All procurement transactions shall be conducted in a manner so as to provide open and free competition to the maximum practical extent.

Customs and Import Duties.—Allowable except on grants made to foreign institutions. Charges may include consular fees, customs surtax, value-added tax, and other related charges.

Depreciation or Use Charges.—Normally not allowable as a direct cost but may be included in the grantee's indirect cost pool. Depreciation or use charges on equipment or buildings, the cost of which was charged to a federally supported project, are unallowable.

Donors.—Payment is allowable 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 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.—Dues for membership in professional organizations or societies are allowable if it can be shown that such membership is necessary to accomplish the objectives of the project.

Entertainment.—Costs of amusements, social activities, and incidental costs related thereto, such as meals, beverages, lodging, and transportation, are not allowable.

Equipment.—Allowable. For policies governing the acquisition of equipment, see Property Management, and Prior Approval Requirements Including Rebudgeting under "General Policies."

Equipment Maintenance and Repairs.—Allowable on equipment used specifically on PHS grant-supported projects where necessary to keep the equipment in efficient operating condition.

Equipment Rental.—Allowable. For additional details governing the amount of allowable costs that may be charged for rental or lease of equipment, see Rental or Lease of Facilities and Equipment under this section.

Federal (U.S. Government) Employees.—The following rules apply to payments made from a grant to Federal employees:

1. Consultant fees: Not allowable, except when *all* of the following conditions apply:
 - 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, type, and extent of medical services approved in the grant award.
 - b. Adequate numbers of qualified civilian personnel are not available to provide the kind, type, and extent of medical services approved in the grant award and medical personnel of the Uniformed Services of the United States (except Commissioned Officers of the Public Health Service) are hired only in addition to those qualified civilian medical personnel, if any, who are available.
 - c. The medical personnel of the Uniformed Services of the United States (except Commissioned Officers of the Public Health Service) hired as consultants have prior written authorization from their commanding officers to work on the grant-supported activity and to be paid for their efforts.

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 and travel:** Allowable when the employee is:
 - a. Working under a grant to a Federal institution.
 - b. During nonduty hours, in leave-without-pay status, or on detail to a State or local government, provided (1) reimbursement is in accordance with terms mutually acceptable to the grantee institution and PHS, and (2) all parties concerned are assured that there is no possibility of dual compensation or a resulting conflict of interest.

Fringe Benefits.—The employer's share is allowable as a direct cost (if not included as an indirect cost) in proportion to the salary charged to the grant to the extent that such payments are made under formally established and consistently applied institutional policies. Fringe benefits are not allowable for trainees on training grants.

Tuition or tuition remission for employees other than students or for members of the employee's family is allowable as a fringe benefit if such benefits are granted in accordance with established institutional policy consistently applied without regard to the source of funds. For policies applicable to tuition remission for students working on grant-supported projects, see Salaries and Wages under this section.

Fund Raising.—Not allowable.

Honoraria.—Not allowable. An honorarium is considered a payment or reward where the primary intent is to confer distinction on, or to symbolize respect, esteem, or admiration for, the recipient.

Hospitalization.—See Patient Care Costs under this section.

Insurance.—Insurance is usually treated and reimbursed 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 institutional policy. Such premiums may include those on hazard, malpractice, and other liability insurance to cover grant-supported personnel and activities.

Grantee patients: Payment of health insurance premiums for target populations can be charged to PHS grants when specifically approved by PHS and under the following conditions:

1. The recipient is otherwise qualified to receive the benefits of the grant-targeted services but does not have access to coverage under other grant programs or third-party mechanisms such as Medicare, Medicaid, and Title XX.
2. The recipient is below the program-defined income level at which he/she might be expected to pay for health services or purchase health insurance.

3. The recipient is located in an area where there are applicable prepaid capitation or insurance programs for which the recipient is eligible and such provider is a qualified organization approved by PHS.

Equipment: Costs for insuring equipment purchased with grant funds should normally be included in indirect costs. However, with prior approval of PHS, such costs may be allowable as direct charges if it is normal institutional policy to treat such costs as direct costs.

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

Interest Costs.—Not allowable, unless specifically provided for under program legislation such as that authorizing interest subsidies and loan guarantees.

Land or Buildings.—Purchase costs are not allowable unless specifically authorized by program legislation and provided for in the grant award. However, use charges or depreciation on buildings may be included in the institution's indirect cost pool.

Leave.—Allowable for employees and may be treated as a direct or indirect cost depending on institutional policy and its consistent application. If a grantee institution treats leave (sick, vacation or other) as a direct cost as part of the costs of salaries and wages, it must be prorated in accordance with the time or effort applicable to the project. The number of days allowed for leave should be governed by established institutional policy and be reasonable in relation to accepted practice among other institutions of comparable nature. Leave is not allowable for trainees and fellows. Trainees and fellows in academic institutions are not entitled to vacations as such. They are entitled, however, to the normal student holidays 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.—The costs of legal services, where required in the administration of a grant-supported project, may be allowable if reasonable and supported by adequate documentation regarding the need for such services. Costs may include retainer fees if supported by evidence of services available or rendered. Costs of legal services incurred in connection with the prosecution of claims against the Federal Government are not allowable.

Library and Information Services.—Allowable as a direct cost when specifically required for the conduct of the project and 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 grantee's indirect cost pool.

Meals.—Allowable for subjects and patients under study, or when an institution customarily provides meals to employees working beyond the normal workday, or as a part of a formal compensation arrangement. Guest meals are not allowable. See Consumer/Provider Participation under this section regarding the allowability of costs of meals for consumer/provider participants in grant-supported activities.

Motion Pictures and Television Programs.—Allowable only with approval of PHS. (See Motion Pictures and Television Programs under "General Policies.")

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

News Release Costs.—Allowable with specific approval of PHS.

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 Costs.—Costs related to routine and ancillary medical services on either an inpatient or outpatient basis are allowable provided the grantee 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 in the approved budget must have prior approval. (See Prior Approval Requirements Including Rebudgeting under "General Policies.") In the case of research grants, the institution will be reimbursed in accordance with the provisions of *HEW Grants Administration Manual* Chapter 6-50. For all other 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 Social Security Administration, HEW, except where a different basis for reimbursement is set forth in governing programmatic regulations or guidelines.

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

Preaward Costs.—Costs incurred prior to the beginning date of the budget period of a new grant or a competing extension of an existing grant are not allowable unless authorized in writing by an official who has been formally delegated the authority to obli-

gate the Government for grant awards, and such costs are specifically identified in the grant award. However, a grantee may, at its own risk, incur obligations and expenditures prior to the beginning date of the budget period of a noncompeting continuation grant that is within an approved project period and may charge such costs to that continuation grant, provided (1) the costs concerned are considered essential to the conduct of the project, (2) the costs are otherwise allowable under the continuation grant, and (3) that when required for specific expenditures, prior approval was obtained.

Under construction grant programs, costs incurred prior to award for architects' and consultants' fees necessary to the planning and design of the project are allowable if the project is approved and funded.

Publication Costs.—Costs of publication of work in scientific and technical journals may be paid from project funds if all of the following conditions are met:

1. The paper reports work supported by the grant.
2. The merit of the paper is the first criterion in acceptance for inclusion in the journal.
3. Any charges for publication by the journal are equitably applied to all papers regardless of the source of financial support.
4. The journal involved is not operated for profit.
5. The copyright is owned and managed by a nonprofit institution.
6. Prior approval is obtained from PHS if required by the applicable cost principles.

Such costs may include amounts for special plates, charts, and diagrams, part of the cost of all papers published where required by the scientific journal, and reprints of the published material.

Costs of publishing books, monographs, and pamphlets reporting the work supported by a grant are allowable with PHS approval, where required. For additional details, see the sections entitled Publication and Publicity and Grant-Related (Program) Income under "General Policies."

Recruitment Costs.—Allowable when an individual is recruited for employment by the grantee institution if payment of such costs is normally made by the grantee institution regardless of the source of funds and is made pursuant to a well-managed recruitment program. These costs may include help-wanted advertising costs and travel costs incurred by applicants with respect to pre-employment interviews. Such travel costs should also be paid in accordance with established institutional policy and should be reasonable with regard to the number of trips required, mode of transportation, and subsistence rates, among other considerations. Grant funds may not be used to pay prospective trainees or fellows for travel or other related recruiting costs.

Registration Fees (For Symposiums and Seminars).—Allowable if it can be shown that they are necessary to accomplish project or program objectives.

Relocation Costs.—Allowable 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) of an existing employee or upon recruitment of a new employee, provided that the move is for the benefit of the grantee institution and payment is made in accordance with established institutional policies consistently applied regardless of the source of funds. These costs may include transportation of the employee, his/her family, dependents, and household goods to the new location. 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 these costs.

Rental or Lease of Facilities and Equipment (Chapter PHS: 6-10).—Allowable. Due to the complex nature of determining the amount of such allowable costs, however, grantees are encouraged to consult Chapter PHS: 6-10 and the designated PHS Grants Management Officer prior to entering into leases that will result in charges to project funds.

Rental costs under long-term leases are allowable only up to the amount the lessee would be allowed under applicable HEW cost principles had it purchased the property on the date the lease agreement was executed. However, if the lessee can demonstrate, based on the facts existent at the time of the decision to lease on a long-term basis, that such leasing (1) will result in less cost to the lessee over the total period that the property will be used in the lessee's operations or (2) is clearly necessary in light of the particular circumstances involved, the rental costs for the term of the lease may be charged to the project, subject to the same criteria set forth for short-term leasing in Chapter PHS:6-10. If the lessee subsequently renews the lease, it must again demonstrate that leasing will result in less cost or is clearly necessary in light of the circumstances involved in order to continue having rental costs evaluated by the criteria for short-term leasing.

Costs of renting facilities and equipment where one party to the rental agreement is able to control or substantially influence the actions of the other are allowable charges to the project only up to the amount that would be allowed as the normal costs of ownership.

When an institution transfers property to a third party through sale, lease or otherwise, and then leases the property back from that third party, the lease cost that may be charged to PHS projects generally may not exceed the equivalent of the cost of ownership.

Rental costs under leases that create a material equity in the leased property, such as certain lease-purchase agreements, are allowable only up to the amount that would be allowed under applicable HEW cost principles had the lessee purchased the property on the date the lease agreement was executed.

Sabbatical Leave.—Sabbatical leave salary, as such, is not allowable, but sabbatical leave costs to the institution may be included in a composite fringe benefit rate or in the institution's indirect cost rate. Salary from a grant-supported project for services rendered the project by an individual during his sabbatical period is allowable, provided that the salary is proportional to the service rendered and is paid in accordance with established institutional policies applicable to all employees regardless of the source of funds.

Salaries and Wages.—Allowable when an employee of a grantee organization renders personal services to a grant-supported activity. The cost of remuneration for such personal services for that period of time is allowable as a direct cost to the project to the extent that it is reasonable and conforms to the established, consistently applied, salary and wage policy of the grantee institution.

Payroll distribution: Amounts charged to grant-supported projects for personal services must be based on institutional payrolls, documented and approved in accordance with generally accepted institutional practices. Standards for documentation of payrolls are contained in the applicable cost principles. (See the introduction to this section.) Briefly summarized, these standards are as follows:

1. For educational institutions, hospitals, and nonprofit organizations:
 - a. Monthly after-the-fact reports of the distribution of effort for individual professional staff members, or
 - b. An adequate appointment and workload distribution system accompanied by monthly reviews and a reporting of any significant changes in the workload distribution of each professor or professional staff member.
 - c. Time and attendance and payroll distribution records for nonprofessional employees.
2. For State and local 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.

Full-time: The definition of "full-time" employment should be governed by the grantee institution's established policy regarding what constitutes such employment.

Part-time: "Part-time" employment refers to less than full-time employment as defined by the grantee institution (see above). The rate of compensation for an individual considered a part-time employee should be based on the salary he/she would have earned if he/she had been a full-time employee.

Where an institution provides a guaranteed salary plus an additional amount dependent on such things as the total income of a group clinic operated by the institution, full-time salary may be considered to be the combination of the guaranteed amount and the additional amount. However, this salary may not exceed a formally established ceiling or the amount that reflects the individual's most recent full year's experience, whichever is smaller.

Overtime: 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 institutions require PHS prior approval except under certain circumstances as specified in the governing cost principles. These instances should be documented, and, where justified, necessary approvals may be granted retroactively. The categories or classifications of employees that may receive overtime payments, for example, professional or nonprofessional, should be determined in accordance with the formal policies of the institution consistently applied regardless of the source of funds. When the salary is charged partly to project funds and partly to other institution funds, the total of the salary (both regular rate amount and the premium rate amount) must be prorated in accordance with the time spent on the grant-supported project. Where the institution has a policy of charging premium overtime to the indirect cost pool, no premium overtime can be charged directly to a PHS grant-supported project.

Salary from multiple grants: When an employee is working on two or more grant-supported projects, his/her salary will be prorated to each project based on the time or effort devoted to each project. However, where two or more grants concurrently support one identified activity or program, the grantee may charge such costs to either or any of the grants involved, provided that charges are not duplicated, unless a prior understanding has been reached with the affected PHS offices. (In regard to cost transfers, see Chapter 6-05 of the *HEW Grants Administration Manual*.)

Research (career) development: Grant funds budgeted for an individual's salary but released as the result of transfer of support of an individual to a PHS research or academic career program grant may not be used for any other purpose without prior approval from PHS.

Compensation of students: Compensation of students, fellows, or trainees for actual work or services on a grant-supported project which may also provide on-the-job training toward a degree is allowable only when all of the following conditions exist: (1) there is a bona fide employer-employee relationship, (2) the purpose of such payments is for services rendered to the project, (3) the payments are supported by acceptable accounting records that accurately reflect distribution of time or effort, and (4) the relationship is consistently characterized by the grantee as "employer-employee" and the remuneration as compensation for work performed, that is, as "wages" or "salary."

Depending on the institution's policy, such individuals may be furnished tuition remission as part of their basic compensation in lieu of all or part of their salary.

Stipends or other payments which are intended as financial assistance to students, fellows, or trainees are allowable only from fellowships, training grants, or other types of grant-supported projects where specifically allowable under the governing legislation or programmatic regulations. (See Stipends and Allowances under "General Policies" for details regarding stipendiary support.)

College Work-Study Program: PHS grant funds may be used to pay all or part of the non-Federal or institutional share of an individual student's compensation under the Office of Education's College Work-Study Program provided that PHS approval has been received. Payment of such compensation must be for the performance of services covered by the approved project from which payment is made.

Service Charges.—Allowable as a direct cost for use of certain types of services and central facilities owned by the grantee institution, such as computer services, motor pool, animal facilities, etc., provided the charge is designed to cover only the actual costs and does not exceed rates charged for commercial or accommodation sales. Such charges must be applied to all users and must not be included in the indirect cost pool.

Student Activity and Services Costs.—Costs incurred for student activities such as student union fees or student publications and costs incurred for student services costs such as student health and infirmary services are generally unallowable charges to research grants at educational institutions. In the case of students actually engaged in work under such a research project, a proportionate share of student services costs (but not student activity costs) may be included in the indirect cost pool. Student services costs may be allowable on training grants to such institutions as a direct cost, if not included in the institution's indirect cost pool, with PHS prior approval; student activity costs on training grants at educational institutions may also be allowable with PHS prior approval.

Subgranting.—Allowable only when (1) project funds are provided to another individual or organization to carry out the purposes for which the award was made, (2) the original grantee institution retains scientific, administrative, and financial responsibility over the activity and the funds, and (3) prior approval of PHS is obtained. (See Subgranting and Contracting of Grant-Supported Effort under "General Policies.")

Subject Costs.—Allowable. See Patient Care Costs under this section.

Supplies.—Allowable for supplies directly required for the project. (See Property Management under "General Policies.")

Taxes.—Taxes that an institution is required to pay as they relate to employment, services, travel, renting, or purchasing for a project are allowable. Institutions must avail themselves of any tax-free status exemptions for which activities supported by Federal funds may qualify. On construction projects, 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 to the grantee.

Third-Party Costs.—Reasonable costs, including applicable indirect costs, if any, associated with services obtained from third parties are allowable to the extent that such costs are reimbursed by the grantee. These costs may include, but are not limited to, consortia arrangements and collaborative agreements. (See Indirect Costs under this section and Subgranting and Contracting of Grant-Supported Effort under "General Policies.")

Trailers and Modular Units (Chapter PHS:1-501).—The determination whether costs for the purchase of trailers or modular units are allowable charges to PHS grant-supported projects depends on whether such units are classified as real property or as nonexpendable personal property. The PHS official having delegated authority to approve the grant shall be responsible for determining such classification.

A trailer or modular unit is classified as real property when the unit is 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 costs or purchase of real property and the specific purchase is approved by PHS.

A trailer or modular unit is classified as nonexpendable personal property 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 nonexpendable personal property may be charged only if program regulations authorize purchase of equipment and prior approval is obtained from PHS.

Transportation.—When equipment is moved from one grantee institution to another, the cost of transportation may be charged to the grant at either the original or the new institution, depending on the circumstances and the availability of funds in the appropriate active grant account.

Travel.—Allowable where such travel will provide direct benefit to the project being supported, including attendance at meetings by project staff.

Domestic travel is that performed within the grantee'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.

Foreign travel is that performed outside of the grantee's own country, including travel between the United States and Mexico. Foreign travel also includes travel in a grantee's own country enroute to or returning from a foreign destination.

Except where the grantee is a State or local government, prior approval is required for domestic travel in any budget period that will cause the amount identified in the approved budget for such travel to be exceeded by \$500 or 25 percent of the budgeted amount, whichever is greater, and PHS prior approval is required for each foreign trip and attendant travel expenditure. (See Prior Approval Requirements Including Rebudgeting under "General Policies" for prior approval authorities.)

The costs of transporting patients to the site where services are being provided are allowable, including costs of public transportation. Such costs should be reasonable with regard to the number of trips, cost per trip per person, destination, and mode of transportation, among other considerations. The purchase of motor vehicles for this purpose may be allowable provided the purchase is treated as an item of general-purpose equipment and prior approval is obtained from PHS.

Grantee institutions may request and PHS may authorize the use of project funds to cover travel costs associated with and necessary to an individual's training and incurred within the period of training. However, these travel costs may not include travel between the trainee's or fellow's place of residence and the training institution, 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. Fellows and trainees training at foreign sites may receive round-trip travel fare.

In all cases, travel costs are limited to the extent provided by formal institutional travel policy except that in the case of air travel, less than first-class travel on U.S. carriers must be used

when available. If the grantee institution has no formal travel policy, HEW travel regulations shall be applied in determining the amount for travel chargeable to grant funds. PHS should be consulted about special conditions that may pertain to travel to Alaska, Hawaii, and U.S. territories.

Tuition and Related Costs.

Employees of the grantee institution: Tuition and related costs for employees other than students are allowable when the training is required to gain specific skills or information needed for the successful prosecution of the objectives of the project funded by the grant to which the tuition will be charged. The instruction is not to be given primarily to fulfill the requirements for an academic degree for the employee for whom the tuition support is to be paid. (See Fringe Benefits under this section.) Other tuition costs, for example, in grants to institutions of higher education, remission of tuition and fees for students working on grant-supported projects, are also allowable as direct charges under the conditions stipulated in Salaries and Wages under this section.

Trainees and fellows supported under grants: When allowable, tuition and fee allowances are charged only to the extent that the same resident or nonresident tuition and fees are charged to regular non-federally supported students.

Indirect Costs

Indirect costs are the costs incurred by an organization that are not readily identifiable with a particular project or program but are nevertheless necessary to the operation of the organization and the performance of its programs. The costs of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs.

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

1. All training grants except those to State and local government agencies will be reimbursed at 8 percent of total allowable direct costs or actual indirect cost rate, whichever is less. Grants to State and local government agencies will be reimbursed at their full indirect cost rate.
2. Indirect costs on Research (Career) Development Awards, if allowable by the program, will not be reimbursed in excess of 8 percent of total allowable direct costs.
3. Indirect costs will not be paid on fellowships, foreign grants (except to American University, Beirut), construction grants, or grants to individuals.
4. 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 PHS.

5. Grants on which indirect costs are limited or prohibited by law or regulation will be awarded in accordance with the legal or regulatory restrictions.
6. When the grantee waives reimbursement of full indirect costs.

Establishment of Indirect Cost Rates

In order to be reimbursed for indirect costs, a grantee institution 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 Office of the Regional Comptroller in the HEW region in which the grantee is located. (If the grantee is under the negotiation cognizance of an agency other than HEW, instructions will be provided by the appropriate Federal agency.) The proposal must be submitted in a timely manner to assure recovery of the full amount of allowable indirect costs, and it must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved. Further information concerning the establishment of indirect cost rates, including special procedures for certain local government agencies, is contained in *HEW Grants Administration Manual* Chapter 6-100. HEW has published brochures (listed below) describing the procedures involved in the computation and approval of indirect cost rates. A single copy of a brochure may be obtained from the Office of the Regional Comptroller. 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 Rates for Research Grants and Contracts with the Department of Health, Education, and Welfare.*
(Rev)
- 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, Education, and Welfare.*
(Rev)
- OASC-5 *A Guide for Non-profit Institutions—Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Grants and Contracts with the Department of Health, Education, and Welfare.*
(Rev)
- OASC-6 *A Guide for State Government Agencies—Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Department of Health, Education, and Welfare.*
- OASC-8 *A Guide for Local Government Agencies—Establishing Cost Allocation Plans and Indirect Cost Proposals for Grants and Contracts with the Federal Government.*

Indirect costs may also be paid to subgrantees and cost-type contractors under a grant-supported project. In such cases, the grantee institution will be responsible for negotiating appropriate

indirect cost rates with subrecipients unless the subrecipient has negotiated an indirect cost rate directly with HEW, that is, if the organization is also a direct recipient of HEW support. Negotiations between the grantee and the subrecipient should be based on the cost principles applicable to the subrecipient.

Special Indirect Cost Rates

Normally, a single indirect cost rate is established and is applicable to all activities conducted by the institution. Special rates should be established if the use of a single rate would result in a grossly inequitable distribution of costs. A special rate may be required where the grant-supported 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, are not applicable to the activity. An "offsite" rate would treat costs associated with such a location as a separate indirect cost pool. Other special rates might be developed for special laboratories, centers, or facilities where some of the costs of overhead, normally charged to indirect costs, are charged as direct costs in the overall conduct of the project. (See Chapter HEW:6-110.)

Joint Rates

Indirect costs for services provided to a grantee institution by an affiliated but separately incorporated organization may be reimbursed either under a rate established for the grantee institution that includes these costs or under a joint rate. The former is used when the costs have been charged to and paid by the grantee institution; the latter, when the award is made jointly to the affiliated institutions and the costs for services have been claimed in an indirect cost rate proposal but are not being charged to and paid by the recipient institution. (See Chapter HEW:6-120.)

Award and Settlement of Indirect Costs

Currently effective indirect cost rates are circulated throughout HEW by means of published Negotiation Agreements. Each applicable award to a grantee institution with a currently effective rate will contain indirect costs calculated on the basis of that rate.³ For policies and procedures governing the reimbursement of indirect costs, see Chapter HEW:6-150. For procedures applicable to the reimbursement of indirect costs on training grants (except those to State or local government agencies), see Chapter HEW:6-160.

³ For NIH research grants, indirect costs are awarded separately under the Indirect Cost Management System.

In the event that a grantee institution is delinquent in the submission of its indirect cost proposal and does not have a currently effective indirect cost rate, no indirect costs will be included on the Notice of Grant Award. If a rate is subsequently established, based on late submission of an indirect cost proposal, additional funds may be provided to reimburse a portion of applicable indirect costs. In those instances where a currently effective indirect cost rate is not available at the time of award because the grantee has never established a rate with HEW and is unable to establish its initial rate prior to the date of award, a provisional amount for indirect costs may be included in the award and a subsequent amendment may permit full reimbursement of applicable indirect costs.

Subsequent adjustments to indirect costs may be necessary if a provisional rate is used in the computation of such costs, or if, as a result of rebudgeting of grant funds, there is a change in the direct cost base on which the indirect costs are calculated. After establishment of the final indirect cost rate or after determination of the actual direct cost base, grantees must promptly report required adjustments in accordance with procedures set forth in Chapter HEW:6-150. Additional funding, if necessary, will be provided subject to the availability of funds.

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 as direct or indirect costs. Typical examples of such transactions are purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental supplies or services; and adjustments of overpayments or erroneous charges.

During a project period, applicable credits to charges made to PHS grants should be credited to the active grant account upon receipt. Those received after the completion or termination of a project must be returned to PHS unless otherwise instructed.

PAYMENT

In an effort to minimize the impact of withdrawals on the public debt level and related financing costs, the U.S. Treasury has issued regulations governing the flow of Federal cash to recipient organizations. Thus, grant payments are made by one of three methods: (1) letter of credit, (2) monthly cash request (also termed "advance by Treasury check"), and (3) reimbursement by Treasury check. Most PHS discretionary project grants are paid through the Departmental Federal Assistance Financing System (DFAFS), which uses the three payment mechanisms outlined below. Payments under formula grants to States and under some construction grants may be made by the other payment systems operated by the Public Health Service, namely, the Letter of Credit System or the Regional Payment System. Grantees will be advised of the payment method to be used by the designated payment office.

Letter of Credit

This method of payment was established to facilitate cash availability through utilization of Federal Reserve Banks and the grantee organization's commercial bank. Under this system, a grantee organization may withdraw cash from its own bank as it is needed to meet expenditures chargeable to grant funds based on the letter-of-credit document, which indicates a dollar amount available for a specified period of time.

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

1. Annual aggregate advance financing exceeds \$250,000.
2. The grantee has established or demonstrated to HEW the willingness and ability to establish 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 HEW.

Monthly Cash Request

Under this method of payment, grantee institutions must request grant funds monthly, based on anticipated disbursements

during the succeeding month. U.S. Treasury regulations provide that the amount of cash in the hands of the recipient organizations should not at any time exceed 1 month's needs. This method is generally used when the grantee does not qualify for payment under the letter-of-credit method.

Reimbursement by Treasury Check

Payment is made to the grantee with a Treasury check upon request for reimbursement from the grantee. Requests for reimbursement are to be submitted monthly. This method can be used for construction grants. (See 45 CFR 74, Subpart K.)

Secondary Recipient Advances and Withdrawals

Advances made by the grantee to secondary recipients (e.g., subcontractors, delegate agencies, participants in a consortium arrangement or collaborative agreement) must conform to substantially the same standards of timing and amount that govern advances made by the Government to the grantee under the above-mentioned payment methods.

The grantee is encouraged to develop procedures for fund withdrawals by secondary recipient organizations whereby such organizations can only draw funds as they are needed for disbursement.

Assignment of Payments (Chapter PHS:1-82)

Grantees are permitted, under some circumstances, to assign to financial institutions payments due under certain grant awards.

When the grant provides for payment *after* incurrence of costs and it is a discretionary project grant or formula grant that requires the grantee to apply for funds on a project basis, assignment is permissible.

When the method of payment is by letter of credit or another advance payment mechanism, assignment is not appropriate.

Requests to assign payments should be submitted to the designated Grants Management Officer.

REFUNDS AND CREDITS

Refunds and Rebates.—When refunds or rebates result from the expenditure of grant funds, they should be treated as offsets to the particular expense item in the grant account, not as grant-related income (see below). Those received after the completion or termination of the project period should be returned to PHS unless otherwise instructed. (See Applicable Credits under "Costs.")

Grant Completion or Termination.—At the completion or termination of a grant, any unencumbered balance of cash advanced to the grantee must be returned to the Government or be reflected by an appropriate accounting adjustment in accordance with instructions from PHS.

Grant-Related (Program) Income.—Such income is subject to disposition and use at the option of PHS. (See Grant-Related (Program) Income under "General Policies.")

1. Royalties: See Grant-Related (Program) Income under "General Policies."
2. Sale of real and tangible personal property: See Property Management under "General Policies."
3. Other grant-related (program) income: Such income is subject to disposition and use at the option of PHS. Interest earned on reserve funds established with grant-related income pursuant to section 50.107(d) of 42 CFR 50, Subpart A, Health Services Funding, shall be treated as other grant-related income.

Interest Earned on Advances of Grant Funds.—Except for grants to States, as defined by section 203 of the Intergovernmental Cooperation Act of 1968, or where governing programmatic regulations indicate otherwise, the amounts must be refunded to the Government.

CHANGES IN PROJECT

Beginning Date

Necessary changes in program beginning dates should be requested prior to the issuance of an award document. Any expenses incurred prior to the official beginning date are not allowable unless authorized in writing by the official delegated responsibility to obligate Federal funds and included in the grant award. (See Preaward Costs under "Costs.")

Changes in Protocol or Scope (Chapter PHS:2-400)

The principal investigator or project director of the approved project may make minor changes in methodology, approach, or other aspects of the project to expedite achievement of the project's objectives.

Major changes in scope, direction, the type of service delivery or training, or other significant areas must be submitted to PHS for prior approval.

In the event of uncertainty, questions are to be referred to PHS for a final determination.

Temporary Absence of Project Director or Principal Investigator

Whenever absence of the project director or principal investigator is anticipated to exceed a continuous period of 3 months, the plans for conducting project activities during such absence must be sent to PHS for approval, where required by the terms and conditions of the award. This information must be provided in a letter signed by an authorized official of the grantee institution at least 30 days before departure of the project director or principal investigator, or as soon as it is known that he/she will be absent. In the case of research grants or other types of grants where the basis for approval of the grant was dependent on the qualifications of the individual project director or principal investigator, the grant may be terminated if the arrangements made by the grantee are not approved by PHS.

Withdrawal of Project Director or Principal Investigator

If the project director or principal investigator relinquishes or expects to relinquish active direction of the project, PHS must be notified immediately. In such case, if the grantee organization wishes to terminate the project, PHS will forward procedural instructions upon receipt of written notice of such intent. If the grantee institution wishes to continue the project, it is responsible for selecting a replacement and, where required by the terms and conditions of the award, obtaining PHS approval of the selection. A biographical sketch and necessary additional details as requested must be submitted to PHS, whose approval or disapproval will be based on a review of the qualifications submitted. In the case of research grants or other types of grants where the basis for approval of the grant was dependent on the qualifications of the individual project director or principal investigator, the grant may be terminated if PHS does not approve the arrangements made by the grantee.

Completion Date

The completion date is the date when all work under a grant is completed or the date in the Notice of Grant Award, or any supplement or amendment thereto, on which PHS grant support is scheduled to end.

When a grantee determines that a project may not effectively be brought to a close prior to the completion date and a competing extension has not been approved for funding, the grantee may request a noncompeting extension not to exceed 12 months. The request should be in writing, stating the reason, the expected completion date, and additional funds necessary, if any. All such requests should be made prior to the expiration of the currently active grant. Negotiation regarding extension may also be at the initiative of PHS.

Suspension (Chapter PHS:1-500)

When a grantee has materially failed to comply with the terms and conditions of a grant, PHS may, after reasonable notice to the grantee, suspend the grant. No obligations incurred by the grantee during the period of suspension shall be allowable under the suspended grant; however, PHS may at its discretion allow necessary and proper costs that the grantee could not reasonably avoid during the period of suspension, provided that such costs would otherwise be allowable. Suspensions shall remain in effect until the grantee has taken corrective action to the satisfaction of PHS, or has given assurances satisfactory to PHS that corrective action will be taken, or until PHS terminates the grant.

Termination (Chapter PHS:1-500)

Termination for Cause

The PHS may terminate a grant in whole or in part any time before the date of completion if it has been determined that the grantee has failed in a material way to comply with the terms and conditions of the grant. PHS will promptly notify the grantee in writing, stating the reasons for the termination and the effective date. Payments to grantees or recovery of funds by the Government shall be made in accordance with the legal rights and liabilities of both parties. Termination for cause is appealable. (See Appeals Procedures under "General Policies.")

Termination on Other Grounds

Except as provided above under Termination for Cause, PHS grants may be terminated in whole or in part only as follows:

1. By PHS with the consent of the grantee, in which case the two parties shall agree on the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated.
2. By the grantee, upon written notification to PHS setting forth the reasons for such termination, the effective date, and, in the case of partial terminations, the portions to be terminated, subject to the paragraph above entitled "Changes in Protocol or Scope."

When a grant is terminated, the grantee shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible. PHS shall allow full credit to the grantee for the Federal share of noncancellable obligations properly incurred by the grantee prior to termination.

Withholding of Support (Chapter PHS:1-85)

The PHS may withhold the award of a noncompeting continuation grant within a previously approved project period for justifiable reasons. Such reasons may include one or more of the following:

1. The grantee is delinquent in submitting required reports (Chapter PHS:1-42).
2. Adequate Federal funds are not available to support the project.
3. The grantee fails to show satisfactory progress in achieving the objectives of the project or otherwise fails to meet the terms and conditions of the award.
4. The grantee's management practices fail to provide adequate stewardship of Federal funds.
5. Any other reason that would indicate that continued funding would not be in the best interests of the Government.

The decision to withhold grant support is not appealable under either the PHS or the HEW appeals procedure.

Change of Grantee Institution

A change of grantee institution 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 prior to the completion date of the grant being transferred. Such a change may be accomplished with respect to any PHS discretionary project grant (including construction grants) except foreign grants, but only when all of the following circumstances are present:

1. The grant must have been terminated (a) for cause, (b) by PHS with the consent of the grantee, or (c) unilaterally by the grantee; or
2. The award of a noncompeting continuation grant within a previously approved project period must have been withheld for one of the following reasons:
 - a. The grantee fails to show satisfactory progress in achieving the objectives of the project or otherwise fails to meet the terms and conditions of the award.
 - b. The grantee's management practices fail to provide adequate stewardship of Federal funds.
 - c. Any reason where the grantee's actions form the basis for the determination that withholding support is in the best interests of the Government.
3. The need for the grant-supported project or activity that existed at the time of the original award must continue to exist at the time of the proposed award to the new grantee institution, and there must be no significant change or reduction in the scope or objectives of the project or activity.
4. The change of grantee institution must be made in a timely manner.

In addition to the above, when the principal investigator on a research project transfers from one domestic institution to another domestic institution, the project in behalf of 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 the remaining period. Support may continue at the new institution without competitive review provided that (1) the original grantee institution agrees in writing to relinquish the project, (2) the investigator plans no significant change in research objectives and level of expenditure from that proposed for the project as originally approved, and (3) the new institution submits a new application form for support of the project. If either (1) or (2) of the above provisions does not apply, the application will be reviewed as a new application and will compete for available funds.

All change of grantee institution actions should normally be undertaken with the written consent of the original grantee, relinquishing its rights to the project.

Under certain circumstances, equipment may be transferred from one institution to another. (See Property Management under "General Policies" for details.)

Successor in Interest and Name Change Agreements (Chapter PHS:1-504)

As a result of legislative changes or other legal action affecting the legal status of a grantee institution, such as mergers, divestiture, or other corporate change, PHS may recognize a new grantee institution as the successor in interest in the assets involved in the performance of PHS grants. A format for such agreement should be requested from PHS.

REPORTING REQUIREMENTS

Certain reports are required at varying intervals, depending on the purpose of the report and the needs of the programs. The principal ones are the following:

Immediate Reporting

Inventions

Annual Reports

Progress Report (Program Performance Report)

Report of Expenditures (Financial Status Report)

Final Reports

Invention Statement and Certification

Progress Report (Program Performance Report)

Report of Expenditures (Financial Status Report)

Other specialized reports may be required by individual programs. In addition, grantees are required to submit certain reports to the appropriate payment points in accordance with their instructions. Information on the above-listed reports is set forth below.

Inventions

A complete written disclosure of each invention conceived or first actually reduced to practice in the course of or under a PHS grant shall be provided promptly by the grantee and, in any event, prior to a publication describing the invention, in the form specified by the Assistant Secretary for Health. (See Patents and Inventions under "General Policies" for exceptions to the invention reporting requirements.)

In addition to the immediate reporting, each application for competing extension or continuation support of a PHS grant to which this portion of the reporting requirement has been applied requires 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 completion or termination of support of a 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 completion 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 of the institution authorized to sign on behalf of the institution.

Progress Reports (Program Performance Reports)

Interim Reports

Interim progress reports must be submitted with all applications for competing extension or continuation support in accordance with the instructions accompanying the application forms.

Under formula grant programs which require the approval of a State Plan or application and which are subject to the simplified system of administration, the States will be required to report program performance in accordance with specific instructions promulgated by the offices administering the various formula grant programs. (See Formula Grants under "Application and Funding" and Chapter PHS:5-501.)

Terminal Reports

Three copies of a terminal progress report must be submitted to PHS within 90 days after the end of a project. The report should be prepared in accordance with instructions provided by the office from which the grant was received 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.

Report of Expenditures (Financial Status Report)

A report of expenditures is required as documentation of the financial status of grants according to the official accounting records of the grantee institution. The report must be submitted for each budget period (usually 12 months) no later than 90 days after the close of the budget period. The report must cover any extension in time of the budget period authorized by PHS. The final report of expenditures, which must be submitted within 90 days of the completion of a grant, must have no unliquidated obligations and must indicate the exact balance of unobligated funds.

(See Chapter PHS:1-500 for accounting requirements for grants that have been terminated.)

Delinquent Reports

Grantee's failure to submit required reports may be a basis for withholding future support. (See Chapter PHS:1-42.)

Requests for Waiver

In unusual cases, the requirement for some reports may be waived or the submission date extended when officials of the grantee institution are able to demonstrate to the satisfaction of PHS that the report cannot be furnished in a timely manner for reasons legitimately beyond the control of the grantee institution.

GENERAL POLICIES

Acceptance of Grant Terms and Conditions

A grantee indicates acceptance of the terms and conditions of a grant by requesting funds from the grant payment system (see Payment section) and expending such funds for grant purposes. This policy is applicable to all PHS grant awards.

Appeals Procedures (Chapter PHS:1-520)

HEW has a policy of permitting grantees to appeal certain post-award adverse administrative decisions made by HEW officials. For PHS grantees, there are two levels of appeal: a procedure at the PHS level and a procedure at the Department level. If an appeal is pursued, the grantee must exhaust the PHS procedure before appealing to the Grant Appeals Board, Office of the Secretary.

The following decisions may be appealed:

1. Termination, in whole or in part, of a grant for failure of the grantee to conform with the grant terms and conditions.
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 request for permission to incur an expenditure during the term of a grant.
4. A determination that a grant is void.
5. Establishment of indirect cost or patient care rates (except where the grantee has appealed to the Armed Services Board of Contract Appeals with respect to such determination under a contract with the Department).⁴

As a first step in appealing an adverse decision, the grantee must submit a request for review to the appropriate PHS official, as designated in Chapter PHS:1-520, following the procedures contained therein. 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 decision is adverse to the grantee, the

⁴ Appeals of the establishment of indirect cost or patient care rates must be made to the HEW Regional Director prior to appealing to the Grant Appeals Board at the Department level.

grantee has the option of submitting a request to the Department for a further review of the case by the Grant Appeals Board.

Additional details regarding the appeals procedures may be found as follows:

DHEW Grant Appeals Procedure: 45 CFR 16.

PHS Grant Appeals Procedure: 42 CFR 50, Subpart D.

Indirect Cost Appeals: 45 CFR 75.

Citizenship

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 and as direct fellows, except in the case of programs specifically designed for support of foreign nationals. Additionally, 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/her to remain in the country a sufficient length of time to be productive on the project.

Civil Rights

Various laws, regulations, and Executive Orders pertaining to civil rights are applicable to PHS grant programs and grant-supported activities. A summary of these requirements and their applicability follows:

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. An HEW regulation implementing this requirement is published at 45 CFR 80. Every applicant organization is required to have an Assurance of Compliance (Form HEW-441 or 441B) on file with the Office of Civil Rights, Office of the Secretary, HEW, before a grant may be made to that institution.

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.

Title IX of the Education Amendments of 1972 (in particular, section 901 of these 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 education program or activity receiving Federal financial assistance. An HEW regulation imple-

menting this requirement is published at 45 CFR 86. Submission of an assurance is required.

Sections 799A and 855 of the Public Health Service Act, as amended, forbid the extension of Federal support under Titles VII or VIII of that Act, which authorize health manpower and nurse training programs, to any entity that has not filed an assurance (Form HEW-590 or 590B) that it will not discriminate on the basis of sex in the admission of individuals to its training programs. An HEW regulation implementing this requirement is published at 45 CFR 83.

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, solely 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.

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.

Project funds used for alteration and renovation or construction are subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto. (See Alteration and Renovation under "Costs.")

Clearinghouse Requirements of OMB Circular A-95 (Chapter PHS:1-140)

Part I of Office of Management and Budget Circular A-95 requires that an applicant seeking (1) project grant support under most PHS planning, service, and construction grant programs, that is, those having an impact on State, areawide, or local development, or (2) subgrant support from certain PHS formula grant programs where application is made to the State on a project-by-project basis notify the appropriate State and area-wide 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.

This notification should be accomplished as early as possible since the clearinghouses are permitted up to 60 days to review both the notification of intent and any resulting final application. Such reviews must be completed prior to the submission of a final application to PHS. These requirements are generally applicable to new applications, competing extension applications, and sub-

stantive changes or amendments to approved applications under covered programs. For more detailed information regarding these requirements, see Chapter PHS:1-140. Applicants should refer to Chapter 1-140 of the *HEW Grants Administration Manual* for a listing of the applicable programs, and should request the names and addresses of the pertinent clearinghouses from the appropriate Regional Office. (See Health Systems Agencies under this section for additional review requirements.)

Closeout (Chapter PHS:1-462)

Official grant files may be closed out only after certain procedural steps have been completed. These steps include the following kinds of actions:

1. Grantee's submission within 90 days after the completion date of the grant of all required financial, performance, and other reports.
2. Fulfillment of applicable property accountability requirements.
3. Settlement for upward or downward adjustment of the Federal share of costs, as provided in the terms and conditions of the grant.
4. Upon request, prompt payment to the grantee institution for reimbursements due.
5. Prompt refund by grantee of unencumbered balances due PHS.
6. Completion of all required documentation.

These steps will be initiated by the designated PHS Grants Management Officer immediately following the date of completion of a grant and should be completed within 180 days after the grant completion date.

Grants may be closed out prior to final audit, but PHS retains the right to recover disallowed costs resulting from a final audit.

Conflict of Interest

Grantees must establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. Therefore, each institution receiving grant support must have written guides for staff members (administrators, faculty members, professional staff, or employees) and other associated individuals (such as consultants) indicating the conditions under which outside activities, relationships, or financial interests are proper or improper, and providing for notification of these kinds of activities, relationships, or financial interests to a responsible and objective institution official.

Construction Grants

Prior Approval Items (Chapter PHS:4-52)

Contract modifications (change orders) must be approved by PHS before the grantee (owner) may authorize any work represented by a change order when :

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

Contract Bidding and Award Procedures

The bidding on construction contracts under PHS construction grant awards must be conducted to achieve maximum competition among qualified bidders in order to obtain the most reasonable price for acceptable work. Therefore, construction work on PHS-assisted projects must be procured by formal advertising resulting in lump-sum, fixed-price contracts, except where alternate procedures are specifically approved by PHS.

For a large and complex construction project, PHS may authorize use of construction management services. In conjunction with the procurement of these services, PHS may also authorize use of a modification of formal advertising, which provides for prequalification and selective solicitation of bids. Under this procedure, bids are solicited from prequalified sources and a contract is awarded to the lowest responsive bidder, provided there are three or more bids. Use of this procedure in lieu of formal advertising requires adequate justification by the grantee.

In all cases, there must be public opening of bids with adequate documentation of the bid opening proceedings. The award must be made to the qualified bidder submitting the lowest acceptable responsive bid for the construction to be done.

In certain circumstances, such as when the amount of the low bid exceeds the amount of funds available, the owner may negotiate with the lowest responsive bidder, but only with the low bidder and only in terms of specific items.

Use of alternates to the base bid, which are keyed to specified and explicitly stated changes in the project scope, materials, or construction techniques, may be included in the invitation for bids if prior approval is obtained from PHS.

Alternates may be deductive or additive. Deductive 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.

Completion and Liquidated Damages (Chapter PHS:4-53)

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.

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, such sum accrues in total to the owner.

Elimination of Architectural Barriers to the Handicapped in Construction Supported by Grant Funds (Chapter PHS:4-50)

All grants for construction of new facilities, or renovation of existing facilities, to the extent possible, must include provisions for making the facilities accessible to and usable by the physically handicapped. Minimum standards for facilities used by the handicapped are contained in *Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped* (American National Standard A.117.1, 1961; reaffirmed 1971). These minimum standards must be included in the specification for any PHS-funded construction unless the grantee proposes to substitute standards that meet or exceed these standards. Consideration should also be given to the pertinent section of *Occupancy Guide*, Department of Veteran's Benefits, Regional Offices, Veterans Administration.

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

Other Requirements

See Environmental Impact, Flood Insurance, and Relocation Assistance headings under this section.

Cost Sharing in Research Grants (Chapter PHS:2-140 and Chapter PHS:1-400)

Since 1966, the appropriation acts for HEW have stated that "None of the funds provided herein shall be used to pay any re-

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 law on all HEW research grants, except those where the grantee is a Federal institution exempted by law from this requirement. (See Eligibility under this section.) (For policies and requirements governing other types of grants that require the grantee to bear a share of the project costs, see Matching and Cost Participation Requirements under this section.) Grantee institutions may share in the costs of grant-supported research through an institutional agreement negotiated for all HEW research grants and applicable research contracts or by negotiation with PHS on a project-by-project basis. Cost sharing proposals are not required for grants on which program policy prohibits or restricts full reimbursement of indirect costs. Thus, cost sharing requirements on foreign grants and grants to individuals are met through nonpayment of indirect costs.

The grantee contribution toward the project costs may be in any form and for any category of costs, direct or indirect, provided that:

1. The costs are project related and allowable under applicable HEW cost principles.
2. The contribution is from any non-Federal source, including cash or in-kind contributions provided or donated by the grantee or third parties or, under certain circumstances, funds derived from Federal sources (see Matching and Cost Participation Requirements under this section), or is made by a Veterans Administration hospital participating with the grantee in a project.
3. Each item is costed and records are maintained either as part of the formal institutional accounting system or in other institutional documents to support the contribution.
4. The grantee contribution is applied to some extent to each applicable research project and is not counted as cost sharing toward projects of another Federal agency.

Responsibility for negotiating institutional cost sharing agreements applying to all HEW research grants and contracts is assigned to the Division of Grants and Contracts, Office of Resource Management, PHS, 5600 Fishers Lane, Rockville, Maryland 20852. All requests for information and proposals regarding institutional cost sharing should be directed to that office. The responsibility for negotiating project-by-project-type agreements is assigned to the PHS office from which the grant is received.

The amount of cost sharing is not a factor in determining the merit of an application; therefore, cost sharing proposals for an individual project are not required until after the review process. At that time, the applicant will be requested to submit a cost sharing proposal that should be sent directly to the appropriate PHS

office for approval. Such proposals are not required if the grantee has an institutional cost sharing agreement.

Eligibility

Grantee (Chapter PHS:1-00)

Grants are awarded only to nonprofit organizations and institutions, governments and their agencies, and occasionally to individuals. Nonprofit institutions are defined as institutions that 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 nonprofit institutions 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 or State attorney general certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders.
4. A certified copy of the organization's certificate of incorporation that clearly establishes nonprofit status.
5. Any of the above proof for a State or parent organization and a statement signed by the parent organization that the applicant organization is a local nonprofit affiliate.

Federal Institutions

Federal institutions are eligible to receive certain types of PHS grants on the same basis as non-Federal institutions. This eligibility includes, but is not limited to, grants for research, training, and demonstration projects authorized under the PHS Act, as amended. Such grants to Federal institutions can be funded at 100 percent of the costs.

Foreign Institutions and International Organizations

Foreign institutions and international organizations are only eligible to receive research grants (including conference grants eligible for support under the provisions of Chapter PHS:1-530, "Support of Conferences"). Other types of PHS grants, such as for support of training, provision of health services, and construction of health facilities, may not be made to foreign institutions and international organizations unless the program has been spe-

cifically designed for support of programs in a foreign setting and has had prior approval from the PHS agency head. (Occasionally, however, a fellowship award is made to an American citizen or noncitizen national to study in a foreign institution. In these instances, the foreign institution may request and receive an institutional allowance to cover the costs of training. See Stipends and Allowances under this section.)

Proposed foreign research projects must compete with domestic research applications for available funds, and the proposed health research project must be able to further the mission of the grant program and advance significantly the status of the health sciences in the United States.

Trainees and Fellows

Trainees supported under a training grant and individuals directly 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.

Funds may not be used for the following purposes:

1. The support of any trainee or fellow who, because of age, physical or mental condition, or other relevant factor, would not in the judgment of the program director or sponsor be able to use the training or meet the institution's minimum qualifications for the training involved.
2. The continuation support of a trainee or fellow who has failed to demonstrate satisfactory progress.
3. The support of training for M.D., D.D.S., D.V.M., D.O., or similar degrees.⁵
4. Residency training, unless specifically approved by PHS.

Environmental Impact (Chapter PHS:1-503)

The National Environmental Policy Act of 1969 (NEPA) (Public Law 91-190) establishes national policy goals and procedures for protecting and enhancing the environment. The provisions of this Act govern all Federal agencies and require 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. Thus, the Act pertains to activities supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance.

To administer the provisions of NEPA, HEW requires that the environmental aspects of all requests for assistance involving construction projects, and certain requests for assistance in-

⁵ Section 772 (a) (11), PHS Act, authorizes grants for certain types of undergraduate medical and osteopathic preceptor training in areas of severe physician shortage.

volving nonconstruction projects and formula grants, must be reviewed and evaluated by the technical staff of the HEW reviewing office prior to approval or other action on the application (see below). With regard to nonconstruction project grants and formula grants, PHS agency heads are responsible for "screening out" activities or programs that may have little environmental impact and for publicizing the results of their screening efforts. Lists of screened-out activities will be published in the *Federal Register*.

In addition, it is the Department's policy in complying with NEPA to include public comment and participation as a part of the environmental impact review process. In this regard, potential applicants for construction projects and non-screened-out activities under programs subject to HEW's Project Notification and Review System (see Clearinghouse Requirements of OMB Circular A-95 under this section) are required to include in their notification to State and areawide clearinghouses a request for comments on the potential environmental impact of the project and to transmit such comments with the completed application when submitted.

Project Grants

Construction

All applications for assistance for construction shall be accompanied by the applicant's own environmental analysis, separately bound, to facilitate review and evaluation by the technical staff of the HEW reviewing office prior to approval or other action on the application.

Nonconstruction

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. In such case, an environmental analysis shall be provided with the application.

Formula Grants

State agencies receiving formula grant funds are subject to the requirements of NEPA. Therefore, in its review of State plans or applications, PHS must be assured that the State agencies have established procedures for insuring compliance with NEPA and that the procedures are in accordance with those contained in the *HEW General Administration Manual*, Part 30.

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. 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.

Financial Evaluation of Grant Applications (Chapter PHS:6-500)

Financial evaluation of grant applications involves (1) performing a cost analysis of each project grant application approved for funding by PHS and (2) determining the adequacy of the applicant institution's accounting system to insure that Federal funds, if awarded, will be expended in a judicious manner.

A cost analysis is the process of obtaining cost breakdowns, verifying cost data, evaluating specific elements of cost, and examining data to determine the necessity, reasonableness, and appropriateness of the proposed cost. The form and extent of such an analysis will be determined by the Grants Management Officer reviewing the application.

Where a prospective grantee has had no prior governmental grants or cost-reimbursement contracts, the applicant institution's accounting system must be reviewed prior to award or within a reasonable time thereafter to assure its adequacy and acceptability. This review will also apply where known financial or management deficiencies exist. Such a review will be undertaken by or at the direction of the Grants Management Officer. The results of the review will determine the action to be taken by PHS with regard to the award.

Flood Insurance

The Flood Disaster Protection Act of 1973 (Public Law 93-234) provides that no Federal financial assistance for acquisition or construction of property may be provided in identified special flood areas in the United States unless, within 1 year after the affected community has been notified that it is flood prone, the community participates in the National Flood Insurance Program, and flood insurance is purchased. 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 formula grant programs where PHS approves or ratifies the expenditure of funds for acquisition or construction on a project basis.

Grant-Related (Program) Income

The grantee is accountable to PHS for grant-related income generated by PHS grant-supported activities. Some examples of grant-related income are proceeds from the sale of products or services produced by grant-supported activities, such as laboratory tests or computer time, payments received from patients or third parties for medical or hospital services provided under a project, fees received for personal services performed in connection with and during the period of the grant-supported activity, proceeds from the sale of assets purchased with project funds, and royalties from copyrights on publications developed under or patents on inventions conceived or first actually reduced to practice under a grant-supported project.

Records of the receipt and disposition of grant-related income must be maintained by the grantee in the same manner as required for the grant funds that gave rise to the income.

Disposition

The policies governing the disposition of the various types of grant-related income are as follows:

1. All program income earned during the period of PHS grant support except royalties and proceeds from the sale of real property or tangible personal property shall be retained by the grantee and shall be treated in accordance with one or a combination of the following options as set forth in the grant's terms and conditions:
 - a. Used by the grantee for any purposes that further the objectives of the legislation under which the grant was made.
 - b. Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

If the terms and conditions of the grant do not specify disposition, the grantee shall select one or a combination of the above options.

2. Royalties

Royalties received by grantees from copyrights on publications or other works developed under PHS grants or from patents on inventions conceived or first actually reduced to practice in the course of or under a PHS grant (see Patents and Inventions under this section) shall be treated as follows:

- a. Royalties received during the period of grant support as a result of copyrights or patents shall be retained by the grantee and, in ac-

- accordance with the terms and conditions of the grant, be disposed of under either or a combination of the options listed in 1 above.
- b. Royalties received after the completion or termination of grant support as a result of copyrights may also be retained by the grantee, unless the terms and conditions of the grant provide otherwise or a specific agreement governing such royalties has been negotiated between PHS and the grantee, except that for grantees that are State or local governments, in the absence of a specific agreement, the Federal share of royalties in excess of \$200 received annually shall be returned to the Federal Government. The Federal share of the royalties will bear the same ratio as the percentage of Federal participation in the cost of the grant-supported project.
 - c. Royalties received after the completion or termination of grant support as a result of patents shall be governed by agreements between the Assistant Secretary for Health, HEW, and the grantee pursuant to the Department's patent regulations (45 CFR 6 and 8).
3. Sale of Property
Proceeds from the sale of real and tangible personal property acquired under a PHS grant-supported project shall be handled in accordance with the property management policies and procedures under this section.

Interest

In accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), the States and any agency or instrumentality of a State, including State institutions of higher education and State hospitals, shall not be held accountable for interest earned on advances of grant funds. All other grantees, including local governments, shall remit such interest to the Federal Government, except where governing programmatic regulations indicate otherwise.

Interest received by grantees as a result of investing program income should be retained by the grantee and treated as additional program income in accordance with paragraph 1 above.

Tuition and Related Fees

Tuition and related fees received by an institution of higher education for a regularly offered course taught by an employee performing under a grant shall not be treated as grant-related income.

Health Systems Agencies

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 (HSA's) 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 its health service area. (See Title XV of the PHS Act and 42 CFR 122 for the applicability of this requirement and associated procedures.)

HSA's are required to coordinate their activities and should seek to enter into a written agreement with each A-95 Agency whose area of responsibility is in whole or in part in the HSA's health service area. Such agreements should provide for concurrent reviews of relevant proposed uses of PHS funds to assure complementary actions. (See Clearinghouse Requirements of OMB Circular A-95 under this section.)

Human Subjects (45 CFR 46)

Safeguarding the rights and welfare of human subjects involved in activities supported by PHS grants is the responsibility of the institution that receives or is primarily accountable to the Government for the funds awarded for the support of the activity. This policy applies to grantee institutions performing research, development, demonstration, or other activities that include as participants individuals who may be placed "at risk" because of their participation. An individual is at risk if he/she may be exposed to the possibility of physical, psychological, or social injury. These individuals must be protected in accordance with the provisions of the above-referenced regulation.

In order to provide for the adequate discharge of this institutional responsibility, no grant for an activity involving human subjects shall be made unless:

1. An assurance of compliance with HEW policy regarding the protection of human subjects has been submitted by the grantee institution and is found acceptable by HEW. (See 45 CFR 46 for the requirements for general and special assurances.)
2. A properly constituted committee of the grantee institution has reviewed and approved such activity and a certification is submitted with the grant application stating that it has been reviewed in accordance with the institution's approved assurance. This certification must be submitted annually on the basis of continuing review of the grant-supported project.

The Office for Protection from Research Risks, National Institutes of Health, Bethesda, Maryland 20014 is responsible for the implementation and enforcement of this policy for HEW. Information concerning the preparation and negotiation of assurances may be obtained from that office.

Information Collection (Chapter PHS:1-11)

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, grantees may use PHS grant funds to collect information under either of 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 Government-designated third party.

When information is collected under grants in accordance with either of the two conditions above, grantees shall be prohibited from representing to their respondents that the information is being collected for or in association with PHS unless PHS approval has been obtained or the Office of Management and Budget (OMB) report clearance procedures have been followed. (See Report Forms Clearance by OMB under this section.)

Laboratory Animals, Care and Treatment (Chapter PHS:1-43)

Institutions and organizations using live, warm-blooded animals in projects or activities supported by funds from PHS grants must provide written assurance to the Office for Protection from Research Risks, NIH, that they will evaluate their animal facilities on a continuing basis with regard to the care, use, and treatment of such animals.

The assurance must describe either (1) accreditation by a recognized professional laboratory animal accrediting body or (2) the establishment of a committee to evaluate the care of all live, warm-blooded animals held or used for activities supported by PHS grants. It must also commit the institution to comply with applicable portions of the Animal Welfare Act (Public Law 89-544, as amended) and to follow the guidelines prescribed in HEW Publication No. (NIH) 74-23, *Guide for the Care and Use of Laboratory Animals*.

Matching and Cost Participation Requirements (Chapter PHS:1-400)

Some PHS programs require that expenditures from grant funds be matched proportionately by expenditures from other

funds or that the grantee participate to some extent in the cost of a project. Costs used to satisfy the grantee's matching or cost participation requirement may be financed from the following:

1. Any non-Federal source, including cash or in-kind contributions provided or donated to the project by the grantee or by third parties. (For details regarding the valuation of in-kind contributions, see Chapter PHF:1-400.)
2. Grant-related (program) income, other than certain income from royalties and income from the sale of real or tangible personal property, when the grantee is authorized to expend such income to further the purposes of the legislation under which the grant was made.
3. Funds derived either directly or indirectly from Federal sources that are received as fees, payments, or reimbursements for providing a specific service, such as patient care reimbursements received under Medicare or Medicaid.
4. Any Federal grant or contract awarded under a statute that specifically authorizes that funds provided under such grant or contract may be used to satisfy matching requirements on other Federal grants.
5. Federal funds received under grants or contracts whose expenditures need not be accounted for to the Federal Government.

Unless otherwise authorized by legislation or regulation, costs used to satisfy the grantee's matching requirements may not be borne from the following:

1. Direct Federal grants, subgrants made from other Federal grants, or Federal contracts, which provide general financial support to the project as opposed to the purchasing of services mentioned above. This prohibition includes costs financed by entitlement funds under the State and Local Assistance Act of 1972 (General Revenue Sharing).
2. Costs or contributions used as matching, cost sharing, or cost participation on other grants. However, when a contribution is related to two or more grants, it may be prorated among the grants involved.

The above provisions regarding the allowability and unallowability of the sources of financing grantee participation in the costs of a project are also applicable to cost sharing in research grants. (See Cost Sharing in Research Grants under this section.)

Merit Systems, Standards for Personnel Administration, and Affirmative Action Plans for Assuring Equal Employment Opportunity (Chapter PHS:5-150)

State and local government agencies receiving funds under formula grant programs that are subject to merit system requirements must develop and maintain a merit system of personnel administration, including an affirmative action plan to assure equal employment opportunity. These requirements are set forth in the "Standards for a Merit System of Personnel Administration," March 1971, "An Equal Opportunity Program for State and Local

Government Employment," July 1970, Civil Service Commission, and Chapter PHS:5-450.

Under those programs where merit system requirements are applicable, review of a State's compliance with Federal merit system standards, including review of its affirmative action plan, will be accomplished as part of the review and approval process for the overall State Plan or application required as a condition of the grant. (See Formula Grants under "Application and Funding.") The recipient State agency shall require similar plans from local governments receiving assistance from the formula grant.

Any one of a variety of types of merit system organizations covering substantially all employees in a State or local government would meet the requirements if it adequately provides for impartial administration, and the system and its administration are in conformity with the merit system standards. In the absence of such an approved system, a State may establish a cooperative interagency merit system for the grant-aided agencies covered by the merit system standards. Technical assistance and review are provided by the Bureau of Intergovernmental Personnel Programs, Civil Service Commission.

Military Service

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

Minority-Owned and Small Businesses (Chapter PHS:1-46)

In order to stimulate minority-owned and small business enterprises and to enable them to exercise a more effective role in the commercial life of the Nation, PHS grantees and third parties performing under grants shall make positive efforts to use such enterprises in the acquisition of services or products, including banking, construction, alteration and renovation, consultant and other services, and procurement of supplies and equipment required in the performance of the grant-supported activities.

Grantees must make an effort to become aware of those small business enterprises and minority-owned business enterprises that are competent to perform the services or provide the products needed so that such firms are included in invitations for bids or requests for proposals. Grantees should also make use of the advice and assistance available from Government organizations.

Motion Pictures and Television Programs

Grantees may use grant funds to produce motion picture films, video tapes, and live television programs in connection with ful-

filling the objectives of a grant-supported project. In all such cases, however, prior approval of PHS is required. Particular care must be exercised to assure that a motion picture or television program to be produced with grant funds is essential to the successful performance of the project and that it carries an acknowledgment of grant support. Such acknowledgment should be expressed in the following language or its equivalent:

The production of this motion picture (television program) was supported by Grant No. from (*name of awarding agency*). However, its contents are solely the responsibility of (*name of grantee organization*) and are in no way the responsibility of (*name of awarding agency*).

Multijurisdictional Areas—Coordination of Planning (Chapter PHS:1-143)

Part IV of Office of Management and Budget 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 a common and consistent geographic basis for planning and development activities. When a PHS formula grant program requires that the State be divided into geographic areas for purposes of planning, assigning service responsibilities to local agencies, dispersion of needed facilities or other resources, or for assignment of funding priorities or when a PHS discretionary grant program 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 nonconformance. 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 formula grant programs this is accomplished through the Governor's review of the State Plan or application; for discretionary project grants the review will be accomplished during review of the application by the State A-95 clearinghouse (see Formula Grants and also Clearinghouse Requirements of OMB Circular A-95 under "Application and Funding.") Where planning and development districts or regions have not been established, major units of general local government and the appropriate Federal Regional Council must also be consulted.

For grant programs supporting areawide planning activities, if the grantee is other than an areawide planning agency designated under Part I of OMB Circular A-95, the grantee shall coordinate its activities and seek to enter into a memorandum of agreement with that agency (see Clearinghouse Requirements of OMB Circular A-95 and also Health Systems Agencies under this section). 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 which have been agreed upon as the basis for planning in the area.

Notification to Unsuccessful Applicants (Chapter PHS:1-64)

A written notice will be sent to each unsuccessful applicant within 30 days after the decision has been made to disapprove, defer, or otherwise not to fund the application during the normal funding cycle. This policy is applicable to all PHS discretionary project grant programs, both construction and nonconstruction.

Objective Review of Grant Applications

All discretionary grant awards subject to competitive review will be based on a system of objective review involving persons outside the immediate organization in which the grant award authority is vested.

The review system, which is established by each PHS Agency Head for centralized programs and each PHS Regional Health Administrator for decentralized programs, must set forth guidelines and criteria against which applications will be reviewed in order to obtain uniformity and comparability among reviewers.

The reviewers must perform a thorough and consistent examination of all applications and provide advice to awarding officials based on independent evaluation of scientific or technical merit. The reviewers must be persons knowledgeable in the field of endeavor for which support is requested, they must be free of any direct relationship with the institution submitting the application, and their actions must be free of any conflict of interest or appearance thereof.

Objective review of grant applications is intended to be advisory and not to replace the authority of the awarding official to decide whether a grant shall be awarded. Such decisions are based not only on the recommendations resulting from the objective review process but also on stated programmatic priorities and the availability of funds.

Patents and Inventions

Policy

In accordance with HEW patent regulations, all inventions made in the course of or under any PHS grant shall be promptly and fully reported to the Assistant Secretary for Health, HEW, except that recipients of fellowships, traineeships, or scholarships, whether funded through a PHS grant or awarded directly, shall not be made subject to these requirements where the purpose of the award is primarily to support the individual's education rather than to support research and the individual is not a Government employee. (See 45 CFR 6 and 8). Instructions for the proper method of reporting should be requested from the Patent Branch, Office of General Counsel, HEW.

As used in this provision, the stated terms are defined as follows:

1. "Invention" or "invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, that is or may be patentable under the Patent Laws of the United States.
2. "Made" when used in relation to any invention or discovery means the invention was conceived or first actually reduced to practice during the course of the grant.

Determination

Determination as to ownership and disposition of invention rights, including whether a patent application shall be filed, and if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent that may issue, shall be made either:

1. By the Assistant Secretary for Health whose decision shall be considered as final or
2. Where the institution has a separate formal institutional agreement with the Department, by the grantee institution in accordance with that agreement.

Patent applications shall not be filed on inventions under item 1 above without prior written consent of the Assistant Secretary for Health or his representative. Any patent application filed by the grantee on an invention made in the course of or under a PHS grant shall include the following statement in the first paragraph of the specification:

The invention described herein was made in the course of, or under, a grant from the (*name of awarding agency*).

Upon request, the grantee shall furnish such duly executed instruments (prepared by the Government) and such other papers

as are deemed necessary to vest in the Government the rights reserved to it under HEW regulations. These instruments and papers will enable the Government to apply for and prosecute any patent application, in any country, to cover each invention where the Government has the right to file such application. (See also Inventions under "Reporting Requirements.")

Supplementary Patent Agreements

The fact that two or more institutions or organizations share in the grant-supported activity does not alter the grantee's responsibilities concerning patents and inventions. The grantee institution shall obtain appropriate patent agreements to fulfill the requirements from all persons who perform any part of the work under the grant and may be reasonably expected to make inventions.

The grantee shall insert a clause into any contract or agreement made under the grant that makes this patent and inventions policy applicable to each cooperating institution and its employees. Agreements shall also be obtained by the grantee to govern disposition of rights to inventions resulting from screening of compounds synthesized under the grant.

Income

Royalties received by grantees from patents on inventions conceived or first actually reduced to practice in the course of or under any PHS grant shall be treated as grant-related (program) income. (See Grant-Related (Program) Income under this section regarding the disposition of such royalties.)

Inventions Resulting from Grants Made in Support of Research by Federal Employees

Inventions resulting from grants supporting the activities of Federal employees shall be reported simultaneously to the Assistant Secretary for Health pursuant to the terms of the grant and to the employing agency under the terms of Executive Order 10096, as amended.

Prior Approval of Use of Grant Funds Including Rebudgeting (Chapter PHS:1-510)

For most discretionary project grants, PHS documents an approved budget on the Notice of Grant Award. Such documentation constitutes prior approval for the performance of activities and the expenditure of funds for specific purposes and items de-

scribed in the grant application. In addition, the grantee institution is permitted to rebudget between budget categories *within the total direct cost budget of the project* to meet unanticipated requirements, provided (1) the expenditures are necessary to the successful continuation or completion of the project, (2) the purposes for which the expenditures are made are allowable under regulations and policies governing the grant program and the applicable cost principles contained in Subpart Q of 45 CFR 74, and (3) prior approval is obtained in accordance with the guidelines set forth below.

Policy

PHS policy regarding budget revisions for all grantees is the same as that stated in Subpart L of 45 CFR 74, *except* that (1) in accordance with the option provided in paragraph 74.102(d), PHS has elected to waive paragraphs 74.102(b) (3) and (b) (4), and (2) certain modifications and additions to the provisions of Subpart L have been authorized for PHS. Thus, for all nonconstruction discretionary project grants⁶ prior approval must be obtained from the appropriate approving authority (see below) for budget revisions whenever such revisions:

1. Result from changes in the scope or objective of the grant-supported activities, including subgranting or contracting out any of the principal activities of the grant.
2. Indicate a need for 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.⁷
3. Involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs.
4. Involve any purposes disapproved or restricted as a condition of the award.
5. Involve the transfer of funds between construction and nonconstruction work supported by the same PHS grant.
6. Involve the expenditure of funds for any items or purposes requiring prior approval in accordance with the applicable cost principles or other duly promulgated policies of PHS. (See Chapter PHS:1-510.)
7. Involve the transfer of funds allotted for trainee costs (stipends, tuition, and fees) to other categories of expense. Rebudgeting within the category of trainee costs is allowable without prior approval. (See duly promulgated policies of PHS. (See Chapter PHS:1-510.)

⁶ For policies applicable to construction grants, see Construction Grants under "General Policies."

⁷ Amounts for additional indirect costs shall be provided in accordance with the provisions of *PEW Grants Administration Manual* Chapter 6-150, "Reimbursement of Indirect Costs."

Prior Approval Authorities

Private Nonprofit Institutions

Private nonprofit grantee institutions, *other than colleges, universities, hospitals, research institutes, and research foundations*, must obtain prior approval from PHS for all proposed rebudgeting actions for which prior approval is required.

State and Local Government Agencies

Grantee institutions that are State or local government agencies are required to establish and use an Institutional Prior Approval System (see below) for obtaining prior approval of the following types of rebudgeting actions:

1. Each individual item of special-purpose equipment having an acquisition cost of \$1,000 or more.
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 PHS.

State and local government agencies must obtain prior approval from PHS for all other proposed rebudgeting actions that require such approval.

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

Grantee institutions that are colleges or universities, hospitals, research institutes, or research foundations are required to establish and use an Institutional Prior Approval System (see below) for obtaining prior approval of the following types of rebudgeting actions:

1. Each individual item of special-purpose equipment having an acquisition cost of \$1,000 or more.
2. Cumulative expenditures for equipment in any budget period that will cause the amount awarded in the approved budget for equipment to be exceeded by \$1,000 or 25 percent of the budgeted amount, whichever is greater.
3. 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.
4. 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 PHS.

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

Institutional Prior Approval System

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, 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.
2. The rebudgeting request must be reviewed by the designated official for program propriety in relation to the 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 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 disallowed 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 provisions of PHS policy. (See Records Retention and Audit under this section.)
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 institution for cost categories other than those specified herein. Approval for rebudgeting in these other categories may be at any level set by the grantee institution.

Methods of Requesting Approvals from PHS

All rebudgeting requests that require prior approval of PHS must be submitted, in writing, to the Grants Management Officer designated on the Notice of Grant Award. All requests must bear the signature of a responsible official of the business office of the grantee institution as well as the originator of the request, if different.

The Grants Management Officer shall be responsible for reviewing the request with program officials, as necessary, and for preparing a prompt reply to the grantee institution.

Whenever grantees contemplate rebudgeting and are uncertain about the allowability of items of cost, particularly when such items are not mentioned in the regulations, cost principles, or other HEW or PHS policy documents, they are strongly encouraged to seek advance consultation with the designated Grants Management Officer.

Failure to obtain prior approval, when required, from either the grantee institution or PHS, as appropriate, may result in the disallowance of costs. 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.

Property Management

A summary of the PHS policies and procedures governing the acquisition, utilization, and disposition of property acquired under a PHS grant-supported project is set forth below. Generally, grantees may use their own property management policies and procedures provided they observe the following minimum requirements.

Definitions

Real property—Land, land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

Personal property—Property of any kind except real property. It may be tangible, having physical existence, or intangible such as patents, inventions, and copyrights.

1. Tangible

a. *Expendable personal property* (generally, "supplies"): All tangible personal property other than nonexpendable property.

b. *Nonexpendable personal property* (generally, "equipment"): An article of tangible personal property that is complete in itself, is of a durable nature, has an expected useful life of more than 1 year, and has an acquisition cost of \$300 or more per unit, except that recipients subject to Cost Accounting Standards Board (CASB) regulations may use the CASB standard of \$500 per unit and useful life of 2 years. Any definition of nonexpendable personal property used by the grantee must include all tangible personal property as defined by the preceding sentence.

(1) *General-purpose equipment*: All items of equipment of types that are generally usable for other than research, medical, or specialized scientific or technical activities, whether or not special modifications are needed to make them suitable for use on a project. General-purpose equipment includes such items as office equipment and furnishings, heating and cooling units, passenger and cargo vehicles, computing and automatic data processing devices, cameras, etc.

(2) *Special-purpose equipment*: All items of equipment that are generally usable only for research, medical, scientific or technical activities. It includes such items as microscopes, X-ray machines, surgical instruments, etc.

2. Intangible property is such property as patents, inventions, and copyrights. (See Index for Patents, Inventions, and Copyrights.)

Property acquired under a grant-supported project—Property purchased from either the Federal share or non-Federal share of project costs is con-

sidered to be property acquired under a grant-supported project, provided the non-Federal share is subject to Federal approval and is documented as part of the approved budget. Property purchased under authorized re-budgeting actions subsequent to award is subject to all policies applicable to "property acquired under a grant-supported project." (See Budget and also see Grant-Supported Activities/Project under "Glossary.")

Acquisition

PHS and grantee institution policies and procedures with respect to acquisition of property under a grant-supported project must provide for (1) consideration of the function of the property in facilitating the successful completion of the project and (2) insuring that grant funds are properly used and accounted for.

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

Grantees are required to be prudent in the acquisition of property under a grant-supported project. It is the grantee's responsibility to conduct a prior review of each proposed property acquisition to assure that the property is needed and that the need cannot be met with property already in the possession of the institution. The grantee's procurement practices must assure that all property is purchased at reasonable prices. Competitive procurement procedures must be followed to the maximum possible extent. Positive efforts should be made to allow small businesses and minority-owned businesses to compete for procurement contracts under grant-supported projects.

A grantee institution may be reimbursed for an item of tangible personal property already owned by the institution only when it is held in a central storeroom for issuance and sale to any using activity, and the cost charged to the purchaser is properly adjusted to reflect depreciation.

Acquisition cost includes the cost of the unit plus the cost of necessary accessories. Ancillary charges such as duty, taxes, transportation, protective intransit insurance, and installation shall be included in or excluded from such cost in accordance with the grantee's regular accounting practices.

Prior Approval Requirements (Nonconstruction Discretionary Project Grants)

1. **General-purpose equipment:** Purchase of an individual item of such equipment having an acquisition cost of \$300 or more per unit.
2. **Special-purpose equipment:** Purchase of an individual item of such equipment having an acquisition cost of \$1,000 or more per unit.
3. **Cumulative expenditures:** Expenditures for equipment in any budget period that will cause the amount awarded in the approved budget to

be exceeded by \$1,000 or 25 percent of the budgeted amount, whichever is greater.⁵

For prior approval authorities, see Prior Approval Requirements Including Rebudgeting under this section.

Title

Title to real and tangible personal property (expendable and nonexpendable) acquired under a PHS grant-supported project shall vest in the grantee upon acquisition, subject to the accountability requirements and the PHS right to transfer title as outlined below.

PHS Right to Transfer Title

Real Property—See the section headed Use and Disposition of Property below regarding transfer of title to the Federal Government.

Nonexpendable Personal Property—PHS shall have the right to require the grantee to transfer title to such property acquired under a grant-supported project to the Federal Government or directly to a third party named by the Government under the following conditions, *all of which* must be met in order for the right to be exercised:

1. The property had a unit acquisition cost of \$1,000 or more.
2. The PHS right to transfer title to property acquired under the grant-supported project was not waived at the time of award as part of the terms and conditions of the award.
3. Either:
 - a. The grantee no longer has need for the property on the project for which it was acquired, or
 - b. The grant-supported project is being transferred to another grantee institution in accordance with the section headed Change of Grantee Institution under "Changes in Project."
4. Action to exercise this right may be taken at any time, but must be taken no later than 120 days following the completion or termination of PHS grant support or the date of an appeal decision, if applicable, whichever is later. Action to exercise this right includes notifying the grantee of the possibility of transfer, and does not necessarily mean that the actual transfer will be accomplished before the expiration of the 120-day period specified.
5. The grantee must be reimbursed an amount obtained by applying the percentage of grantee participation in the project costs incurred in carrying out grant-supported activities under the approved budget for the budget period in which the property was acquired to the current fair market value of the property, plus shipping or storage costs.

⁵The cumulative expenditure limitation does not apply to State and local government agencies.

Accountability Requirements

Exempt Property

Under authority of 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 Government for nonexpendable personal property acquired under a grant-supported research project, except that PHS has the right to transfer title as provided above. This exemption does not apply to other types of institutions nor to other types of grants, for example, training grants, regardless of the type of institution.

Nonexempt Property:

Real Property

Use—Unless otherwise provided by law, real property acquired under a PHS grant-supported project shall be subject to the following requirements, in addition to any other requirement that is imposed by the Notice of Grant Award or other formal notification document:

1. The grantee shall use real property for the purpose authorized by the original grant as long as needed.
2. Prior approval must be obtained from PHS before the grantee can use real property for activities other than those of the original grant. Use of such property shall be limited to activities of other federally sponsored program or non-Federal programs with purposes consistent with the legislation under which the original grant was made.

Disposition—When real property is no longer needed as required under the two conditions above, the grantee shall request disposition instructions from PHS. Disposition shall be made as follows:

1. The grantee may be permitted to take title to the Government's interest and compensate the Government in an amount determined by applying the percentage of Federal participation in the total cost of the approved grant-supported project for which the property was acquired to the current fair market value of the property.
2. The grantee may be directed to sell the property and compensate the Government for its fair share of the net proceeds, using the same formula as under 1 above, after deducting any actual and reasonable selling and handling expenses.
3. The grantee may be directed to transfer title to the property to the Federal Government, provided that in such cases the grantee must be compensated in an amount computed by applying the percentage of grantee participation in the total cost of the approved grant-supported project for which the property was acquired to the current fair market value of the property.

Nonexpendable Personal Property

Except when PHS has exercised the right to transfer title as provided earlier in this section, nonexpendable personal property acquired under a grant-supported project shall be treated as follows:

Use—The grantee shall retain such property in the grant project as long as there is a need for such property to accomplish the project, whether or not the project continues to be supported by PHS grant funds.

When there is no longer a need for such property to accomplish the purposes of the original project, the grantee shall use the property in connection with other federally sponsored activities in the following order of priority:

1. Other PHS-supported activities needing the property.
2. Activities supported by other Federal agencies needing the property.

When the grantee no longer has need for such property in any of its federally assisted activities, the property may be used for the grantee's own official activities in accordance with the following standards:

1. If the property had an acquisition cost of less than \$1,000 per unit, the grantee may use the property without reimbursing the Federal Government.
2. All other nonexpendable personal property may be retained by the grantee for its own use provided a fair compensation is made to the Government. The compensation shall be computed by applying the percentage of Federal participation in the project costs incurred in carrying out grant-supported activities under the approved budget for the budget period in which the property was acquired to the current fair market value of the property.

During the time that nonexempt, nonexpendable personal property is held for use on the project for which it was acquired, the grantee shall make it available for use on other activities if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to other activities sponsored by the PHS agency that financed the property; second preference shall be given to those sponsored by other Federal agencies.

Disposition—If the grantee has no further need for nonexpendable personal property, disposition shall be made as follows:

1. If the property had an acquisition cost of less than \$1,000 per unit, it may be sold and the proceeds retained by the institution.
2. If the property had an acquisition cost of \$1,000 or more per unit, the grantee shall request disposition instructions from PHS.
 - a. If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the Government in an amount computed

- by applying the percentage of the grantee's participation in the project costs incurred in carrying out the grant-supported activities under the approved budget for the budget period in which the property was acquired to the current fair market value of the property, plus any shipping or interim storage costs incurred.
- b. If the grantee is instructed to sell the property, the grantee shall reimburse the Government an amount computed by applying the percentage of Federal participation in the project costs incurred in carrying out the grant-supported activities under the approved budget for the budget period in which the property was acquired to the sales proceeds. The grantee may deduct and retain from the Federal share \$100 or 10 percent of the proceeds, whichever is greater, for selling and handling expenses.
 - c. If disposition instructions are not issued within 120 days of receipt of the grantee's request, the grantee shall sell the property and reimburse the Government as in b above.

Expendable Personal Property

Use—Expendable personal property may consist of consumable materials and supplies and other items of property that have a useful life longer than the period of need on the project for which they were required. When no longer needed for the original project, the property may be used for any federally supported activity.

Disposition—When the total aggregate fair market value of expendable personal property exceeds \$1,000 and it is no longer needed on federally supported activities, the grantee may retain or sell the property as long as the Government is compensated for its share in the acquisition cost. The amount of compensation shall be computed by applying the percentage of Federal participation in the project costs incurred in carrying out grant-supported activities under the approved budget for the budget period in which the property was acquired to the current fair market value of the property or proceeds from the sale of the property.

When the total value is \$1,000 or less, the grantee may, at its option, either retain or sell the property without compensation to PHS.

Property Management—Procedural Requirements

The grantee shall maintain accurate property records as well as effective inventory, control, and maintenance procedures for nonexpendable personal property.

Property records shall include a description of the property; manufacturer's serial number or other identification number; the grant-supported project under which the property was acquired;

acquisition date and cost; percentage of Federal participation in the project costs at the end of the budget year in which the property was acquired; location, use, and condition of the property, and the date the information was reported; unit acquisition cost; ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where the grantee compensates the Federal Government for its share.

A physical inventory of nonexpendable personal property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and fully documented.

Where the grantee is authorized or required to sell the property, proper sales procedures shall be established for unneeded property that provide for competition to the extent practicable and result in the highest possible return.

The grantee's property records for nonexpendable personal property acquired under a PHS grant-supported project must be retained for 3 years after the final disposition of the property or appropriate reimbursement to the Government.

Publication and Publicity

Reporting Project Accomplishments

Project directors and principal investigators are encouraged to make the results and accomplishments of their activities available to the public. Prior PHS approval is not required for publishing the results of an activity under a grant. Responsibility for the direction of the activity should not be ascribed to PHS. However, an acknowledgment of support must be made through use of the following or comparable footnote:

This project was supported by Grant No., awarded by the
(*awarding agency*).

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

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

Copyright

Except as otherwise provided in the conditions of the award, the author is free to arrange for copyright without approval when publications or similar materials are developed from work under a PHS grant-supported project. Any such copyrighted materials shall be subject to a royalty-free, nonexclusive, and irrevocable license to the Government to reproduce them, translate them, publish them, use and dispose of them, and to authorize others to do so for Government purposes. In addition, communications in primary scientific journals publishing initial reports of original research supported in whole or in part by PHS grant funds may be copyrighted by the journal with the understanding that individuals are authorized to make, or have 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.

Release of Information (Chapter PHS:2-501 and 45 CFR 5 and 5b)

The Freedom of Information Act

The Freedom of Information Act, as amended, and associated public information regulations of HEW require the release of certain information regarding grants requested by any member of the public. The intended use of information pertaining to PHS grants or awards will not be a criterion for release.

Guidance is provided below with examples of specific grant documents that are covered by this policy.

1. For research or research training grants, application information is available only after the initial award has been made. Approved, disapproved, and pending continuation, competing extension, and supplemental applications incident to an approved initial application are available except as provided below.
2. For projects other than research or research training, application information is available before and after an award is made. This includes State Plan materials.
3. Notices of Grant Award or information contained thereon including project title, grantee institution, principal investigator or program director, and amount of award are available. A general description of the approved project is also available upon request.
4. Interim and terminal progress reports.
5. Reports of expenditures.
6. Final reports of any audit, survey, review, or evaluation of grantee performance that have been transmitted to the grantee.

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

1. Financial information of the grantee, including the salaries of project personnel.
2. Information of a confidential nature, personal, medical, or otherwise that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy.
3. 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.
4. Information that, if released, would adversely affect patent or other valuable commercial rights of the grantee.

With respect to a document that contains both discloseable and nondiscloseable information, the nondiscloseable information will be deleted, 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 HEW (45 CFR 5b) if they constitute a "system of records" as defined therein. Records maintained by grantees are not subject to the Privacy Act.

The consideration of a request for information concerning an individual made by a third party will balance the right to know of the requester (under the Freedom of Information Act—see item 2 immediately above regarding disclosure of personal information) and the right to privacy of the individual to whom the record pertains (under the Privacy Act).

Records Retention and Audit (Chapter PHS:1-100)

Retention

Financial records, supporting documents, statistical records, and all other records pertinent to a grant or to a subgrant (or

negotiated contract or subcontract exceeding \$10,000 under a grant or subgrant) shall be retained for a period of 3 years, with the following qualifications:

1. The records shall be retained beyond the 3-year period if an audit is in process or if any audit findings, litigations, or claims involving the records have not been resolved.
2. Records for nonexpendable personal property acquired under a PHS grant-supported project shall be retained for 3 years after its final disposition or appropriate reimbursement to the Government.
3. When grant records are transferred to or maintained by PHS, the 3-year retention requirement is not applicable to the grantee.
4. The retention period for each year's records starts from the date of submission of the annual or final Report of Expenditures (Financial Status Report or equivalent).

Grantees are authorized, if they so desire, to substitute microfilm copies in lieu of original records.

The PHS shall request transfer of certain records to its custody from grantees when it determines that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, PHS may make arrangements with grantees to retain any records that are continuously needed for joint use.

Audit

Government-Initiated

Authorized Government representatives shall have access to any books, documents, papers, and records of a grantee or subgrantee (or contractor or subcontractor under a grant or subgrant if the contract was negotiated and exceeds \$10,000) that are determined to be pertinent to a specific PHS grant for purposes of audit, examination, and making excerpts or transcripts. An audit is made to:

1. Verify financial transactions and to determine whether grant funds were used in accordance with applicable laws, regulations, and procedures.
2. Provide the Government and the management of the grantee institution with objective appraisals of financial, accounting system, and administrative controls.
3. Determine reliability of financial records and reports.

Should a grantee institution fail to respond to an audit report containing questioned costs within 30 days after receiving written notification, the action of the cognizant agency may become conclusive. A final decision by a PHS agency to disallow such costs is appealable. (See Appeals Procedures under this section.) Refunds owed to the Government as a result of audit disallowances will be made in accordance with instructions issued by PHS.

Grantee-Initiated

The grantee or any of its duly authorized representatives shall have access to any books, documents, papers, and records of the subgrantee (or contractor or subcontractor to which the record retention requirement applies) that are pertinent to the specific PHS grant for the purpose of making audit, examination, and excerpts or transcripts.

Audits or internal audits are to be initiated by the grantee or subgrantee to ascertain the effectiveness of their respective financial management systems and internal procedures. Where internal audits are conducted, they must be made by individuals sufficiently independent of those who authorize the expenditure of Federal funds to produce unbiased judgments. Each grant or subgrant need not be examined. Generally, the audit should be conducted on an organization-wide basis for the purpose of determining the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with the terms and conditions of the grants and subgrants. Such audits should be scheduled with reasonable frequency, usually annually, but not less than once every 2 years, considering the nature, size, and complexity of the activity. Copies of resulting audit reports shall be made available to PHS, upon request. Costs of such grantee-initiated audits are allowable as direct or indirect costs, as appropriate.

Relocation Assistance and Real Property Acquisition Requirements for PHS-Assisted Projects (Chapter PHS:4-57)

For those PHS financially assisted projects conducted by a State agency (including those supported by the State agency with formula grant funds) that involve the acquisition of real property or cause the displacement of persons, businesses, or farm operations, certain assurances are required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646).

The State agency, which includes any department, agency, or instrumentality of a State(s), a political subdivision of a State, and State or local institutions of higher education or hospitals, must assure that (1) fair and reasonable relocation payments and advisory services will be provided to or for displaced persons and that within a reasonable period of time prior to displacement, safe, decent, and sanitary replacement dwellings will be available to such persons, and (2) the State agency will be guided by the land acquisition policies of the Act and that property owners will be paid or reimbursed for necessary expenses as specified therein.

These assurances must be contained in or accompany all applications that are subject to this policy. For formula grant programs using the simplified system of review, these assurances will be included in the State Plan/Application Checklist. (See Formula Grants under "Application and Funding.")

Report Forms Clearance by OMB (Chapter PHS:1-11)

Whenever PHS sponsors the use by a grantee of a report form or plan to collect identical kinds of information or data from 10 or more persons, PHS must obtain prior clearance from OMB, in accordance with OMB Circular A-40, revised, and its own agency forms clearance procedures.

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

1. PHS authorizes the grantee to represent to respondents that the information is being collected for, or in association with, PHS.
2. The recipient of the grant 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 and conditions of the grant provide for PHS approval of the survey design, questionnaire content, or data collection procedure.
4. The terms and conditions of the grant provide for either submission to PHS of the data for individual respondents or the preparation and submission of special tabulations requested by PHS.

See Information Collection under this section for additional details regarding the use of grant funds to collect information.

Safety Precautions

The Government is not legally responsible with respect to 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 (20 CFR 1910) and the Atomic Energy Act of 1954 (42 CFR 2021). (See also Human Subjects under this section.)

Salary Information in Applications (Chapter PHS:1-170)

Applicant organizations shall have the option to omit specific salary rates or salary amounts for individuals from copies of grant applications that are made available to outside reviewers. 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 Government employees.
2. All other copies should show undetailed salary summary totals, but must include the following information:
 - a. The name of each individual expected to work on the project (if known at the time the application is submitted).
 - b. Position or job title.
 - c. Percentage of time devoted to work on the project.
 - d. Whether or not salary support is requested from the grant.

Sterilization (42 CFR 50, Subpart D)

The Department has established certain limitations on the performance of nontherapeutic sterilizations by PHS-supported programs or projects, which are otherwise authorized to perform such sterilizations. These regulations establish safeguards for minors and for people declared mentally incompetent. They insure informed consent, and the solicitation of consent cannot be based on the withholding of benefits.

Stipends and Allowances (Chapter PHS:3-140)

Stipends are payments made to individual fellows or trainees under PHS fellowships or training grants only in accordance with preestablished levels. Such payments are intended to provide for the individual's living expenses during the period of training. The following stipend levels and allowances 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, the terms and conditions of the award.

1. Stipend levels

Stipend levels for full-time PHS fellowships and traineeships are based on a support year of 12 months and are as follows:

a. Postdoctoral

Years of Relevant Experience at Entry:	Year of Award		
	1st year	2d year	3d year
0.....	\$10,000	\$10,400	\$10,800
1.....	10,800	11,200	11,600
2.....	11,500	11,900	12,300
3.....	12,200	12,600	13,000
4.....	12,800	13,200	13,600
5 or more	13,200	13,600	14,000

Determination of the years of relevant experience will be made in accordance with established program guidelines.

b. Predoctoral

\$3,900, regardless of the year of award.

The provision of funds by an institution in addition to the stipends paid by PHS is allowable. Such supplementation may be provided

without obligation by the fellow or trainee or may be conditioned on his/her performance of certain services such as teaching or serving as a laboratory assistant. Under no circumstances, however, should the service requirements detract from or prolong the training, nor should supplementation be used for the recruitment of trainees. In accordance with their own formally established policies governing supplementation, institutions can determine whether and what amount of supplementation will be required and the sources of support. No Federal funds may be used for supplementation unless specifically authorized under the terms of the program from which such supplemental funds are received.

2. Dependency Allowances

None to be authorized from PHS grant funds.

3. Fellowship Institutional Allowances

For both predoctoral and postdoctoral individual fellowship awards, non-Federal grantee institutions may request an allowance of \$3,000 for each year of support for each full-time student, in lieu of all other institutional costs, to help defray such expenses as tuition and fees, research supplies, equipment, faculty salary, appropriate medical insurance, travel to domestic scientific meetings, and other related items.

Federal institutions may request a \$1,000 allowance.

4. Concurrent Awards

Section 504 of Public Law 90-574 permits students to receive payment of funds awarded through traineeships, fellowships, and other support programs in addition to the educational assistance received under the Veterans Readjustment Benefits Act ("G.I. Bill").

5. Trainee Appointments

Under PHS training programs providing predoctoral and postdoctoral support, a new appointment is the first appointment for a trainee. A reappointment is a subsequent appointment for the same trainee under the same project. An appointment or a reappointment may not exceed 12 months without prior approval by PHS. The amount of the stipend and tuition for each full period of appointment must be obligated from funds available at the time the individual begins his/her training unless other instructions are furnished by PHS.

Student Unrest Provisions (Chapter PHS:1-11)

No part of the funds appropriated for PHS shall be used to provide a loan, guarantee of a loan, a grant, the salary of, 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, which involves the use (or the assistance to others in the use of) force or 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.

Subgranting and Contracting of Grant-Supported Effort (Chapter PHS:1-430)

None of the principal activities of the grant-supported effort shall be subgranted or contracted out to another organization without specific prior approval by PHS. Where the intention to award subgrants or contracts is made known at the time of application, this approval may be considered granted if these activities are funded as proposed. Subsequent to award, the grantee must request PHS approval as detailed in Prior Approval of Use of Grant Funds Including Rebudgeting under this section.

All such arrangements must be formalized in a contract or other written agreement between the parties involved. The contract or agreement must, at a minimum, state the activities to be performed, the time schedule, the grant policies and requirements that are applicable to the subgrantee, contractor, or other secondary recipient ("flowthrough" requirements), other policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be used in determining what costs, both direct and indirect, are to be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Government.

This section applies to principal activities of a grant but does not apply to contracts within a grant for the routine purchase of supplies, materials, equipment, or general support services.

Third-Party Reimbursement and Other Sources of Health Services Funding (42 CFR 50, Subpart A)

Those project grants supported under programs for the delivery of health services specified in the Health Services Funding Regulations (42 CFR 50, Subpart A) 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. The Health Services Funding regulations require as a condition of award that each project subject to these regulations establish a plan to (1) institute sound financial management procedures so that it can recover to the maximum extent feasible third-party revenues to which it

is entitled as a result of 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 provided without creating a barrier to those services.

Where third-party payors, including Government agencies, are authorized or 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. The grantee must have an operative procedure for identifying 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, there should be a written agreement with such third party.

These regulations should be consulted for applicability and additional details concerning project requirements and evaluation criteria.

Waiver of Single State Agency Requirement

Upon request of the Governor or other appropriate executive or legislative authority of the State responsible for determining or revising the organizational structure of State government, the Secretary of HEW may waive the requirement of authorizing legislation that a single State agency or multimember board or commission must administer or supervise any grant program (sec. 204 of the Intergovernmental Cooperation Act of 1968). The request must adequately show that such provision prevents the establishment of the most effective and efficient organizational arrangements within the State government. The Secretary or his designee may approve other State administrative structures or arrangements provided the objectives of the Federal statutes authorizing the grant program will not be endangered by the use of such other State structures or arrangements.

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APPENDIX

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Regional Offices

Region	Address	Telephone	States in Region
I	Regional Health Administrator John F. Kennedy Federal Bldg. Government Center Boston, Massachusetts 02203	(617) 223-6827	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
II	Regional Health Administrator 26 Federal Plaza, Room 1005 New York, New York 10007	(212) 264-2560	New Jersey, New York, Puerto Rico, Virgin Islands
III	Regional Health Administrator Post Office Box 13716 Philadelphia, Pennsylvania 19101	(215) 596-6637	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
IV	Regional Health Administrator 50 7th St., N.E., Room 866 Atlanta, Georgia 30323	(404) 526-5007	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

- | | | | |
|------|--|----------------|--|
| V | Regional Health
Administrator
300 South Wacker
Drive
26th Floor
Chicago, Illinois
60606 | (312) 353-1385 | Illinois, Indiana,
Michigan,
Minnesota,
Ohio, Wisconsin |
| VI | Regional Health
Administrator
1200 Main Tower
Building
Dallas, Texas
75202 | (214) 655-3879 | Arkansas,
Louisiana,
New Mexico,
Oklahoma,
Texas |
| VII | Regional Health
Administrator
601 East 12th Street
Kansas City,
Missouri 64106 | (816) 374-3291 | Iowa, Kansas,
Missouri,
Nebraska |
| VIII | Regional Health
Administrator
9017 Federal Office
Building
19th & Stout Streets
Denver, Colorado
80202 | (303) 837-4461 | Colorado,
Montana,
North Dakota,
South Dakota,
Utah, Wyoming |
| IX | Regional Health
Administrator
50 United Nations
Plaza
San Francisco,
California 94102 | (415) 556-5810 | Arizona, California,
Hawaii, Nevada,
American Samoa,
Guam, Trust
Territory |
| X | Regional Health
Administrator
1321 Second Avenue
Seattle, Washington
98101 | (206) 442-0430 | Alaska, Idaho,
Oregon,
Washington |

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
Public Health Service

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DHEW

Guide for Non-Profit Institutions

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A GUIDE FOR NON-PROFIT INSTITUTIONS

PREFACE

The Department of Health, Education, and Welfare recognizes that careful determination of costs is essential to the continued vigor of its programs conducted under grants and contracts in non-profit institutions.

The Department recognizes, too, that there are both direct and indirect costs and that the determination of indirect costs is a matter of critical importance in the sponsored project relationship. For this reason, it wishes to encourage the fullest understanding of statutory, procedural, or other requirements in relation to costing, believing that such understanding will facilitate the administration of programs that are of great importance to the Department, to the institutions performing them and to the nation.

Within the Department, responsibility for the development and issuance of cost policies applicable to grants and contracts conducted at non-profit institutions is assigned to the Division of Financial Management Standards and Procedures, Office of the Assistant Secretary, Comptroller. Centralization of the cost policy function within that Division ensures the continual evolution of a uniform set of cost principles applicable to all grants and contracts awarded by any of the Department's agencies.

Responsibility for reviewing and negotiating indirect cost, fringe benefit, and other special rates for grants and contracts is delegated to the Regional Comptroller in each of ten Departmental regional offices. Each Regional Comptroller is responsible for the determination of indirect cost, fringe benefit, and other special rates for those non-profit institutions located within the geographical confines of his region that receive Department grants and contracts. The rates determined by the Regional Comptroller will be used by all of the Department's agencies in determining the amount of indirect costs, fringe benefits, and other special costs applicable to its grants and contracts.

This guide, in addition to containing the cost principles which apply to DHEW grants and contracts performed in non-profit institutions, describes in general terms the process of indirect cost rate determinations and sets forth instructions for the submission of rate proposals by grantees and contractors.

Section I contains information on basic considerations involved in rate determination and on Departmental views and practices.

Section II sets forth guidelines for preparation of an indirect cost rate proposal.

Section III sets forth guidelines for preparation of fringe benefit and other special rate proposals.

Section IV contains the DHEW cost principles applicable to non-profit institutions other than educational institutions, hospitals, and State and local government agencies.

Section V contains sample indirect cost rate proposal formats, a guide for the use of fixed rates with carry forward, a sample summary indirect cost settlement sheet and a sample negotiation agreement.

This brochure is published as an aid to non-profit institutions to help them become aware of and understand DHEW requirements. The contents of the brochure are authoritative and reflect DHEW policy in summary form in effect as of the date of issuance.

However, policies and procedures change and institutions performing under DHEW grants and contracts are cautioned to refer to the Department's official policies contained in the DHEW Grants Administration Manual, the DHEW Procurement Manual, and the appropriate DHEW regulations as the ultimate authoritative policy documents. They may be purchased from the Government Printing Office, Washington, D.C. 20402.

SECTION I—INDIRECT COSTS AND DHEW

The Nature of Indirect Costs

Indirect costs are those costs of an institution which are not readily identifiable with a particular project or activity but nevertheless are necessary to the general operation of the institution and the conduct of its activities. The costs of operating and maintaining buildings, grounds, and equipment, depreciation, administrative salaries, general telephone expenses, general travel, and supplies expenses are types of expenses usually considered as indirect costs.

In theory, all such costs might be charged directly; practical difficulties, however, preclude such an approach. Therefore, they are usually grouped into a common pool(s) and distributed to those institutional activities benefited through a cost allocation process. The end product of this allocation process is an indirect cost rate(s) which is then applied to individual grant and contract awards to determine the amount of indirect costs chargeable to the awards.

Indirect Cost Rates

An indirect cost rate, then, is simply a device for determining fairly and expeditiously, within the boundaries of sound administrative principles, that proportion of an institution's indirect costs each of its projects or activities, including grants and contracts, should bear.

The indirect cost rate is the ratio, expressed as a percentage, between the indirect costs and a direct cost base, commonly either direct salaries and wages or total direct costs exclusive of capital expenditures and other distorting base costs. An indirect cost rate is established on the basis of an indirect cost proposal submitted by a non-profit institution to the DHEW Office of the Regional Comptroller for the region in which the institution is located. A listing of Regional Comptroller offices appears later in this Section. Indirect costs are reimbursed to an institution based on its established rate, subject to administrative and legislative limitations, as part of the costs of individual grants and contracts awarded by the Department.

Provisional

A provisional indirect cost rate is a temporary rate. It is used by Department of Health, Education, and Welfare awarding agencies as a basis for estimating and funding the amount of indirect costs applicable to a grant or contract until actual indirect costs can be determined and a final indirect cost rate estab-

lished. Provisional indirect cost rates are subject to adjustment at some future date. A provisional rate is used to compute indirect costs on grant applications and contract proposals and on grant reports of expenditures and contract public vouchers pending the development of a rate based on an institution's actual costs during the period of grant or contract performance. Normally, an institution's last final indirect cost rate is used as its current provisional rate. For example, a final indirect cost rate established for the period July 1, 1973 through June 30, 1974 would also be used as the provisional indirect cost rate beginning July 1, 1974. However, if a significant change in the type or level of an institution's activities is anticipated, the provisional indirect cost rate should be based on a projection of the ensuing period's activity.

Final

A final indirect cost rate is established after an institution's actual costs for a given accounting period (normally its fiscal year) are known. Once established, a final indirect cost rate is not subject to adjustment. The final indirect cost rate is used to adjust the costs reported through use of provisional indirect cost rates on grant reports of expenditures and contract public vouchers. Methods of adjustment are described in Section V, Appendix 2.

Predetermined

A predetermined indirect cost rate is a permanent rate, negotiated and agreed to for a specified future period, usually one year. Such rates are established when there is reasonable assurance, normally based on experience and a reliable projection of an institution's probable level of activity, that the rate agreed to will approximate the institution's actual rate. Except in very unusual circumstances, a predetermined indirect cost rate is not subject to adjustment. Predetermined indirect cost rates may only be used where the institution performs solely under grants. It cannot be used where the institution performs solely under contracts or performs under both grants and contracts.

Fixed Rate With Carry-Forward

A fixed rate with carry-forward provision has characteristics of both the provisional rate and the predetermined indirect cost rate. A rate is computed and fixed for a specified future period based on an

estimate of that future period's level of operations. The rate is not subject to adjustment. However, when the actual costs of that period are known, the difference between the estimated costs and the actual costs is carried forward as an adjustment to a subsequent period for which a rate is established. The adjustment cannot be made in the fiscal period immediately following because the fixed rate for the immediately following fiscal period will already have been determined. An adjustment generally will be carried forward to the second or third fiscal period following the period being adjusted. A fixed rate should be selected that will most closely approximate the actual rate to be incurred. An accurate forecast will confine carry-forward amounts to minimal differences. Carry-forward procedures are described in Section V, Appendix 4.

Applying Rates to Grants and Contracts Awarded by DHEW

The Department of Health, Education, and Welfare awards hundreds of grants and contracts annually to scores of institutions. The awards are generally for a period of one year but that year does not usually coincide with a recipient institution's fiscal year. When a grant or contract period does not coincide with the institution's fiscal year, two indirect cost rates are used, one for each of the institution's fiscal years in which the award is performed. For example, assume that final rates of 35% and 30% have been established for the two fiscal periods ending June 30, 1973 and June 30, 1974, respectively, and that a one-year grant that includes \$50,000 for direct salaries and wages was awarded effective March 1, 1973. If \$30,000 of the direct salaries and wages were expended by June 30, 1973 and \$20,000 during the last eight months of the grant year, the 35% rate would be applied to the \$30,000 and the 30% rate would apply to the \$20,000.

Statutory and Administrative Limitations

A few DHEW programs have legislative or administrative limitations on the amount of indirect costs which can be reimbursed.

Indirect costs applicable to grants awarded under programs having legal prohibitions or limitations are reimbursed in accordance with the legal restrictions.

Indirect costs are not reimbursed on fellowships and similar awards under which Federal financing is exclusively in the form of fixed amounts or the published tuition rates of an institution, on construction grants, or on staffing grants.

Indirect costs on training awards are limited to the lesser of an institution's actual costs or 8% of total allowable direct costs.

Some grants programs, notably research, have cost sharing requirements. An institution may satisfy its requirements through indirect costs. For example, if an institution had to cost share an amount of \$50,000 under a given grant and the amount of indirect costs, computed via the indirect cost rate, applicable to that grant was \$75,000, the institution could satisfy its cost sharing by waiving reimbursement of all but \$25,000 of its indirect cost entitlement.

Requirement for Submission of Indirect Cost Proposals

Each institution claiming reimbursement for indirect costs must submit an indirect cost rate proposal to document how it derived the rate(s) it used to compute its claim.

The failure of an institution to submit timely proposals may result in the disallowance of costs previously awarded. Further, awards made during a period for which an institution does not have a current indirect cost rate will not include an amount for indirect costs. If a rate is subsequently established, based on the late submission of an indirect cost proposal, indirect costs on DHEW awards will be provided only for the period beginning with the first day of the month in which the proposal is submitted.

The Department recognizes that occasionally, extenuating circumstances may preclude compliance with the time period within which proposals must be submitted. When the due date for submission of proposals cannot be met, a formal request for an extension, stating the reasons, should be made to the Regional Comptroller prior to the due date. If the request is approved and the proposal is subsequently submitted in accordance with the conditions of approval, no penalty will be assessed.

Indirect cost proposals need not be submitted if:

1. An institution has waived indirect cost entitlement on its grants or contracts.
2. An institution is awarded only training awards subject to an indirect cost limitation of 8% of total direct costs and its indirect cost rate exceeds that limitation.

Proposals should be sent to the appropriate Regional Comptroller,* Department of Health, Education, and Welfare at the following addresses:

*The Regional Comptroller is officially titled the Assistant Regional Director for Financial Management.

Regional Comptroller's Address

John Fitzgerald Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

Federal Office Building
26 Federal Plaza
New York, New York 10007

Federal Office Building
3535 Market Street
P.O. Box 13716
Philadelphia, Pa. 19101

Peachtree-Seventh Building
50 Seventh Street, N.E.
Atlanta, Georgia 30223

Federal Office Building
300 S. Wacker Drive
Chicago, Illinois 60607

Federal Office Building
1114 Commerce Street
Dallas, Texas 75202

Federal Office Building
601 East 12th Street
Kansas City, Missouri 64108

Federal Office Building
1961 Stout Street
Denver, Colorado 80202

Federal Office Building
60 Fulton Street
San Francisco, California 94102

Arcade Building
1321 Second Avenue
Seattle, Washington 98101

An institution that has not previously established an indirect cost rate with the Department must submit its initial proposal to the appropriate Office of the Regional Comptroller immediately after being notified that an award providing reimbursement for indirect costs will be made. Where possible, this proposal should be submitted prior to the date of the award, and, in no event, later than three months after such date. If initial proposals are submitted within the three month period, indirect costs will be reimbursed for the full award year. If initial proposals are not submitted within the three month period, indirect costs will be irrevocably lost for all months prior to the month that the indirect cost proposal is submitted. The proposal, which will be used

For Institutions Located In

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

New Jersey, New York, Canada, Puerto Rico, Virgin Islands, England, Beirut

Delaware, Maryland, Pennsylvania, Washington, D.C., West Virginia, Virginia

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

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Arkansas, Louisiana, Texas, New Mexico, Oklahoma

Iowa, Kansas, Missouri, Nebraska

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

American Samoa, Arizona, California, Guam, Hawaii, Nevada, Wake Island Trust Territories of Pacific Islands

Alaska, Idaho, Oregon, Washington

to establish a rate to permit funding under the award, should normally be based on the institution's actual costs for its most recently completed fiscal year. However, if the institution is aware of factors that are expected to result in a significant change in the rate during the fiscal year during which the award is to be performed, the proposal should be based on the projected costs of that year.

An institution that has previously established an indirect cost rate(s) with the Department must submit a new proposal to the appropriate Office of the Regional Comptroller within six months after the close of each

year in which a grant or contract is performed. The rate(s) reflected in the proposal and the fiscal year on which it should be based will be governed by the specific circumstances involved:

If a provisional rate(s) was previously established for the most recently completed fiscal year, the proposal must reflect (1) a final rate(s) for the completed year based on the actual costs of that year, and (2) a fixed, predetermined, or provisional rate(s) for the subsequent year. Normally, the rate(s) for the subsequent year should be based on actual costs for the most recently completed year. However, if the institution is aware of factors that are expected to result in a significant change in the rate(s) during the subsequent year, the rate computation must be based on projected costs of that year.

If a fixed or predetermined rate(s) was previously established, the proposal must reflect a rate(s) for the fiscal year immediately following the year covered by the last negotiation. This rate(s) should be based on the actual costs for the most recently completed year, or, if the factors described in "a." above are present, projected costs for the fiscal year covered by the rate(s).

A proposal should be prepared in accordance with the guidelines set forth in Section II. It should be accompanied by the following supporting data:

1. A copy of the audited financial statements for the fiscal year on which the proposal is based, cross-referenced and reconciled to the proposal.

2. a. The total amount of direct costs incurred by the institution under all Federal grants and contracts except construction grants, during the fiscal year on which the proposal is based.

b. The total direct salaries and wages or total direct costs incurred under Federal grants and contracts that are included in the base for rate calculation purposes. If more than one rate is proposed, provide the appropriate amount included in each rate base. Direct salaries and wages or total direct costs incurred under grants and contracts which limit indirect cost reimbursement should be so indicated and shown separately from the amounts incurred under other grants and contracts.

3. If an off-site or other special rate(s) is being proposed, the following information should be submitted with the indirect cost proposal:

a. A reasonably precise, comprehensive statement of the circumstances under which activities are

considered off-site, where possible, in terms of: (1) ownership of the facilities in which the activities are conducted; or (2) distance of the activities from the institution's principal place(s) of business; or (3) geographical location of the activities; or (4) a combination of ownership, distance or location.

b. The treatment accorded projects partially performed off-site.

c. A listing of specific off-site facilities or locations. (This is not required if the number of such facilities or locations exceeds ten.)

Coordination Among Federal Agencies

Many institutions that receive grants and contracts from DHEW also receive awards from other Federal Departments or agencies. These other Federal agencies establish indirect cost rates with the institution for use on their grants and contracts that may be appropriate for use on DHEW awards as well. The DHEW Regional Comptroller will determine if rates established by other Federal agencies are appropriate for use on DHEW awards.

If the institution has established a rate(s) with another Federal agency it should submit to the DHEW Regional Comptroller a copy of the negotiation agreement issued by the other Federal agency at the time it submits its indirect cost proposal to the Regional Comptroller. In these cases, the Regional Comptroller will coordinate its negotiations with those of the other Federal agency.

Formalization and Dissemination of Indirect Cost Rate Agreements

A Negotiation Agreement, DHEW Form NA-1(N) (See Section V, Appendix 3) is used by DHEW to formalize the results of a rate negotiation and to disseminate those results to personnel within the Department of Health, Education, and Welfare and to other Federal agencies responsible for the award and settlement of grants and contracts. The Agreement is signed by an authorized representative of the institution and by a designated representative of the Regional Comptroller. Copies of the agreement are duplicated and distributed to the various concerned parties.

Award and Settlement of Indirect Costs

Subject to any restrictions on the recovery of indirect costs for a particular program, indirect costs will be awarded using the latest established indirect cost rate applicable to the period of performance of the award. An institution seeking reimbursement of indirect costs on a proposed grant or contract should show the amount requested in its grant application or contract proposal.

The amount requested should be computed using the indirect cost rate reflected in the institution's most recent negotiation agreement. The rate itself, should be cited in the application or proposal.

Commonly, grant applications and contract proposals need to be submitted far in advance of the date of award. In the interim, indirect cost rates which were current at the date of application or proposal may be superseded by more current rates as of the date of award. When this occurs, DHEW awarding agencies will use the negotiated indirect cost rate in effect when the award is made. Institutions which have not established a current indirect cost rate with the Regional Comptroller at the time a grant or contract is awarded will not be awarded indirect costs until a rate has been established. Where the indirect cost proposal has not been submitted on time, and a rate is established after the award is made, indirect costs will be recognized only for the period beginning from the first day of the month in which the indirect cost proposal is submitted.

When indirect costs are awarded on the basis of a provisional rate, adjustments to the indirect costs awarded will not be made until a final rate reflecting an institution's actual costs is established, sometime after completion of the institution's fiscal year. Occasionally, because of unforeseen major fluctuations in an institution's activities, revision of the established provisional indirect cost rate may be necessary. But even in such cases, interim adjustments generally will not be made to awards already made unless the net effect of the rate revision on all DHEW grants and contracts affected exceeds either \$100,000 or 20% of the total costs of the grants/contracts to which the rate applies.

Adjustments to grants and contract public vouchers resulting from the finalization of indirect cost rates for periods when provisional indirect cost rates were used must be initiated by the grantee/contractor institution. A summary report of expenditures sheet, for use in adjusting all affected DHEW grants, is presented in Section V, Appendix 2 of this brochure. This summary must be submitted, within one year after the date of execution of the Negotiation Agreement, to the Indirect Cost Management Section, Office of Financial Management, National Institutes of Health, Bethesda, Maryland 20014. Adjustments to public vouchers must be in accordance with the Department's procurement regulations.

Disputes

On rare occasions, the DHEW Regional Comptroller and an institution may not be able to reach agreement on what constitutes an acceptable indirect cost rate(s). In that event, the Regional Comptroller will make a unilateral determination of the rate(s) deemed acceptable to the Department and will notify the institution of

that determination. The institution may appeal the determination in accordance with either the Department's Grants Appeals Regulation (45 CFR, Part 16) and implementing procedures or the special and general provisions of affected contracts, if any, but not both.

The Regional Comptroller will notify the institution of its right to appeal and the procedures to follow upon request by the institution. Notification will also be given at the time the institution is advised of the Regional Comptroller's unilateral determination.

Community Action Agencies

General

Community Action Agencies (CAA) have generally established their accounting systems in conformance with Office of Economic Opportunity guidelines. Those guidelines contained a chart of accounts and account descriptions which tended to maximize direct charging to programs and to minimize amounts treated as indirect costs. Under that system, generalized administrative costs (Section 221, Economic Opportunity Act of 1964, as amended) were accumulated in an account designated as 01, administration. Charges to this account as well as charges to accounts designated 02, 03, and 04, program development, CAA planning, and CAA evaluation, respectively, were reimbursed directly and entirely by OEO using funds specifically provided for that purpose. Hence, CAA's had no need for and were not reimbursed for their indirect costs through the usual rate mechanism by other Federal agencies that also made awards to CAA's. While this arrangement may have been satisfactory in the past, the transfer of programs from OEO to other Federal agencies, changes in the level of Federal funding of those programs, and the uncertain status of future OEO funding has severely complicated the situation. It is probable that in the future, Community Action Agencies will need to be less reliant on OEO for recovery of its administrative costs and will need to recover those costs against sponsors of individual programs. The best procedure for doing this is through the establishment and use of an indirect cost rate. However, whether or not a rate is necessary will depend upon whether (a) OEO or its successor organization continues to reimburse CAA administrative costs through direct funding, and (b) the level of funds appropriated for individual CAA programs transferred to DHEW and other Federal agencies from OEO. To the extent possible without detriment to short term program accomplishment, DHEW will follow its general policy of reimbursing full indirect costs on grants and contracts that it awards. However, appropriation constraints may require limitations or exceptions to the general policy for specific programs or in given situations. Therefore, until such time as uniform Federal policies are established and followed by all major Federal funding agencies, CAA's are advised to seek counsel from the appropriate

Regional Comptroller's office on whether an indirect cost rate is necessary, and if so, how to compute it.

Determining Costs

Federal agencies which award grants and contracts to Community Action agencies differ in the types of costs they are willing to reimburse. Therefore, CAA's will usually find that a costing system which results in maximum direct costing, such as that contained in the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations*, published by the National Health Council and the National Social Welfare Assembly, is especially suitable. Appendix 1, Exhibit C—Direct Allocation Method, of Section V illustrated in this brochure is compatible with that method. The costs identified in that Exhibit as general and administrative are those costs previously identified by OEO as Section 221-01 costs. It does not include Section 221-02, 03, or 04 costs. These costs if incurred, must be treated as direct costs and are subject to programmatic evaluation as to need and benefit to individual programs.

Donated or In-Kind Goods and Services

Donated services must be recognized for indirect cost rate computation purposes when the following circumstances exist: (1) The services performed are a normal part of a program or supporting service and would otherwise be performed by salaried personnel, (2) the organization exercises control over the employment and duties of the donors of the service, and (3) the organization has a clearly measurable basis for the amount.

The value of donated services is not allowable as a reimbursable direct or indirect cost. However, the value of donated services or goods utilized in the performance of a direct cost activity shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect costs.

With one exception, the value of donated goods also is not allowable as a reimbursable direct or indirect cost. Depreciation or a use allowance on assets donated by third parties is allowable but subject to any restrictions contained in paragraph G.10. of the cost principles contained in Section IV of this brochure.

SECTION II—GUIDELINES FOR PREPARING INDIRECT COST PROPOSALS

Methods of Calculation

Because of the wide variety of situations to which they apply, the cost principles in Section IV describe the development of indirect cost rates in somewhat general terms. There are, however, three basic techniques in general use for distributing (prorating) the various types of indirect costs. These are known as the simplified method, the multiple distribution base method, and the direct allocation method.

Simplified Method

This method is used where all of an institution's direct program activities receive services from all of its indirect or administrative activities in approximately the same degree, or where the amount of Federal funds received by an institution is not material in relation to its other operating revenue, or where the institution has only a single direct function or activity with multiple sources of funding.

Under this method, it is not necessary to make a series of indirect cost distributions. Instead, an institution simply categorizes each of its activities as either direct or indirect and a single rate is computed by relating the costs associated with its indirect activities to the costs associated with its direct activities.

There are three basic steps involved in this method:

1. The segregation of the institution's activities and their costs as either direct or indirect. The costs are taken from the institution's financial statements.
2. The elimination of capital expenditures and unallowable costs. However, note paragraph C.2. of Section IV.
3. The computation of the rate by dividing the adjusted indirect costs by a rate base. The rate base may be the direct costs identified in steps 1 and 2, or an element thereof, such as direct salaries and wages or direct salaries and wages plus applicable fringe benefits.

Multiple Distribution Base Method

This method is used when an institution's direct activities do not all benefit from its indirect activities to the same relative degree.

Under this method, indirect costs are initially grouped into various functional categories, or pools, such as General Administration, Building Occupancy, etc. Each pool is then distributed to direct institutional activities by means of a base which best measures the relative degree of benefit which each activity derives from that pool. Careful judgment is required to establish the appropriate number of pools, giving consideration to whether the dollar amounts involved are sufficient to warrant separate pools.

The method involves six basic steps:

1. Segregation of the institution's activities and their costs as direct activities and indirect activities.
2. The elimination of capital expenditures and unallowable costs. However, note paragraph C.2. of Section IV.
3. Further segregation of the indirect activities into functional cost groupings (pools) which benefit the institution's various direct activities in significantly different proportions.
4. Selection of an appropriate distribution base for each pool of indirect costs, in accordance with the criteria in paragraph D.2., of Section IV.
5. Distribution of each indirect cost pool to those activities represented in its distribution base.
6. Calculation of the indirect cost rate(s) by totaling the amounts distributed to each activity in step 4 and dividing by a rate base as described in step 3 of the simplified method.

Direct Allocation Method

Many non-profit institutions, particularly voluntary health and welfare agencies, elect to direct charge their programs for all costs except those specifically identifiable with general administration functions and fund raising. Such institutions typically segregate their expenditures into:

1. General and administrative costs,
2. Fund raising, and
3. Other direct programs and activities.

To the maximum extent practical, they identify each expenditure specifically with one of these functions.

such as occupancy, telephone services, etc., usually cannot be specifically identified to a given project or activity, are prorated as direct costs to each function benefited on a consistent and rational basis on a base most appropriate to the joint cost(s) incurred.

This method, properly implemented, produces accurate direct costs of grants and contracts. Under this method the indirect costs of the institution are simply the residue of direct costs classified as general and administrative. Indirect cost rate is computed by dividing the total indirect administrative costs by a rate base as determined in the previously noted methods. The direct cost method must be used by those institutions as required in the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* reporting to non-Federal agencies.

Proposals and the Cost Principles

Proposal formats are presented in Appendix I. Intended merely to illustrate the mechanics of preparation in some of the most common circumstances and they normally will require adaptation to the circumstances of individual institutions.

The Principles for Determining Costs Applicable to Grants and Contracts with Non-Profit Institutions are presented in Section IV.

Substantiation of Indirect Costs on Training Awards

Department policy currently limits the recovery of indirect costs on training awards to the lesser of actual indirect costs or indirect costs computed at 8% of total direct costs. To avoid the imposition of unnecessary administrative burdens on institutions, the submission of a formal indirect cost proposal from institutions which have only training awards subject to the limitation, will not normally be required. However, institutions must have documentation available to permit verification by a representative of DHEW that its actual rate equals or exceeds the 8% limitation.

Where the institution's calculation results in an indirect cost rate of less than 8% of total direct costs, a formal indirect cost proposal must be submitted to the Office of the Regional Comptroller.

SECTION III—FRINGE BENEFIT AND OTHER SPECIAL RATES

Fringe Benefit and Other Special Rates

Fringe Benefits

Fringe benefits are allowances and services provided by an institution to its employees as compensation, in addition to regular wages and salaries. It also includes payments made by an employer on behalf of employees. Costs of fringe benefits are allowable:

- a. To the extent required by law,
- b. To the extent required by employer-employee agreement,
- c. Provided that benefits are granted in accordance with established institutional policies,
- d. If together with all other compensation paid to an employee is reasonable in amount, and
- e. Provided they are absorbed by all institutional functions and activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are included in each function or activity.

There are many types of fringe benefits. Among the most common are pay for vacation, sick, and military leave, holidays, and contributions by the employer for social security, employee health and life insurance, workmen's compensation, and pension plans. The treatment of fringe benefits vary from institution to institution. Some institutions treat all fringe benefits as indirect costs. Others treat some fringe benefits as direct costs and others as indirect costs. The Department of Health, Education, and Welfare will recognize these variations of treatment if they otherwise meet the requirements for allowability listed above.

The direct costing of fringe benefits may be accomplished by identifying the specific cost of each fringe benefit of each individual employee and allocating that cost to each project or activity in proportion to the time or effort that an employee charges to it. Practical difficulties usually preclude this approach, however. Instead, institutions normally accumulate the costs associated with fringe benefits in one or more cost groupings. These cost groupings are then distributed to benefiting direct activities and projects in proportion to

the direct salaries and wages charged to those activities and projects through a fringe benefit rate(s).

A fringe benefit rate(s) may be used to assess individual Federal grants and contracts for the fringe benefits applicable to charged direct salaries and wages.

Institutions which charge Federal grants or contracts for fringe benefits must substantiate the amount claimed. If fringe benefits are treated as indirect costs, the documentation must be submitted as part of the indirect cost proposal. If fringe benefits are treated as direct costs, a fringe benefit proposal will be required when requested by the Regional Comptroller. The proposals, when requested, must be submitted yearly and should accompany the institution's indirect cost proposal that is submitted to the Office of the Regional Comptroller at the address listed elsewhere in this brochure. The Office of the Regional Comptroller will evaluate the institution's fringe benefit proposal and negotiate a rate(s) for use on Federal programs. The negotiated fringe benefit rate(s) will be shown on the same negotiation agreement used for indirect costs.

The fringe benefit proposal should contain sufficient information on each benefit, each base used to distribute the cost, and on adjustments to prior years' costs, to allow the Federal negotiator to make an informed evaluation of the proposal. Existing written fringe benefit policies should be submitted together with an institution's initial proposal. Thereafter, only policy changes need be submitted with subsequent proposals. Institutions whose fringe benefits include pension costs must submit a copy of the pension plan(s) together with pertinent actuarial reports, if any, with their initial proposal. Thereafter only changes to the plan(s) and current actuarial reports need be submitted. The information submitted must describe the class of employees covered, employee vesting rights, whether the plan is contributory or non-contributory, defined contribution or defined benefit, and the treatment of:

- (a) Past service pension costs,
- (b) Realized and unrealized gains and losses on pension fund investments,
- (c) Funding policies and practices including the actuarial or other basis for the amount funded.

Special Cost Centers

Many institutions operate computer, animal care or other service centers, units or facilities whose output is susceptible of measurement on a workload or other quantitative basis. The costs associated with these units or facilities, where material in amount, should be set aside as a separate cost grouping and charged to activities and projects in proportion to services rendered. Commonly, such charges are made through hourly rates or service fees. The cost of these centers includes their

direct costs (staff, supplies, supervision, travel, etc) and their proportionate share of indirect costs. Institutions must be prepared to substantiate their charges for special service centers through the submission of a cost proposal.

The Regional Comptroller for the region in which an institute is located has been designated as the responsible official for the approval of service center charges. Institutions should submit their proposals to the Regional Comptroller at his request.

SECTION IV

PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH NON-PROFIT INSTITUTIONS

(For grants, these principles are cited in Section 74.174, Subtitle A of 45 CFR, Part 74, Subpart Q. The same principles will be incorporated by reference in the general provisions of each DHEW contract to which they apply.)

NOTE

The principles contained herein were in effect as of the publication date of the brochure. The principles are subject to change, however, and non-profit institutions are advised to consult the official policies of the Department as contained in the Code of Federal Regulations, the HEW Procurement Regulations and the DHEW Grants Administration Manual.

Non-profit institutions may also readily ascertain if revisions have been made at any point in time by contacting the Office of the Regional Comptroller listed in Section I.

Department of Health, Education, and Welfare . . . Office of the Secretary

**PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO
GRANTS AND CONTRACTS WITH NON-PROFIT INSTITUTIONS**

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE OFFICE OF THE SECRETARY

PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH NON-PROFIT INSTITUTIONS

A. PURPOSE AND SCOPE

1. Objectives

This document provides principles for determining the costs applicable to grants and contracts awarded by the Department of Health, Education, and Welfare and performed by non-profit organizations other than educational institutions, hospitals and State and local Government organizations. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular project. The principles are designed to provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles.

2. Definition of Non-Profit Institution

(a) A non-profit institution for purposes of this document is any corporation, foundation, trust, association, cooperative or other organization other than (i) educational institutions, (ii) hospitals and (iii) State and local Governmental agencies, bureaus or departments, which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, which is not organized primarily for profit and which uses all income exceeding costs to maintain, improve and/or expand its operations.

The charter or other legally binding authority for the existence of the institution must provide that no part of the net earnings, properties or other assets of the institution, on dissolution or otherwise, shall inure to the benefit of any private person or individual including any member, employee, officer, director or trustee of the institution, and that, on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation or other organization formed and operated as a non-profit institution, as defined herein, as the Board of Directors or Trustees may determine. Institutions which have received tax exemptions as non-profit institutions from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(b) For purposes of this document, the terms non-profit and not-for-profit as they are descriptively

applied to institutions shall be considered synonymous provided the requirements of 2 (a) are met.

3. Policy Guides

The successful application of these principles requires development of mutual understanding between representatives of non-profit institutions and of the Federal Government as to their scope, applicability, and interpretation. It is recognized that the arrangements for agency and institutional participation in the financing of a project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable, that each institution should be expected to employ sound management practice in the fulfillment of its obligation, and that each grantee or contractor organization in recognition of its own unique combination of staff, facilities and experience should be responsible for employing whatever form of organization and management techniques as may be necessary to assure proper efficient administration.

4. Application

These principles shall be applied in determining cost incurred in the performance of all grants and cost-reimbursement type contracts awarded by the Department of Health, Education, and Welfare. The principles shall also apply to cost-reimbursement type contracts performed under DHEW grants and cost-reimbursement type subcontracts and shall be used as a guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. BASIC CONSIDERATIONS

1. Composition of Total Cost

The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits. In ascertaining what constitutes costs, any generally accepted accounting method of determining or estimating costs that is equitable under the circumstances may be used.

2. Factors Affecting Allowability of Costs

Factors to be considered in determining the allowability of individual items of cost include

(a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this document or otherwise included in the grant/contract as to types or amounts of cost items.

3. Definition of Reasonableness

A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with institutions or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant/contract.

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and grant/contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the public at large, the Government, his employees, his clients, shareholders or members and the fulfillment of the purposes for which the institution was organized; and

(d) Significant deviations from the established practices of the institution which may unjustifiably increase the grant/contract costs.

4. Definition of Allocability

A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a grant/contract, project, product, service, process, or other major activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government grant/contract if it:

(a) Is incurred specifically for the grant/contract;

(b) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

Where an organization utilizes the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations (or comparable generally accepted accounting standards peculiar to its particular organizational structure or activity) to allocate costs to non-HEW supported activities it must also use such standards to allocate costs to HEW grants/contracts.

5. Applicable Credits

The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost, received by or accruing to the grantee/contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

C. DIRECT COSTS

1. A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as materiel or labor. Costs identified specifically with the grant/contract are direct costs of the grant/contract and may be charged directly thereto. Costs identified specifically with other work of the institution are direct costs of that work and are not to be charged to the grant/contract either directly or indirectly. Items charged as direct cost to Government supported projects must be charged in a uniform manner to all other work of the institution in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the institution's established accounting system provides for the treatment of certain items of cost as direct costs of the institution, then the same items must be considered direct costs to Government-supported projects and may not be included in the indirect cost pool.

2. Certain types of cost, or costs associated with certain activities are not reimbursable as a charge to a DHEW grant/contract. These unallowable costs or activities are identified in Section G. Even though a

particular activity or cost is designated as unallowable for purposes of computing costs charged to Government work, it nonetheless must be treated as a direct cost or activity if a portion of the institution's indirect cost (as defined in Section D) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in Section D-2. In general, an unallowable institutional activity shall be treated as a direct function when it (1) includes salaries of personnel, (2) occupies space, and (3) is serviced by an indirect cost grouping(s). Thus the costs associated with the following types of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls, subscriptions, publications and related functions.

(b) Providing services and information to members, legislative or administrative bodies or the public.

(c) Promotion, lobbying and other forms of public relations.

(d) Meetings and conferences except those held to conduct the general administration of the institution.

(e) Fund raising.

(f) Maintenance, protection and investment of special funds not used in operation of institutions.

(g) Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, etc.

(h) Other activities performed primarily as a service to a membership, clients, or the public.

3. This definition shall be applied to all items of cost of significant amount unless the institution demonstrates that the application of any different current practice achieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in Section D.

D. INDIRECT COSTS

1. An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant/contract or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. The overall objective of the allocation process is to distribute the indirect costs of the institution to its various major

activities or cost objectives in reasonable proportions with the benefits provided to those activities or cost objective. Because of the diverse natures and purposes of organizations falling within the definition of a non-profit organization, it is impractical to specifically identify those functions which constitute major activities for purposes of identifying and distributing indirect costs. Such identification will be dependent upon an institution's purpose-in-being, the services it renders to the public, its clients and/or members, the amount of effort devoted to fund raising activities, public relations, and membership activities, etc. (See Section C-2).

2. Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives. Sub-grouping may be required where there is no single equitable distribution base for all the elements of cost comprising a group. Actual conditions must be taken into account in selecting the method or base to be used in distributing the expenses assembled under each of the individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to the cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (1) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to the cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

4. A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide

with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

E. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

1. Indirect cost pools

(a) Subject to (b) below, indirect costs allocable to an institution's direct functions should be treated as a common pool, and the costs in such common pool should then be distributed to the individual projects benefiting therefrom by use of a single rate.

(b) In some instances a single rate for use across the board on all activities at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of work at the institution. For this purpose, a particular segment of work may be that performed under a single grant/contract or it may consist of work under a group of grants/contracts performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (2) the volume of work to which such rate would apply is material in relation to other activity at the institution.

2. The distribution base. Indirect costs should be distributed to each applicable project on the basis of direct salaries and wages, total direct costs or other basis which results in an equitable distribution. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to Section E.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the base selected.

F. APPLICATION OF PRINCIPLES AND PROCEDURES

1. Costs shall be allowed to the extent that they are reasonable (see B.3) allocable (see B.4) and determined

to be allowable in view of the other factors set forth in paragraph B.2. and Section G. These criteria apply to all of the selected items of cost which follow notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

2. Costs of all subcontracts under a grant or cost-reimbursement type contract are subject to those Federal cost regulations and policies appropriate to the subcontract involved. Thus, if the subcontract is for supplies or services with a non-profit institution other than an educational institution, hospital, or State and local Governmental unit this document would apply; if the subcontract is for supplies or services with a commercial organization, Federal Procurement Regulation Part 1.15.2 would apply; if the subcontract is with an educational institution, Bureau of the Budget Circular A-21 (Federal Procurement Regulation Part 1.15.3) would apply; if the subcontract is with a hospital, the Department of Health, Education, and Welfare's Cost Principles for Hospitals would apply; etc.

3. Selected items of cost are treated in Section G. However, Section G does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in Section G is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this document and, where appropriate, the treatment of similar or related selected items.

G. GENERAL STANDARDS FOR SELECTED ITEMS OF COST

Sections G-1 through G-46 provide standards to be applied in establishing the allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern. Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with non-profit institutions which are so diverse in nature and not subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that institutions entering into grants or contracts with the Government seek agreement in advance of the

incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such action may also be initiated by the Government. Examples of costs on which advance agreements may be particularly important are:

1. Compensation for personal services;
2. Consultant fees;
3. Deferred maintenance costs;
4. Excess facility costs;
5. Materials, services and supplies sold between organizations or divisions under common control;
6. Pre-award costs;
7. Publication and public information costs;
8. Royalties;
9. Training and educational costs;
10. Travel costs, as related to special or mass personnel movement, and to the class of air-travel accommodations allowable;
11. Use charge for fully depreciated assets;
12. Depreciation or use charge on assets donated to the institution by third parties.

1. Advertising costs

(a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazine, newspapers, radio and television programs, direct mail, trade papers, outdoor advertising, dealer cards and window displays, conventions, exhibits, free goods and samples, and the like.

(b) The only advertising costs allowable are those which are solely for (1) the recruitment of personnel required for the performance by the institution of obligations arising under the grant/contract, when considered in conjunction with all other recruitment costs, as set forth in G.36; (2) the procurement of scarce items for the performance of the grant/contract or (3) the disposal of scrap or surplus materials acquired in the performance of the project. Costs of this nature, if incurred for more than one Government award or for both Government work and other work of the institution, are allowable to the extent that the principles in Paragraph B-3, B-4, and Section D are observed.

2. Bad Debts

Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs, are unallowable.

3. Bidding or Proposal Costs

Bidding or proposed costs are the immediate costs of preparing bids or proposals on potential Government

and non-Government contracts or projects or applications for financial assistance under Federal grant and contract programs, including development of scientific, engineering and cost data necessary to support the institution's bids, proposals or applications. Bidding costs of the current accounting period are allowable as part of the indirect cost pool. Costs of past accounting periods are unallowable. Bidding costs do not include any of those costs described in Section G-16 and G-30.

4. Bonding Costs

(a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance, included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. Civil Defense Costs

(a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire fighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the institution.

(b) Costs of capital assets under (a) above are allowable through depreciation or use charges in accordance with G-10.

(c) Contributions to local civil defense funds and projects are unallowable.

6. Compensation for Personal Services

(a) *Definition.* Compensation for personal services includes all remuneration paid currently or accrued in whatever form and whether paid immediately or deferred for services rendered by employees of the institution during the period of grant/contract performance. It includes, but is not limited to, salary,

wages, directors' and executive committee members' fees, bonuses, incentive awards, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans.

(b) *Allowability.* Except as otherwise specifically provided in this subsection, the costs of compensation for personal services are to be treated as allowable to the extent that:

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the performance of grant or contract work, result in internally consistent treatment of employees in like situations, and effectively relate compensation paid within the organization to that paid for similar services outside the organization;

(2) Total compensation of individual employees is reasonable for the services rendered; and

(3) Costs are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(c) *Reasonableness*

(1) When the institution is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on Federally-sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the institution's other activities;

(2) When the institution is predominantly engaged in Federally-sponsored activities, and in cases where the kind of employees required for the Federally-sponsored activities are not found in the institution's other activities, compensation for employees on Federally-sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the institution competes for the kind of employees involved.

(d) *Review and Approval of Compensation of Individual Employees.* In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special Considerations in Determining Allowability.* Certain conditions require special consideration and possible limitation as to allowability for grant

and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to share holders, members, trustees, directors, associates, officers or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an institution's compensation policy resulting in a substantial increase in the institution's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The institution's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor-management agreements that, as applied to work in the performance of Government grants or contracts are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government grant or contract involving significantly different circumstances and conditions of employment, (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph unless:

(1) The institution has been permitted an opportunity to justify the costs; and

(2) Due consideration has been given to whether there are unusual conditions pertaining to the Government work which impose burdens, hardships, or hazards on the institution's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(g) (1) In addition to the general requirements set forth in (a) through (f) of this subsection, certain forms of compensation are subject to further requirements as specified in (2) through (9) below.

(2) *Salaries and wages*

Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, see G.25 as it relates to compensation for overtime.

(3) *Incentive Compensation*

Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc. are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the institution and the employees before the services were rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payment. Awards, and incentive compensation when deferred are allowable to the extent provided in (4) below.

(4) *Deferred Compensation*

(a) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans; except that it does not include normal end of accounting period accruals for regular salaries and wages. It includes (i) contributions to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

(b) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the grant/contract period; (ii) it is, together with all other compensation paid to the employee, reasonable in amount; (iii) it is paid pursuant to an agreement entered into in good faith between the institution and its employees before the services are rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payments; (iv) the benefits of the plan are vested in the employees or their designated beneficiaries and no part of the deferred compensation reverts to the employer institution; (v) in the case of past service pension costs, it is amortized over a period of ten years or more; and (vi) for a plan which is subject to approval by the Internal Revenue Service, it falls within the

criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service.

(c) In determining the cost of deferred compensation allowable under the grant or contract, appropriate adjustments shall be made for credits or gains, including those arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the institution; forfeitures which inure to the benefits of other employees covered by a deferred compensation plan with no reduction in the institution's costs will not normally give rise to an adjustment in grant/contract costs. Adjustments for normal employee turnover shall be based on the institution's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the institution can demonstrate that its contributions take into account normal forfeitures. Adjustments for possible future abnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within (i) above, may be made the subject of agreement between the Government and the institution either as to an equitable adjustment or a method of determining such adjustment.

(d) In determining whether deferred compensation is for services rendered during the agreement period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(5) *Fringe Benefits*

Fringe benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the institution.

(6) Severance pay. See G.40.

G.44. (7) Training and education expenses. See

(8) Location allowances.

(a) "Location allowances", sometimes called "supplemental pay" or "incentive pay", are compensation in addition to normal wages or salaries and are paid by institutions to especially compensate or induce employees to undertake or continue work at locations which may be isolated or in an unfavorable environment. Location allowances include extra wage or salary payments in the form of station allowances, extended per diem, or mileage payments for daily commuting; they also include such benefits as institution-furnished housing. Payment of location allowances shall be allowed as costs under grants and cost-reimbursement type contracts, or recognized in pricing fixed-price type contracts, only with prior approval in writing from the awarding agency and only where and so long as the isolation or unfavorable environment of the site makes such payments necessary to the accomplishment of the work without unacceptable delays. Whether the site is so isolated, or its environment is so unfavorable, as to require location allowances is to be determined in the light of (a) its location and climate; (b) the availability and adequacy of housing within reasonable commuting distance; and (c) the availability and adequacy of education, recreational, medical, and hospital facilities. The extent to which compensation includes location allowances is to be determined by comparing it with (a) the institution's normal compensation policy, including pay scales at its principal operating locations; (b) pay scales of other organizations and concerns operating at or near the site; and (c) compensation paid by other concerns within the same field for similar services elsewhere.

(b) Locations for which location allowances are paid shall be reviewed at least once a year to determine whether such allowances should continue to be allowed.

(9) Support of Salaries and Wages

(a) Direct charges for professionals must be supported by either:

(i) an adequate appointment and workload distribution system, accompanied by monthly reviews performed by responsible officials and a reporting of any significant change in workload distribution of each professional (i.e., an exception reporting system) or

(ii) a monthly after-the-fact certification system which will require persons in supervisory

positions having firsthand knowledge of the services performed to report the distribution of effort (i.e., a positive reporting system). Such reports must account for the total salaried effort of the persons covered. Consequently, a system which provides for the reporting only of effort applicable to federally-sponsored activities is not acceptable.

(b) Direct charges for salaries and wages of non-professionals will be supported by time and attendance and payroll distribution records.

(c) Allowable indirect personal services costs will be supported by the institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government representatives.

7. Capital Expenditures. The costs of equipment buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the grant/contract.

8. Contingencies

(a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the institution's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., pension funds, sick leave and vacation accruals, etc. In such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which

cannot be measured so precisely as to provide equitable results to the institution and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage (see, for example, G-17, G-21, and G-40).

9. Contributions and Donations

(a) Contributions and donations by the grantee/contractor are unallowable.

(b) The value of donated services or goods provided by individual volunteers or members of volunteer organizations is not an allowable cost; however, the fair market value of donated services or goods utilized in the performance of a direct cost activity as defined in C.1 and C.2 shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect cost.

10. Depreciation and Use Allowances

(a) Institutions may be compensated for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular institution's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

(b) Depreciation or a use allowance on assets donated by third parties is allowable. However, any limitations on the amount of depreciation which would have applied to the donor as a result of restrictions contained in this Section shall also apply to the recipient organization.

(c) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar

improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to the grant or contract is developed from the amount thus amortized for the base period involved.

(d) Normal depreciation on an institution's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of cost provided that the amount thereof is computed:

(1) Upon a property cost basis which could have been used by the institution for Federal Income Tax purposes, had such institution been subject to the payment of income tax; and

(2) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

(a) The straight line method;

(b) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (a) above;

(c) The sum-of-the-years-digits method; and

(d) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year, does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (b) above.

(e) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(f) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes. (See G.13).

(g) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated; provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(h) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding ten percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding six and two-thirds percent of such estimate.

(i) Depreciation and/or use charges should usually be allocated to all activities as an indirect cost.

11. Employee Morale, Health, Welfare Costs and Credits

(a) Employee morale, health and welfare activities are those services or benefits provided by the institution to its employees to improve working conditions, employer-employee relations, employee morale and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this

paragraph, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations or similar types of services for the institution's employees at or near its facilities.

(b) Except as limited by (c) below, the aggregate of costs incurred on account of all activities mentioned in (a) above, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under (b) above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to accomplishment of the above objective, are not allowable, except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (i) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could economically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

(d) In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (but see (e)).

(e) Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under (b) above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

12. Entertainment Costs

Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see G-11 and G-43).

13. Excess Facility Costs

(a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below.

(1) Facilities means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the institution.

(2) Idle Facilities means completely unused facilities that are excess to the institution's current needs.

(3) Idle Capacity means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one shift basis* less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period.

(4) Costs of Idle Facilities or Idle Capacity are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The cost of idle facilities are unallowable except to the extent that:

(i) they are necessary to meet fluctuations in workload; or

(ii) although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, grantee/contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see G.42(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal

* A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

14. Fines and Penalties

Costs of fines and penalties resulting from violation of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the grant or contract instructions in writing from the awarding agency.

15. Fringe Benefits

See G-6-(g)-(5).

16. Independent Research and Development

(a) An institution's independent research and development (IR&D) is that research and development which is not sponsored by the Government or a non-Government organization or agency under a grant/contract or other arrangement.

(b) Basic research, for the purpose of this document, is that type of research which is directed toward increase of knowledge within a particular discipline. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this document consists of that type of effort which (1) is normally derived from the results of basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materials, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research, does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as defined in (c) below. Census research, for the purpose of this document, is that type of activity devoted to the compilation and interpretation of statistical and other analytical information acquired through survey (e.g. interview, circularization of questionnaires), observations or from books, treatises, articles or other sources relative to specifically defined activities, occurrences or conditions for the purpose of accomplishing some scientific end.

(c) "Development" is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance requirements, but exclusive of manufacturing and production engineering.

(d) Independent research and development will be treated in a manner consistent with the treatment of sponsored research and development. Accordingly, an institution's I R & D shall be allocated its proportionate share of indirect costs on the same basis that indirect costs are allocated to sponsored research and development.

(e) The cost of an institution's I R & D, including its proportionate share of indirect costs, is unallowable.

17. Insurance and Indemnification

(a) Insurance includes insurance which the institution is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the institution maintains in connection with the general conduct of its business.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit;

(c) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the institution's business, or (ii) all or substantially all of the institution's operations at any one separate location in which the grant or contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily

responsible for the direction and/or execution of the project supported by the grant or contract.

(d) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. (See G-6).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant or contract, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.

(b) Indemnification includes securing the institution against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in (a) (3) above.

18. Interest and Other Financial Costs

(a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Where substantial effort or time is devoted to fund raising and investment activities as described in (b) and (c) in relation to other functions of an institution, such activities shall be considered as a major activity of the institution and shall be allocated its share

of indirect costs in accordance with Section D. (See also C-2).

19. Labor Relations Costs

Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

20. Losses on Other Grants or Contracts

Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract.

21. Maintenance and Repair Costs

(a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see G-10):

(1) Normal maintenance and repair costs are allowable:

(2) Extraordinary maintenance and repair costs are allowable, provided such are allocated to the periods to which applicable for purposes of determining grant or contract costs.

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the institution's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

22. Materials Costs

(a) The cost of consumable supplies, serum, drugs, fabricated parts and other materials necessary to carry out the objectives of a grant or contract, whether purchased outside or manufactured by the institution are allowable subject to the provisions (b) through (e) below. The cost may include such collateral items as inbound transportation and intransit insurance.

In computing these costs consideration will be given to reasonable overruns, spoilage, or defective work if consistent with the nature of the project being performed and the recognized practice of the industry.

(b) Costs of material shall be suitably adjusted for applicable portions of income and other credits,

including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and material returned to vendors. Such income and other credits shall either be credited directly to the cost of the material involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from differences between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the grant or contract.

(d) When the materials are purchased specifically for and identifiable solely with performance under a grant or contract, the actual purchase cost thereof should be charged to that grant or contract. If material is issued from stores, any generally recognized method of pricing such material is acceptable if that method is consistently applied and the results are equitable. When estimates of material costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materials, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price interorganization transfers of materials, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public"; or

(2) It is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity;

provided that in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary or affiliate of the institution under a common control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the awarding agency;

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of grant or contract requirements.

23. Organization Costs

Expenditures, such as incorporation fees, attorney's fees, accountant's fees, brokers' fees, fees to promoters and organizers, in connection with (a) organization or reorganization of a business, or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

24. Other Business Expenses

Included in this item are such recurring expenses as preparation and publication of reports to members and trustees, preparation and submission of required reports and forms to taxing and other regulatory bodies; and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

25. Overtime, Extra-Pay Shift and Multi-Shift Premiums

Premiums for overtime, extra-pay shifts, and multi-shift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;

(b) Is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;

(c) Is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual grant- or contract project, or program, or for a division, department, or branch, as most practicable.

Overtime for which overtime premiums would be at Government expense should not be approved under an award where the institution is already obligated, without the right to additional compensation, to meet the required delivery date.

Where overtime premiums or shift premiums are being paid at Government expense in connection with the performance of a Government grant or contract; the continued need therefor should be subject to periodic review by the awarding agency.

26. Patent and Copyright Costs

Costs of preparing disclosures, reports, and other documents required by the grant/contract and of searching the art to the extent necessary to make such disclosures, are allowable. In accordance with the conditions of the grant or contract relating to patents or copyrights, costs of preparing documents and any other costs, in connection with the filing of a patent application or copyright where title is conveyed to the Government, are allowable. However, similar costs incurred in connection with patents or copyrights where title is not conveyed to the Government are unallowable. (See G-39)

27. Pension Plans

(See G-6(g)-(4))

28. Plant Protection Costs

Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection, (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements are allowable.

29. Plant Reconversion Costs

Plant reconversion costs are those incurred in the restoration or rehabilitation of the institutions' facilities to approximately the same condition existing immediately prior to the commencement of the grant or contract work, fair wear and tear excepted. Reconversion costs are unallowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon in writing before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other grants or contracts.

30. Pre-Award Costs

Pre-award costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrence is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the prior written approval of the awarding agency.

31. Professional Service Costs-Legal, Accounting, Scientific and Other

(a) Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to (b), (c) and (d) below, when reasonable in relation to the services rendered. (but see G-23)

(b) Factors to be considered in determining the allowability of costs in a particular case include:

(1) the nature and scope of the service rendered in relation to the service required;

(2) the necessity of contracting for the service considering the institution's capability in the particular area;

(3) the past pattern of such costs, particularly in years prior to the award of Government work;

(4) the impact of Government work on the institution's business (i.e., what new problems have arisen);

(5) whether the proportion of Government work to the institution's total business is such as to

influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants/contracts;

(6) whether the service can be performed more economically by employment rather than by contracting;

(7) the qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-government grants/contracts;

(8) adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation; termination provisions).

(c) Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of anti-trust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the grant or contract.

32. Profits and Losses on Disposition of Plant, Equipment, or Other Capital Assets

Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short or long term investments, shall be excluded in computing grant or contract costs.

33. Public Information Services Costs

Public information services cost includes the cost associated with promotions, public relations, pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(a) Inform or instruct individuals, groups or the general public about health or social problems.

(b) Interest individuals or groups in participating in a service program of the institution.

(c) Provide stewardship reports to State and local Government agencies, benefactor foundations and associations, etc.

(d) Appeal for funds.

(e) Disseminate the results of sponsored and non-sponsored research or other activity to the scientific community.

To the extent that the costs incurred for any of these purposes are identifiable with a particular cost objective they should be charged to the objective to which they relate.

If these costs are not identifiable with a particular cost objective they should be allocated as indirect costs to all major activities of the institution except that costs related to fund raising appeals are unallowable as costs of grants and contracts.

Public information service costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

34. Publication and Printing Costs

Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding and the end products produced by such processes), distribution, promotion, mailing and general handling.

Publication costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

35. Rearrangement and Alteration Costs

Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when written approval has been given in advance by the awarding agency.

36. Recruitment Costs

(a) Subject to (b), (c) and (d) of the G-36, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help-wanted advertising that (1) includes color, (2) includes advertising material for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help-wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as grantee or contractor to the Government, or in excess of the standard practices in comparable institutions; are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within twelve months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

37. Relocation Costs

(a) Relocation costs, for the purpose of this document, are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to cost of (i) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (ii) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (iii) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (iv) other necessary and reasonable expenses normally incident to relocation, such as cost of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (v) loss on sale of home; and (vi) acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to (c) below, relocation costs of the type covered in (a) (i), (ii), (iii), and (iv) above are allowable, provided (i) the move is for the benefit of the employer; (ii) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (iii) the costs are not otherwise unallowable under the provisions of G-36 or any other paragraph of this document, and (iv) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions: (i) the transition period for incurrence of costs of the type covered in (a) (ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (ii) allowance for cost of the type covered in (a) (iii) above shall not exceed 8% of the sales price of the property sold. Costs of the type covered in (a) (iii) and (iv) above are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in (a) (v) and (vi) above are not allowable.

38. Rental Costs (Including Sale and Leaseback of Facilities)

(a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities.

(b) Charges in the nature of rent between plants, divisions, or organizations under common control are allowable in the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance; provided that no part of such costs shall duplicate any other allowed costs.

(c) Unless otherwise specifically provided in the grant or contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the grantee/contractor would have received had it retained legal title to the facilities.

(d) Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not

exceed the amount the institution would have received had legal title to the facilities been vested in it.

(e) The allowability of rental costs under unexpired leases in connection with terminations is treated in G-42(e).

39. Royalties and Other Costs for Use of Patents and Copyrights

(a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent or rights thereto, necessary for the proper performance of the grant or contract applicable to grant products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's length bargaining; e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the institution;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded; or

(3) Royalties paid under an agreement entered into after the award of the grant or contract.

(c) In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

40. Severance Pay

(a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by (1) law, (2) employer-employee agreement,

(3) established policy that constitutes, in effect, an implied agreement on the institution's part, or (4) circumstance of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the institution's facilities; or, where the institution provides for accrual of pay for normal severances such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case by case basis in the event of occurrence.

41. Taxes

(a) Taxes are certain charges levied by Federal, State, or local Governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income taxes and similar levies against income of the institution derived from activities unrelated to the project supported by the grant or contract.

(2) Taxes in connection with financing, refinancing, or refinancing operations (see G-1B).

(3) Taxes from which exemptions are available to the institution directly or available to the institution based on an exemption afforded the Government except when the awarding agency determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government grants or contracts. (Taxes on property

used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erroneous assessment exists, are allowable provided the institution, prior to payment of such taxes:

(1) Promptly requests instructions from the awarding agency concerning such taxes, and

(2) Takes all action directed by the awarding agency arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to (i) determine the legality of such assessment, or (ii) secure a refund of such taxes.

Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the non-payment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest or penalties.

42. Termination Costs

Grants and contracts terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the remainder of this document in termination situations.

(a) Common Items

The cost of items reasonably usable on the institution's other work shall not be allowable unless the

institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, the awarding agency should consider the institution's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the institution shall be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allocable to the terminated portion of the project should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) Costs continuing after termination

If in a particular case, despite all reasonable efforts by the institution certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this document, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs shall be considered unallowable.

(c) Initial costs

Initial costs, including starting load and preparatory costs, are allowable, subject to the following:

(1) Starting load costs are costs of a non-recurring nature arising in the early stages of operation, investigation or production and not fully absorbed because of the termination. Such costs may include the cost of labor and material, and related indirect cost attributable to such factors as:

(a) Excessive spoilage resulting from inexperienced labor;

(b) Idle time and subnormal production occasioned by testing and changing methods of processing;

(c) Employee training; and

(d) Unfamiliarity or lack of experience with the product, materials, manufacturing processes and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated project including costs of initial plant rearrangement and alterations, management and personnel organization, production planning and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the institution's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cost incurred during the early stages of the project.

(4) When the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the project immediately prior to termination; however, if the project includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one project shall not be allocated to other projects.

(d) Loss of useful value

Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery or equipment is not reasonably capable of use in the other work of the institution;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency and

(3) The loss of useful value as to any one terminated project is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the project bears to the entire terminated project and other Government projects for which the special tooling and special machinery and equipment was acquired.

(e) Rental costs

Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated project less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the project and such further period as may be reasonable; and

(2) The institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the project, and of reasonable restoration required by the provisions of the lease.

(f) Settlement expenses

Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the project, and

(b) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the project.

(g) Subcontractor claims

Subcontractor claims, including the allocable portion of claims which are common to the project and to other work of the institution are generally allowable.

43. Trade, Business, Technical, and Professional Activity Costs

(a) Memberships

This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) Subscriptions

This item includes cost of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) Meetings and conferences

This item includes costs of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

44. Training and Educational Costs

(a) The costs of training courses taken by a bona fide employee to acquire basic skills which he should bring to the job or to qualify a person for duties other than those related to an institution's goals are allowable.

(b) Costs of on the job training and part-time education, at an undergraduate or postgraduate college level, related to the job requirements of bona fide employees, identified in (1) through (5) below, are allowable.

(1) Training materials;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and

(5) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materials and textbooks (but not subsistence, salary, or any other emoluments) in connection with full time scientific and medical education at a post-graduate (but not undergraduate) college level related to the job requirements of bona fide-employees for a total period not to exceed one school year for each employee so trained, are allowable when approved in writing by the awarding agency.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are allowable.

45. Transportation Costs

Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see G-22).

Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or contract shall be treated as a direct cost.

46. Travel Costs

(a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by institution personnel in a travel status while on official business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used does not result in an unreasonable charge. The difference in cost between first-class and less than first-class air accommodations is allowable except when less than first-class air accommodations are

not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific grant or contract performance are allowable and may be charged to the grant or contract in accordance with the principle of direct costing (see Section C).

(e) Costs of personnel movement of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency.

SECTION V
APPENDICES

APPENDIX 1

SAMPLE INDIRECT COST RATE PROPOSAL FORMATS

Page No.

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EXPLANATION OF EXHIBIT A
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT
SIMPLIFIED METHOD

This Exhibit illustrates the computation of an indirect cost rate where one of the following conditions exist:

1. All of an Institution's direct program activities are serviced by and receive benefits from all of its indirect activities in approximately the same degree.
2. The amount of Federal funds received by an Institution is not material in relation to its other operating revenues and the work performed with Federal funds receives administrative services in approximately the same degree as work performed with non-Federal funds.
3. The Institution has only a single direct activity or function with multiple sources of funding.

Under this method, an Institution should first identify all those activities and functions which it performs and the costs associated with them. It should then categorize these activities and costs as direct or indirect. Thirdly, it should make eliminations for unallowable costs and capital expenditures. Finally, it should compute its indirect cost rate as shown on Exhibit A-1.

The amounts used in the computation should be supported by and reconciled to the Institution's financial statements, preferably certified by an Independent licensed accountant.

EXHIBIT A
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - SIMPLIFIED METHOD*
A NON-PROFIT INSTITUTION
SUMMARY OF DIRECT AND INDIRECT COSTS
FOR THE YEAR ENDED _____

	Total Costs	Less: Exclusions		Direct Costs	Indirect Costs	Notes
		Capital Expenditures	Other			
<i>General (Unrestricted) Funds</i>	\$130,000	-	-	-	\$130,000	(1)
General and Administrative Costs:	5,000	5,000	-	-	-	(2)
Salaries and Wages	125,000	-	-	-	125,000	(3)
Equipment & Other Capital Expenditures	100,000	-	\$30,000	-	70,000	(4)
Fringe Benefits	20,000	-	5,000	-	15,000	(4)
Other Expenses	70,000	-	-	-	70,000	(1)
Depreciation	5,000	5,000	-	-	-	(1)
Occupancy Costs:	50,000	-	-	-	50,000	(5)
Salaries	90,000	-	-	90,000	-	(5)
Equipment and Other Capital Expenditures	30,000	-	-	30,000	-	(5)
Other Expenses	900,000	-	-	900,000	-	(1)
Public Relations and Fund Raising:	15,000	15,000	-	-	-	(1)
Salaries and Wages	380,000	-	-	380,000	-	(1)
Other Expenses	300,000	-	-	300,000	-	(1)
Direct Programs (Incl. Community Services, Public Information Services, etc.):	40,000	-	-	40,000	-	(1)
Salaries and Wages	300,000	-	-	300,000	-	(1)
Equipment and Other Capital Expenditures	40,000	40,000	-	-	-	(1)
Other Expenses	60,000	-	60,000	-	-	(6)
<i>Grants, Contracts, and Other Restricted Funds</i>	100,000	-	-	100,000	-	(1)
Salaries and Wages	\$2,420,000	\$65,000	-	\$1,900,000	\$460,000	-
Equipment and Other Capital Expenditures	995,000	995,000	-	-	-	-
Other Expenses	1,360,000	-	-	1,360,000	-	-
Charges for Indirect Cost Reimbursement to General Funds	100,000	-	-	100,000	-	-
Other Expenses	100,000	-	-	100,000	-	-
Total	\$2,420,000	\$65,000	\$95,000	\$1,900,000	\$460,000	

¹ Equipment and other capital expenditures, such as major renovations and alterations, are excluded from the rate computation because they distort cost allocations. In this illustration, it is assumed that all fringe benefits (except vacation, sick leave, and holidays) are treated consistently by the institution as indirect costs, and that none are charged directly.

² The \$30,000 of excluded costs consists of various categories of unallowables such as interest expense, entertainment, charitable contributions, etc. to which indirect costs are not allocable, per Para. C.2 of the Cost Principles.

³ The \$5,000 of depreciation excluded is the amount attributable to assets purchased with Federal funds, or on assets used for cost sharing purposes.

⁴ Public relations and fund raising costs represent unallowable activities to which indirect costs are allocable, in accordance with Para. C.2 of the Cost Principles and are therefore classified as direct costs.

⁵ Charge: for indirect cost reimbursement to the institution's general fund (often called Applied Overhead) represent amounts "earned" during the year, and were computed by applying the current indirect cost rate to the appropriate direct cost elements at periodic intervals. This in effect accomplishes a transfer of funds from the grant or contract accounts to the general fund, and is a widely used accounting procedure. However, in order to compute the actual indirect cost rate for the year, such transfers should be reversed in the proposal.

⁶ This is a sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT A
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT
SIMPLIFIED METHOD

This Exhibit illustrates the computation of an indirect cost rate where one of the following conditions exist:

1. All of an institution's direct program activities are serviced by and receive benefits from all of its indirect activities in approximately the same degree.
2. The amount of Federal funds received by an institution is not material in relation to its other operating revenues and the work performed with Federal funds receives administrative services in approximately the same degree as work performed with non-Federal funds.
3. The institution has only a single direct activity or function with multiple sources of funding.

Under this method, an institution should first identify all those activities and functions which it performs and the costs associated with them. It should then categorize these activities and costs as direct or indirect. Thirdly, it should make eliminations for unallowable costs and capital expenditures. Finally, it should compute its indirect cost rate as shown on Exhibit A-1.

The amounts used in the computation should be supported by and reconciled to the institution's financial statements, preferably certified by an independent licensed accountant.

EXHIBIT A
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - SIMPLIFIED METHOD*
A NON-PROFIT INSTITUTION
SUMMARY OF DIRECT AND INDIRECT COSTS
FOR THE YEAR ENDED _____

	Total Costs	Less: Exclusions		Direct Costs	Indirect Costs	Notes
		Capital Expenditures	Other			
General (Unrestricted) Funds						
General and Administrative Costs:						
Salaries and Wages	\$130,000	-	-	-	\$130,000	(1)
Equipment & Other Capital Expenditures	5,000	5,000	-	-	-	(2)
Fringe Benefits	125,000	-	-	-	125,000	(3)
Other Expenses	100,000	-	\$30,000	-	70,000	(4)
Depreciation	20,000	-	5,000	-	15,000	(4)
Occupancy Costs:						
Salaries	70,000	-	-	-	70,000	(1)
Equipment and Other Capital Expenditures	5,000	5,000	-	-	-	(2)
Other Expenses	50,000	-	-	-	50,000	(5)
Public Relations and Fund Raising:						
Salaries and Wages	90,000	-	-	\$90,000	-	(5)
Other Expenses	30,000	-	-	30,000	-	(5)
Direct Programs (Incl. Community Services, Public Information Services, etc.):						
Salaries and Wages	900,000	-	-	900,000	-	(1)
Equipment and Other Capital Expenditures	15,000	15,000	-	-	-	(2)
Other Expenses	380,000	-	-	380,000	-	(5)
Grants, Contracts, and Other Restricted Funds (Incl. Research)						
Salaries and Wages	300,000	-	-	300,000	-	(1)
Equipment and Other Capital Expenditures	40,000	40,000	-	-	-	(2)
Charges for Indirect Cost Reimbursement to General Funds	60,000	-	60,000	-	-	(6)
Other Expenses	100,000	-	-	100,000	-	(5)
Total	\$2,420,000	\$65,000	\$95,000	\$1,800,000	\$460,000	

¹ Equipment and other capital expenditures, such as major renovations and alterations, are excluded from the rate computation because they distort cost allocations.

² In this illustration, it is assumed that all fringe benefits (except vacation, sick leave, and holidays) are treated consistently by the institution as indirect costs, and that none are charged directly.

³ The \$10,000 of excluded costs consists of various categories of unallowables such as interest expense, entertainment, charitable contributions, etc. to which indirect costs are not allocable, per Para. C.2 of the Cost Principles.

⁴ The \$5,000 of depreciation excluded is the amount attributable to assets purchased with Federal funds, or on assets used for cost sharing purposes.

⁵ Public relations and fund raising costs represent unallowable activities to which indirect costs are allocable, in accordance with Para. C.2 of the Cost Principles and are therefore classified as direct costs.

⁶ Charges for indirect cost reimbursement to the institution's general fund (often called Applied Overhead) represent amounts "earned" during the year, and were computed by applying the current indirect cost rate to the appropriate direct cost elements at periodic intervals. This in effect accomplishes a transfer of funds from the grant or contract accounts to the general fund, and is a widely used accounting procedure. However, in order to compute the actual indirect cost rate for the year, such transfers should be reversed in the proposal.

*This is a sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT A-1

SAMPLE INDIRECT COST RATE PROPOSAL FORMAT

SIMPLIFIED METHOD

The column totals from Exhibit A are brought forward to this Exhibit. Indirect costs (\$460,000) are divided by direct costs (\$1,800,000) to produce the rate of 25.6%. This rate is expressed as a percentage of total direct costs, less capital expenditures.

If considered more appropriate, the rate could be expressed as a percentage of direct salaries and wages. To do this, indirect costs would be divided by only the salaries and wages included in total direct costs. For example, the salaries and wages shown in the direct costs column of Exhibit A is \$1,290,000. Dividing this amount into the indirect costs of \$460,000 on the same Exhibit would result in an indirect cost rate of 35.7%.

Because all fringe benefits were treated as indirect costs in this sample proposal, there should be no direct charges for fringe benefits on the grants and contracts to which the rate applies.

EXHIBIT A-1
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - SIMPLIFIED METHOD*

A NON-PROFIT INSTITUTION
COMPUTATION OF INDIRECT COST RATE
FOR THE YEAR ENDED _____

	Total Costs	Less: Exclusions		Direct Costs	Indirect Costs
		Capital Expenditures	Other		
Totals (Exhibit B)	\$2,420,000	\$65,000	\$95,000	\$1,800,000	\$460,000
				(B)	(A)

Rate Computation

(A) ÷ (B) = $\frac{\$460,000}{\$1,800,000}$ = 25.6% of total direct costs less capital expenditures.

*This is a sample only, and is not intended to prescribe methods of charging costs.

EXPLANATION OF EXHIBIT B

SAMPLE INDIRECT COST PROPOSAL FORMAT

MULTIPLE DISTRIBUTION BASE METHOD

This Exhibit illustrates the computation of an indirect cost rate(s) for an institution with two or more direct program activities which do not all receive services or benefits from its indirect activities to the same relative degree. The total costs of a multiple activity organization are first grouped into the broad categories of direct and indirect costs. The pools of indirect costs are further grouped according to the direct programs/activities they service, i.e., Community Services Activities, Fund Raising, and Research. (For purposes of this illustration, assume that the Federally sponsored research is included in the Research activity.)

Before this grouping is made, capital expenditures and certain unallowable costs are eliminated in columns 2 and 3. In addition, an adjustment is made in the fourth column so that the treatment of fringe benefits in the proposal may be consistent with the institution's treatment of fringe benefits for Research. (This adjustment would not be necessary for institutions which consistently treat all fringe benefits as indirect costs, as in Exhibit A, or which allocate fringe benefits on their books to all activities or functions, as in Exhibit C.)

The fifth column shows the adjusted figures for each cost center. Note that, as a result of the adjustment made in column 4, each line item in column 5 now includes its share of fringe benefits.

The next three columns show the adjusted indirect cost pools grouped according to the distribution method chosen. The last column shows the adjusted direct costs of each of the institution's functions.

See Exhibit B-1 for the actual distribution of the indirect costs and Exhibit B-2 for the computation of the indirect cost rates for Research.

EXHIBIT B

SAMPLE INDIRECT COST RATE PROPOSAL FORMAT-MULTIPLE DISTRIBUTION BASE METHOD*

A NON-PROFIT INSTITUTION

SUMMARY OF DIRECT AND INDIRECT COSTS

FOR THE YEAR ENDED _____

	Total Costs per Books	Less: Capital Expenditures ¹	Less: Unallowable Costs	Adjustment of Fringe Benefits	Adjusted Total Costs	Indirect Costs to Be Distributed on			Direct Costs
						Total Direct Costs	Floor Space	No. of Employees	
Fringe Benefits	¹ \$500,000			(\$500,000)	-				
General & Administrative Costs	500,000	(\$10,000)	⁵ (\$40,000)	41,000	\$491,000	\$491,000	-	-	-
Occupancy Costs	750,000	(5,000)	-	59,000	804,000	-	\$804,000	-	-
Depreciation	200,000	-	⁶ (25,000)	-	175,000	-	175,000	-	-
Loss on Employee Cafeteria	² 25,000	-	-	9,500	34,500	-	-	\$34,500	-
Direct Costs of Community Service Activities	³ 4,000,000	(50,000)	-	352,500	4,302,500	-	-	-	\$4,302,500
Direct Costs of Fund Raising	500,000	-	-	38,000	538,000	-	-	-	538,000
Direct Costs of Research	1,500,000	(80,000)	-	-	1,420,000	-	-	-	1,420,000
	<u>\$7,975,000</u>	<u>(\$145,000)</u>	<u>(\$65,000)</u>	<u>-</u>	<u>\$7,765,000</u>	<u>\$491,000</u>	<u>\$979,000</u>	<u>\$34,500</u>	<u>\$6,260,500</u>

¹ This amount includes all fringe benefits incurred by the institution except those applicable to direct salaries of research. Research fringe benefits are assumed in this illustration to have been charged directly to the projects and are included in the \$1,500,000 shown as direct costs.

² The loss on Employee Cafeteria is the net figure after offsetting cafeteria income.

³ Included in this amount are those types of unallowable costs to which indirect costs are allocable, in accordance with Para. C. 2 of the Cost Principles.

⁴ Only current expenditures should be considered in developing indirect cost rates. Therefore, equipment and other capital items are excluded.

⁵ These unallowable costs include such items as interest expense, entertainment, charitable contributions, etc., to which paragraph C. 2 of the Cost Principles is not applicable.

⁶ The amount excluded is the depreciation attributable to assets financed from Federal funds, or on assets used for cost sharing purposes.

⁷ This adjustment is necessary to maintain consistency of treatment, since only the research projects have been charged directly for their share of fringe benefits. (See note 1, above.) The \$500,000 is distributed in proportion to all other salaries and wages, as follows:

	\$&W	Percent	Fringe Benefits
General & Administrative	\$350,000	8.2%	\$41,000
Occupancy	500,000	11.8	59,000
Cafeteria	80,000	1.9	9,500
Community Services	3,000,000	70.5	352,500
Fund Raising	325,000	7.6	38,000
	<u>\$4,255,000</u>	<u>100.0%</u>	<u>\$500,000</u>

*This is a sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT B-1

This Exhibit demonstrates how groups of indirect costs (as developed in Exhibit B) may be distributed to the institution's several functions, using for each group the method of apportionment most appropriate to it.

The first three columns show the distribution of general and administrative costs, totaling \$491,000, based on total direct costs exclusive of capital expenditures and any other direct costs that would distort the allocation of indirect costs, for each of the institution's functions.

The next three columns distribute \$979,000 of occupancy costs and depreciation, based on square feet of floor space occupied by the direct activities.

The seventh, eighth and ninth columns distribute the loss on employees' cafeteria based on the number of employees to whom the cafeteria is ordinarily available. This would usually include all employees stationed at the organization's main facility at which the cafeteria is located.

These groupings and methods of apportionment are shown only as illustrations. Other groupings and methods of apportionment may be used, if more appropriate to the actual circumstances of a given non-profit institution.

EXHIBIT B-1
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - MULTIPLE DISTRIBUTION BASE METHOD*

A NON-PROFIT INSTITUTION
DISTRIBUTION OF INDIRECT COSTS

FOR THE YEAR ENDED _____

	General and Administrative Costs		Occupancy and Depreciation		Loss on Employees Cafeteria		Total Indirect Costs Distributed
	Total Direct Costs ¹	Percent	Distribution of Indirect Costs	Square Feet	Percent of Indirect Costs	Number of Employees	
Community Services	\$4,302,500	68.17	\$337,415	46,000	90	543	\$951,517
Fund Raising	538,000	8.60	42,278	8,000	10	8	140,518
Research	1,420,000	22.68	111,289	24,000	30	149	412,404
Total	<u>\$6,260,500</u>	<u>100.00</u>	<u>\$491,000</u>	<u>90,000</u>	<u>100</u>	<u>700</u>	<u>\$1,504,500</u>

¹ These amounts are net of capital expenditures and any other direct costs that would distort the allocation of indirect costs.
* This is a sample only, and is not intended to prescribe methods for charging costs.

EXHIBIT B
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT-MULTIPLE DISTRIBUTION BASE METHOD*
A NON-PROFIT INSTITUTION
SUMMARY OF DIRECT AND INDIRECT COSTS
FOR THE YEAR ENDED _____

	Total Costs per Books	Less: Capital Expenditures ¹	Less: Unallowable Costs	Adjustment of Fringe Benefits	Adjusted Total Costs	Indirect Costs to Be Distributed on		Direct Costs
						Total Direct Costs	Floor Space	
Fringe Benefits	\$500,000			(\$500,000)	\$491,000	\$491,000	-	-
General & Administrative Costs	500,000	(\$10,000)	\$ (840,000)	41,000	804,000	-	\$804,000	-
Occupancy Costs	750,000	(5,000)	-	59,000	175,000	-	175,000	-
Depreciation	700,000	-	-	-	34,500	-	-	-
Loss on Employee Cafeteria Service	225,000	-	-	9,500	-	-	-	\$34,500
Direct Costs of Community Service Activities	4,000,000	(50,000)	-	352,500	4,302,500	-	-	\$4,302,500
Direct Costs of Fund Raising	500,000	-	-	38,000	538,000	-	-	538,000
Direct Costs of Research	1,500,000	(80,000)	-	-	1,420,000	-	-	1,420,000
	\$7,975,000	(\$145,000)	(\$65,000)	-	\$7,765,000	\$491,000	\$979,000	\$34,500
								\$6,280,500

¹ This amount includes all fringe benefits incurred by the institution except those applicable to direct salaries of research. Research fringe benefits are assumed in this illustration to have been charged directly to the projects and are included in the \$1,500,000 shown as direct costs.

² The loss on Employee Cafeteria is the net figure after offsetting cafeteria income.

³ Included in this amount are those types of unallowable costs to which indirect costs are allocable, in accordance with Para. C. 2 of the Cost Principles.

⁴ Only current expenditures should be considered in developing indirect cost rates. Therefore, equipment and other capital items are excluded.

⁵ These unallowable costs include such items as interest expense, entertainment, charitable contributions, etc., to which paragraph C. 2 of the Cost Principles is not applicable.

⁶ The amount excluded is the depreciation attributable to assets financed from Federal funds, or on assets used for cost sharing purposes.

⁷ This adjustment is necessary to maintain consistency of treatment, since only the research projects have been charged directly for their share of fringe benefits. (See note 1, above.) The \$500,000 is distributed in proportion to all other salaries and wages, as follows:

	S&W	Percent	Fringe Benefits
General & Administrative	\$350,000	8.2%	\$41,000
Occupancy	500,000	11.8	59,000
Cafeteria	80,000	1.9	9,500
Community Services	3,000,000	70.5	352,500
Fund Raising	325,000	7.6	38,000
	\$4,255,000	100.0%	\$500,000

*This is a sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT B-1

This Exhibit demonstrates how groups of indirect costs (as developed in Exhibit B) may be distributed to the institution's several functions, using for each group the method of apportionment most appropriate to it.

The first three columns show the distribution of general and administrative costs, totaling \$491,000, based on total direct costs exclusive of capital expenditures and any other direct costs that would distort the allocation of indirect costs, for each of the institution's functions.

The next three columns distribute \$979,000 of occupancy costs and depreciation, based on square feet of floor space occupied by the direct activities.

The seventh, eighth and ninth columns distribute the loss on employees' cafeteria based on the number of employees to whom the cafeteria is ordinarily available. This would usually include all employees stationed at the organization's main facility at which the cafeteria is located.

These groupings and methods of apportionment are shown only as illustrations. Other groupings and methods of apportionment may be used, if more appropriate to the actual circumstances of a given non-profit institution.

EXHIBIT B-1
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - MULTIPLE DISTRIBUTION BASE METHOD*
A NON-PROFIT INSTITUTION
DISTRIBUTION OF INDIRECT COSTS
FOR THE YEAR ENDED _____

	General and Administrative Costs			Occupancy and Depreciation			Loss on Employees Cafeteria			Total Indirect Costs Distributed
	Total Direct Costs	Percent	Distribution of Indirect Costs	Square feet	Percent	Distribution of Indirect Costs	Number of employees	Percent	Distribution of Indirect Costs	
Community Services	\$4,302,500	68.72	\$337,418	48,000	60	\$587,400	543	77.57	\$26,782	\$951,577
Fund Raising	538,000	8.60	47,228	8,000	10	97,900	8	1.14	393	140,518
Research	1,420,000	22.68	111,359	24,000	30	293,700	149	21.20	7,348	412,404
Total	\$6,260,500	100.00	\$491,000	80,000	100	\$979,000	700	100.00	\$34,500	\$1,504,500

*These amounts are net of capital expenditures and any other direct costs that would distort the allocation of indirect costs.

*This is a sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT B-2

This Exhibit shows how separate rates for an activity (research) conducted at an Institution's main facility (on-site) and at remote locations (off-site) may be developed. The assumption is made that occupancy costs have been charged directly to the off-site research projects, in the form of rent. In addition, it is assumed that the employees stationed at off-site locations do not use the employees' cafeteria to any significant extent.

A rate component is computed for each of the three indirect cost groups applicable to research. The amounts were taken directly from Exhibit B-1. Since General and Administrative costs (\$111,359) are allocable to all research projects, the base for the rate component includes all direct research salaries and wages (\$994,000). This results in a rate component of 11.2%. Occupancy and Depreciation (\$293,700) and the Loss of Employee Cafeteria (\$7,345) are related only to the on-site direct research salaries and wages, resulting in rate components of 36.7% and .9% respectively.

The on-site research rate, 48.8%, is the sum of all three rate components. The off-site rate, 11.2%, is simply the General and Administrative rate component.

These rates are all expressed as percentages of direct research salaries and wages. Other rate bases, such as direct research salaries and wages plus applicable fringe benefits, or total direct research costs less capital expenditures, may be used if more appropriate.

If there were no off-site research, or if the amount of off-site research were relatively small, a single composite rate for all research projects would be developed by relating total research indirect costs to the single rate base chosen.

This Exhibit reflects the development of the research indirect cost pool and rate only. Should an indirect cost rate be required for either Community Services or Fund Raising, similar schedules should be prepared substituting the distributions to each of the functions as reflected in Schedule B-1.

EXHIBIT B-2

SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - MULTIPLE-DISTRIBUTION BASE METHOD*

A NON-PROFIT INSTITUTION

COMPUTATION OF INDIRECT COST RATES FOR RESEARCH

FOR THE YEAR ENDED _____

	Indirect Costs Distributed to Research	Direct Research Salaries and Wages Base	On-site Rate	Off-site Rate
General and Administrative Costs	\$111,359	\$994,000 ²	11.2%	11.2%
Occupancy and Depreciation	293,700	800,000 ²	36.7	--
Loss on Employees' Cafeteria	7,345	800,000 ²	.9	--
Total	\$412,404		48.8%	11.2%

¹Includes vacations, sick leave, and holidays (Note: If any other fringe benefits are to be included in the rate base, details should be provided.)

²The \$994,000 direct research salaries and wages used in the calculation of the General Administrative rate component includes both on-site and off-site salaries and wages. Off-site direct research salaries and wages of \$194,000 are not included in the base for calculation of the Occupancy and Depreciation and Loss on Employees' Cafeteria rate components as explained above.

*This is a sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT C

SAMPLE INDIRECT COST PROPOSAL FORMAT - DIRECT ALLOCATION METHOD

The proposal format illustrated in this Exhibit is suitable for those non-profit institutions which elect to charge directly to their programs and activities all costs except those identifiable with the general administration and fund raising functions. The system used by such institutions is described in Section II of this brochure, under the heading "Direct Allocation Method." For illustration purposes, assume that Federally sponsored programs are included in the Research activity.

The first column lists all expenditures made by the institution, whether from general or restricted funds. In the second column, capital expenditures and those types of unallowable costs to which indirect costs are not allocable (per para. C.2. of the Cost Principles) are deducted. The remaining costs are distributed into columns that identify General and Administrative Expenses, Fund Raising expenses, and expenses of each of the institution's direct programs and activities. The classification into these categories may ordinarily be taken directly from the institution's financial statements. Community Action Agencies must reduce the costs that have been distributed to the column for General and Administrative Expenses by any funds received under Section 221, Economic Opportunity Act of 1964, as amended, which were required to be accounted for by the Office of Economic Opportunity as Account 01 funds.

The column totals are carried to Exhibit C-1 for the computation of the indirect cost rate.

The methodology illustrated by this method must be followed by those institutions which use the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* when reporting to non-federal agencies.

EXHIBIT C
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT-DIRECT ALLOCATION METHOD*
A NON-PROFIT INSTITUTION

ANALYSIS OF FUNCTIONAL EXPENDITURES
FOR THE YEAR ENDED _____

	Total Expenditures—All Funds	Less: Exclusions and Unallowables	General and Administrative Expenses	All Other Costs			Fund Raising
				Program A	Program B	Research Program	
Salaries	\$472,000		\$42,000	\$256,000	\$48,000	\$72,000	\$54,000
Employee Health and Retirement Benefits	78,320		2,520	15,360	2,880	4,320	3,240
Payroll Taxes, etc.	18,880		1,680	10,240	1,920	2,880	2,160
Professional Fees and Contract Service	14,000		2,400			10,500	1,100
Supplies	8,500		160	1,140	1,000	1,200	5,000
Telephone and Telegraph	14,000		900	1,900	1,200	2,400	7,600
Postage and Shipping	31,000		300	300	900	450	29,050
Occupancy	17,400		4,500	8,100	1,300	2,025	1,475
Outside Printing, Art Work, etc.	25,000		90	200	2,400	600	21,710
Local Transportation	37,000		2,700	13,000	600	2,700	18,000
Conferences, Conventions, Meetings, and Major Trips	21,000		3,600	4,500	6,600	1,000	5,300
Subscriptions and Reference Publications	1,200		450		180	150	420
Specific Assistance to Individuals	70,000	¹ \$70,000					
Membership Dues and Support Payments	800		150		375		275
Awards and Grants	80,000	³ 80,000					
Equipment and Other Fixed Assets	6,000	² 6,000					
Entertainment:	1,000	¹ 1,000					
Interest	1,000	¹ 1,000					
Miscellaneous	11,000		750	1,500	2,700	1,300	4,750
Total	\$858,100	\$158,000	\$62,200	\$312,240	\$70,055	\$101,525	\$154,080

¹ These are unallowable costs to which indirect costs are not allocable, in accordance with Para. C. 2. of the Cost Principles.
² Capital expenditures should be excluded from the indirect cost rate computation.
³ This amount represents awards and grants made by the non-profit institution to others. It does not represent awards and grants received by the non-profit institution from the Federal Government and other sponsors. The costs associated with awards and grants received from the Federal Government and other sponsors would be shown in an appropriate column (such as research programs column) of the "All Other Costs" column. Federally sponsored training awards must be shown as a separate column and not combined with other Federally sponsored work.
⁴ Community Action Agencies must reduce the General and Administrative Expenses total by any funds received under Section 221, Economic Opportunity Act of 1964, as amended, which were required to be accounted for by the Office of Economic Opportunity as Account 01 funds.

*This is sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT C-1

The totals for General and Administrative expenses and all other costs are taken directly from Exhibit C. General and Administrative expenses (\$62,200) are divided by the total of All Other Costs (\$637,900), resulting in an indirect cost rate of 9.8%. This rate is expressed as a percentage of total direct costs, less capital expenditures. However, if the institution is a Community Action Agency, then the General and Administrative expenses (\$62,200) must first be reduced by any funds received under Section 221, Economic Opportunity Act of 1964, as amended, which were required to be accounted for by the Office of Economic Opportunity as Account 01 funds.

As in Exhibit A-1, the rate could be expressed as a percentage of direct salaries and wages, by using as the denominator of the rate computation only the salaries and wages included in the \$637,900 of All Other Costs.

EXHIBIT C-1
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - DIRECT ALLOCATION METHOD*
A NON-PROFIT INSTITUTION
COMPUTATION OF INDIRECT COST RATE
FOR THE YEAR ENDED _____

General and Administrative Expenses		¹ \$62,200
		(A)
All Other Costs		
Program A	\$312,240	
Program B	70,055	
Research Program	101,525	
Fund Raising	154,080	
	<u>637,900</u>	(B)

Indirect Cost Rate
 $A \div B = \frac{\$62,200}{\$637,900} = 9.8\%$ of total direct costs, less capital expenditures

¹ Community Action Agencies must reduce the General and Administrative Expenses total by any allowable costs borne by Section 221, Economic Opportunity Act of 1964, as amended, which were required to be accounted for by the Office of Economic Opportunity as Account 01 funds.

*This is a sample only, and is not intended to prescribe methods for charging costs.

EXHIBIT C
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT-DIRECT ALLOCATION METHOD*
A NON-PROFIT INSTITUTION

ANALYSIS OF FUNCTIONAL EXPENDITURES
FOR THE YEAR ENDED _____

	Total Expenditures-All Funds	Less: Exclusions and Unallowables	General and Administrative Expenses	All Other Costs			Fund Raising
				Program A	Program B	Research Program	
Salaries	\$472,000		\$42,000	\$256,000	\$48,000	\$72,000	\$54,000
Employee Health and Retirement Benefits	26,320		2,520	15,360	2,880	4,320	3,240
Payroll Taxes, etc.	18,880		1,680	10,240	1,920	2,880	2,160
Professional Fees and Contract Service	14,000		2,400			10,500	1,100
Supplies	8,500		160	1,140	1,000	1,200	5,000
Telephones and Telegraph	14,000		900	1,900	1,200	2,400	7,500
Postage and Shipping	31,000		320	300	900	450	29,050
Occuency	17,400		4,500	8,100	1,300	2,025	1,475
Outside Printing, Art Work, etc.	25,000		90	200	2,400	600	21,710
Local Transportation	37,000		2,700	13,000	600	2,700	18,000
Conferences, Conventions, Meetings, and Major Trips	21,000		3,600	4,500	6,600	1,000	5,300
Subscriptions and Reference Publications	1,200		450		180	150	420
Specific Assistance to Individuals	70,000	1 \$70,000					
Membership Dues and Support Payments	800		150		375		275
Awards and Grants	80,000	3 80,000					
Equipment and Other Fixed Assets	6,000	2 6,000					
Entertainment	1,000	1 1,000					
Interest	1,000	1 1,000					
Miscellaneous	11,000		750	1,500	2,700	1,300	4,750
Total	\$553,100	\$158,000	\$82,200	\$312,240	\$70,055	\$101,525	\$154,080

¹ These are unallowable costs to which indirect costs are not allocable, in accordance with Para. C. 2. of the Cost Principles.
² Capital expenditures should be excluded from the indirect cost rate computation.
³ This amount represents awards and grants made by the non-profit institution to others. It does not represent awards and grants received by the non-profit institution from the Federal Government and other sponsors. The costs associated with awards and grants received from the Federal Government and other sponsors would be shown in an appropriate column (such as research programs column) of the "All Other Costs" column. Federally sponsored training awards must be shown as a separate column and not combined with other Federally sponsored work.
⁴ Community Action Agencies must reduce the General and Administrative Expenses total by any funds received under Section 221, Economic Opportunity Act of 1964, as amended, which were required to be accounted for by the Office of Economic Opportunity as Account 01 funds.

*This is sample only, and is not intended to prescribe methods for charging costs.

EXPLANATION OF EXHIBIT C-1

The totals for General and Administrative expenses and all other costs are taken directly from Exhibit C. General and Administrative expenses (\$62,200) are divided by the total of All Other Costs (\$637,900), resulting in an indirect cost rate of 9.8%. This rate is expressed as a percentage of total direct costs, less capital expenditures. However, if the institution is a Community Action Agency, then the General and Administrative expenses (\$62,200) must first be reduced by any funds received under Section 221, Economic Opportunity Act of 1964, as amended, which were required to be accounted for by the Office of Economic Opportunity as Account 01 funds.

As in Exhibit A-1, the rate could be expressed as a percentage of direct salaries and wages, by using as the denominator of the rate computation only the salaries and wages included in the \$637,900 of All Other Costs.

EXHIBIT C-1
SAMPLE INDIRECT COST RATE PROPOSAL FORMAT - DIRECT ALLOCATION METHOD*
A NON-PROFIT INSTITUTION
COMPUTATION OF INDIRECT COST RATE
FOR THE YEAR ENDED _____

General and Administrative Expenses	\$62,200	
	(A)	
All Other Costs		
Program A	\$312,240	
Program B	70,055	
Research Program	101,525	
Fund Raising	154,080	
	<u>637,900</u>	(B)

Indirect Cost Rate

$$A \div B = \frac{\$62,200}{\$637,900} = 9.8\% \text{ of total direct costs, less capital expenditures}$$

¹ Community Action Agencies must reduce the General and Administrative Expenses total by any allowable costs borne by Section 221, Economic Opportunity Act of 1964, as amended, which were required to be accounted for by the Office of Economic Opportunity as Account 01 funds.

*This is a sample only, and is not intended to prescribe methods for charging costs.

APPENDIX 2
PROCEDURES FOR SETTLEMENT
OF INDIRECT COSTS ON DHEW PROJECT
GRANTS WITH FINAL NEGOTIATED RATES

APPENDIX 2

PROCEDURES FOR SETTLEMENT OF INDIRECT COSTS ON DHEW PROJECT GRANTS WITH FINAL NEGOTIATED RATES

Introduction

The purpose of this Appendix is to define procedures for implementing requirements of Chapter 6-150 of the DHEW Grants Administration Manual. The chapter relates to the award and settlement of indirect costs on DHEW project grants and the method for effecting settlement of claims for unrecovered indirect costs resulting from the establishment of final negotiated rates. Institutions receiving grant support from the Department of Health, Education, and Welfare must abide by these procedures in the preparation and submission of the Summary Report of Expenditure Adjustment Sheets so that the review, validation and subsequent settlement of submissions may be accomplished in a timely manner.

Grants to be Reported

- A. When a final indirect cost rate is established, the grantee institution is expected to initiate any adjustments resulting therefrom. Reference should be made to the subsequent section of this Appendix, Method of Reporting, to determine the procedures to be used in identifying grants requiring adjustment. All project grants governed by a final indirect cost rate negotiation agreement shall be reported whether an adjustment is due or not. Upward adjustments will not be considered if a final Report of Expenditures has not been previously submitted.
- B. Certain research grants are subject to statutory or administrative limitations as indicated:
 1. Grants with award dates from July 1, 1965 through October 17, 1965 are limited to actual indirect costs or 20% of TDC, whichever is the lesser. The limitation is effective only for the budget period of the award. Related continuation grants will follow the policy stated in paragraph B.3. below.
 2. Continuation and competing new and renewal grants awarded October 18, 1965 through February 28, 1966 are limited to 90% of actual indirect costs or 20% of total direct costs, whichever is the lesser.
 3. Continuation grants related to projects, the initial year of which was awarded prior to March 1, 1966, shall be limited to the lesser of 90% of actual indirect costs or 20% of total direct costs. It should be noted that the award date, not the start date of the budget period, is controlling for purposes of determining the applicable time period.
 4. Grants that received a reduced indirect cost award due to the absence of a negotiated indirect cost rate agreement will have adjustments computed on a pro rata basis subject to the number of months indirect costs was allowed.
- C. Institutions with fixed or predetermined rates may still be eligible for settlement under these procedures. The criteria for determining settlement eligibility is based upon the grantee receiving full indirect cost entitlement for each qualified grant using the appropriate negotiated rates for the grant period involved. If full indirect costs have not been received, then the summary listings should be completed and submitted in accordance with the procedures contained in this Appendix.

Period to be Reported

Grantees shall use the Summary Adjustment Sheet for all grant budget years beginning on or after July 1, 1965. Adjustments shall be reported for terminal years of grants as well as preceding years. Separate Summary Adjustment Sheets shall be submitted for each *Federal fiscal year* and will contain grants applicable to that year only.

Method of Reporting

- A. All project grants will be listed on the Summary Report of Expenditures Adjustment Sheet in accordance with the format shown in the attached Appendix 2a. A separate adjustment sheet will be prepared for each Agency for each *Federal fiscal year* showing only those grants having a budget period start within that fiscal year. Grants shall be arranged in numerical order by transaction number. When more than one rate applies to the same grant budget year, the report data applicable to each rate used must be shown on separate lines of

the same page. Expenditures are to be shown to the nearest whole dollar by rounding upwards for \$.50 or above and dropping amounts of \$.49 or less. The columns headed "IC Adjustment," "Cost Sharing" and "Net IC Adjustment" shall be totaled for each Agency. As a further aid in identifying information requested under the summary report headings, explanatory footnotes have been included on the sample report form.

- B. To assist grantee institutions in reporting project grants and expedite the processing of Summary Report of Expenditures Adjustment Sheets, the National Institutes of Health will provide separate tabulated lists by *Federal fiscal year* of NIH grants and grants from certain other organizational components of the Public Health Service subject to adjustment. Listings from this source will be forwarded and will be in the same format as Appendix 2a. Sufficient space will be provided beneath each heading for insertion of required data. The grantee may return reproduced copies of this form as its completed submission. Due to the possibilities of omissions occurring in such listings, the responsibility for reporting all project grants remains with the grantee. It will also be the responsibility of the grantee institution to prepare separate adjustment sheets for each DHEW agency not represented on the tabulated lists provided to it by NIH.

Accountability of Settlement Funds

- A. When validation (by DHEW Agency) of the Summary Report of Expenditures Adjustment Sheets for each fiscal year or series of fiscal years has been accomplished, the resulting payment or collection of funds for all DHEW Agencies will be handled through the Office of Financial Management, National Institutes of Health. A single Treasury Check or Bill of Collection will be sent to each grantee institution based upon the net total dollars of indirect cost adjustments submitted and approved. All financial transactions will be processed outside the Departmental Federal Assistance Financing System rather than through normal grant payment/collection procedures. Therefore, to maintain a reconciling balance with grant funds previously received from DHEW, grantee institutions are instructed to charge an account other than the original grant account with any indirect cost settlement funds received or disbursed. Supplemental award notices will not be issued for upward adjustments.
- B. After the adjustment sheet is submitted, neither increases nor decreases in indirect costs due to the application of final negotiated rates are to be reflected in any way on individual Report of Expenditures previously submitted and/or processed. Adjustments to direct costs will continue to be reported in the usual manner.

Transmittal Requirements

- A. When final indirect cost rates are negotiated, the DHEW Office of the Regional Comptroller will remind grantees of the requirement to submit a Summary Report of Expenditures Adjustment Sheet within one (1) year from the date of execution of the negotiation agreement. If Summary Report of Expenditures Adjustment Sheets are not received within the time limitation, upward adjustment of indirect costs will not be considered.
- B. The grantee will prepare an original and two (2) copies of the Summary Adjustment Report, certify to the accuracy and completeness of the data reported, and forward to the following address:

Department of Health, Education, and Welfare
National Institutes of Health
Office of Financial Management
Indirect Cost Management Section
Building 31, Room B1B07
Bethesda, Maryland 20014

Acknowledgement will be sent the grantee institution upon receipt of their submission. Copies of the Summary Adjustment Report will be distributed by NIH to the applicable Regional Audit Office and to each awarding Agency.

- C. Direct inquiry regarding the subject material contained herein may be made by contacting the Indirect Cost Management Section on (301) 496-5315.

SUMMARY REPORT OF EXPENDITURES
ADJUSTMENT SHEET

Institution Various
Address Anywhere, U.S.A.

I/C Rate Alternative 1(B)
Adjustment Period (Fed. Fiscal Year) 7/1/65-6/30/66

Transaction Number	Grant Number & Governing Date	Grant Budget Period		Allowable Cost Base		Final I/C Rate		Allowable IC Amount	I/C Paid Per ROE	I/C Adjustment	Cost Sharing	Net I/C Adjustment
		From	To	TDC	S&W	TDC-%	S&W-%					
(1)	(2)	(3)		(4)		(5)	(6)	(7)				
	National Institutes of Health											
(A) 01-010000	1-R01-HE-10000-01	8/1/65	7/31/66	\$20,000	\$8,000		40.00	\$3,200	\$2,400	\$800	\$-0-	\$800
(B) 02-020000	5-R01-HE-20000-02 GD 3/1/65	3/1/66	2/28/67	20,000	8,000		(90% x 30.00)	2,160	3,600	(1,440)	-0-	(1,440)
(C) 01-030000	1-R01-AM-60000-01	4/1/66	3/31/67	20,000	8,000		60.00	4,800	3,200	1,600	80	1,520
(D) 01-031000	1-R01-AM-40000-01	12/1/65	11/30/66	20,000	8,000		20.00	4,000	4,000	-0-	-0-	-0-
(E) 01-040000	1-R01-AM-50000-01	5/1/66	4/30/67	20,000	8,000		40.00	3,200	4,000	(800)	(40)	(760)
										<u>\$160</u>	<u>\$40</u>	<u>\$120</u>

NOTES:

- General - Prepare separate adjustment sheet for each Agency (Office of Education, NIH, SRS, etc.). Show amounts to nearest whole dollar.
- (1) Obtain number from award statement; arrange in numerical order by five digits of transaction number.
 - (2) Governing Date - For continuing projects for which the original award was made before March 1, 1966, indicate basic award date.
 - (3) Record allowable cost base chargeable to grant; if base different from TDC or S&W, state the formula used.
 - (4) Show a line entry for each different indirect cost rate used for a grant.
 - (5) The allowable IC amount for grants subject to statutory or administrative limitations should show only the amount allowable up to the limitation. The allowable amount in these instances should be footnoted and explained.
 - (6) Record amount of indirect cost paid to your institution as shown on the annual report of expenditures.
 - (7) If cost sharing was reflected in previous indirect cost amount claimed, compute amount to enter in this column by multiplying dollars of IC adjustment x cost sharing rate. Disregard this column if an institutional cost sharing method is used rather than cost sharing by individual grant for the period indicated.
 - (8) Rate alternative 3 is mandatory for use on all grants awarded after July 1, 1971. Rate alternative 3 means that the indirect cost rates established for the period in which direct expenditures are actually made are applied to those expenditures. That means that each grant budget year that does not coincide with a grantee's fiscal year will always have two indirect cost rates applicable to each grant budget year. Prior to July 1, 1971, grantees could also elect to use either Rate alternative 2 or 1. Rate alternative 2 required that the indirect cost rate established for the fiscal period in which the preponderance (in time) of the grant budget year occurred was applied to the entire grant budget year. Rate alternative 1 required that the indirect cost rate established for the fiscal year in which the grant budget year began be applied to the entire grant budget year.
- (A) Provisional rate of 30% S&W was finalized at 40% S&W (IC amount using final rate is less than 20% TDC).
 (B) Provisional rate of 50% S&W was finalized at 30% S&W (90/20 policy applies, claim limited to 90% x final rate x S&W).
 (C) Provisional rate of 40% S&W was finalized at 60% S&W (cost shared through individual cost sharing agreement - 5% of total project costs).
 (D) Provisional rate of 60% S&W was finalized at 70% S&W (90/20 policy applies, claim limited to 20% TDC).
 (E) Provisional rate of 50% S&W was finalized at 40% S&W (cost shared 5% through individual cost sharing agreement).

I hereby certify that the above information is true, complete and accurate to the best of my knowledge and that expenditures reported have been made in accordance with appropriate grant policies.

Signature & Title

Date

APPENDIX 3
SAMPLE
NEGOTIATION AGREEMENT

SUMMARY REPORT OF EXPENDITURES
ADJUSTMENT SHEET

Institution Various
Address Anywhere, U.S.A.

I/C Rate Alternative 1(8)
Adjustment Period (Fed. Fiscal Year) 7/1/65-6/30/66

Transaction Number	Grant Number & Governing Date	Grant Budget Period		Allowable Cost Base		Final I/C Rate		Allowable IC Amount	I/C Paid Per RGE	I/C Adjustment	Cost Sharing	Net I/C Adjustment
		From	To	TDC	S&W	TDC-%	S&W-%					
(1)	(2)	(3)		(4)		(5)	(6)	(7)				
	National Institutes of Health											
(A) 01-010000	1-R01-HE-10000-01	8/1/65	7/31/66	\$20,000	\$8,000		40.00	\$3,200	\$2,400	\$800	\$-0-	\$800
(B) 02-020000	5-R01-HE-20000-02 GO 3/1/65	3/1/66	2/28/67	20,000	8,000		90% x 30.00	2,160	3,600	(1,440)	-0-	(1,440)
(C) 01-030000	1-R01-AM-60000-01	4/1/66	3/31/67	20,000	8,000		60.00	4,800	3,200	1,600	80	1,520
(D) 01-031000	1-R01-AM-40000-01	12/1/65	11/30/66	20,000	8,000		20.00	4,000	4,000	-0-	-0-	-0-
(E) 01-040000	1-R01-AM-50000-01	5/1/66	4/30/67	20,000	8,000		40.00	3,200	4,000	(800)	(40)	(760)
										<u>\$160</u>	<u>\$40</u>	<u>\$120</u>

NOTES:

General - Prepare separate adjustment sheet for each Agency (Office of Education, NIH, SRS, etc.). Show amounts to nearest whole dollar.

- (1) Obtain number from award statement; arrange in numerical order by five digits of transaction number.
- (2) Governing Date - For continuing projects for which the original award was made before March 1, 1966, indicate basic award date.
- (3) Record allowable cost base chargeable to grant; if base different from TDC or S&W, state the formula used.
- (4) Show a line entry for each different indirect cost rate used for a grant.
- (5) The allowable IC amount for grants subject to statutory or administrative limitations should show only the amount allowable up to the limitation. The allowable amount in these instances should be footnoted and explained.
- (6) Record amount of indirect cost paid to your institution as shown on the annual report of expenditures.
- (7) If cost sharing was reflected in previous indirect cost amount claimed, compute amount to enter in this column by multiplying dollars of IC adjustment x cost sharing rate. Disregard this column if an institutional cost sharing method is used rather than cost sharing by individual grant for the period indicated.
- (8) Rate alternative 3 is mandatory for use on all grants awarded after July 1, 1971. Rate alternative 3 means that the indirect cost rates established for the period in which direct expenditures are actually made are applied to those expenditures. That means that each grant budget year that does not coincide with a grantee's fiscal year will always have two indirect cost rates applicable to each grant budget year. Prior to July 1, 1971, grantees could also elect to use either Rate alternative 2 or 1. Rate alternative 2 required that the indirect cost rate established for the fiscal period in which the preponderance (in time) of the grant budget year occurred was applied to the entire grant budget year. Rate alternative 1 required that the indirect cost rate established for the fiscal year in which the grant budget year began be applied to the entire grant budget year.

- (A) Provisional rate of 30% S&W was finalized at 40% S&W (IC amount using final rate is less than 20% TDC).
- (B) Provisional rate of 50% S&W was finalized at 30% S&W (90/20 policy applies, claim limited to 90% x final rate x S&W).
- (C) Provisional rate of 40% S&W was finalized at 60% S&W (cost shared through individual cost sharing agreement - 5% of total project costs).
- (D) Provisional rate of 80% S&W was finalized at 70% S&W (90/20 policy applies, claim limited to 20% TDC).
- (E) Provisional rate of 50% S&W was finalized at 40% S&W (cost shared 5% through individual cost sharing agreement).

I hereby certify that the above information is true, complete and accurate to the best of my knowledge and that expenditures reported have been made in accordance with appropriate grant policies.

Signature & Title

Date

APPENDIX 3
SAMPLE
NEGOTIATION AGREEMENT

**NEGOTIATION AGREEMENT
NON-PROFIT INSTITUTIONS**

Date August 23, 1975

INSTITUTION: Commission for Accreditation of
Research Laboratories, Inc.
3738 - 9th Street
Chicago, Illinois 60638

FILING REF.: This replaces
Negotiation Agreement
dated August 4, 1974

The indirect cost rate(s) contained herein is for use on grants and contracts with the Department of Health, Education, and Welfare subject to the conditions contained in Section II.

SECTION I: RATES

Type	Effective Period		Rate*	Locations	Applicable To
	From	To			
Final	1/1/73	12/31/73	15.8%	All	All Programs
Final	1/1/74	12/31/74	17.4%	All	All Programs
Provisional	1/1/75	Until Amended	17.4%	All	All Programs

*Base: Total direct salaries and wages excluding fringe benefits.

Treatment of Fringe Benefits: Fringe benefits applicable to direct salaries and wages are treated as direct costs.

NA-1(N)
9/73

PINK

SECTION II: General

- A. **LIMITATIONS:** Use of the rate(s) contained in this agreement is subject to any statutory or administrative limitations and is applicable to a given grant or contract only to the extent that funds are available. Acceptance of the rate(s) agreed to herein is predicated on the conditions: (1) that no costs other than those incurred by the Grantee/Contractor were included in its indirect cost pool as finally accepted and that such costs are legal obligations of the Grantee/Contractor and allowable under the governing cost principles, (2) that the same costs that have been treated as indirect costs are not claimed as direct costs, (3) that similar types of costs have been accorded consistent accounting treatment, and (4) that the information provided by the Grantee/Contractor which was used as a basis for acceptance of the rate(s) agreed to herein is not subsequently found to be materially incomplete or inaccurate.
- B. **ACCOUNTING CHANGES:** If a fixed or predetermined rate(s) is contained in this agreement, it is based on the accounting system in effect at the time the proposal was prepared and the agreement was negotiated. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this rate(s) require the prior approval of the office responsible for negotiating the rate(s) on behalf of DHEW. Such changes include but are not limited to changes in the charging of a particular type of cost from indirect to direct. Failure to obtain such approval may result in subsequent cost disallowances.
- C. **FIXED RATES:** If a fixed rate is contained in this agreement, it is based on an estimate of the costs which will be incurred during the period to which the rate applies. When the actual costs for such period have been determined, an adjustment will be made in a subsequent negotiation to compensate for the difference between those costs used to establish the fixed rate and actual costs.
- D. **REIMBURSEMENT:** Indirect cost reimbursement on all DHEW awards made subsequent to June 30, 1971 will be determined based upon the indirect cost rates established for the fiscal period in which the applicable direct expenditures are incurred. For grants awarded prior to 7/1/71 the institution elected rate alternative number 3.
- E. **NOTIFICATION TO FEDERAL AGENCIES:** Copies of this document may be provided to other Federal offices as a means of notifying them of the agreement contained herein.
- F. **SPECIAL REMARKS:** None

By the Institution

Raymond L. Sikes /s/

Raymond L. Sikes
Name

President
Title

September 1, 1975
Date

By the Department of Health, Education,
and Welfare

John J. Hansen /s/

John J. Hansen
Name

Regional Comptroller
Title

September 7, 1975
Date

Negotiated by William A. Lederer

Telephone (312) 353-7461

APPENDIX 4
GUIDELINES FOR USE IN ESTABLISHING FIXED
INDIRECT COST RATES WITH CARRY-FORWARD PROVISION

APPENDIX 4

GUIDELINES FOR USE IN ESTABLISHING FIXED INDIRECT COST RATES WITH CARRY-FORWARD PROVISION

The guidelines set forth herein shall govern the establishment of fixed indirect cost rates utilizing a carry-forward provision. They are as comprehensive as possible at this time; in the event, however, of situations not specifically covered herein, the institution should request clarification from the appropriate Department of Health, Education, and Welfare Regional Comptroller cited in Section I. This guideline is meant to describe the procedures for effecting the Carry-Forward Provision and to identify situations (not necessarily all situations) under which application of the Carry-Forward Provision would not be appropriate. The guideline is not meant to imply that the use of the Carry-Forward Provision is mandatory either on the Federal Government or the grantee/contractor institution.

- I. The Carry-Forward Provision shall not be used as a device the purpose of which is to transfer unrecovered costs under one or more contracts and grants to other contracts and grants.
- II. An indirect cost rate(s) with a Carry-Forward Provision will not be utilized when all or a substantial portion of the Federal grants/contracts which provide for indirect cost reimbursement to an institution will expire or be terminated before the Carry-Forward can be effected.
- III. Indirect cost rates with Carry-Forward Provision will be negotiated only for periods coincident with an institution's fiscal year.
- IV. For purposes of computing under or over recovery in a given rate period it will be assumed that reimbursement of indirect costs for that period was made at the fixed rate irrespective of actual dollar recovery. (NOTE: In unusual cases the dollar recovery may exceed the fixed rate recovery; the principles still apply.)
- V. The Carry-Forward will be accomplished by application of the following formula:

$$(ab - c) - db = c'$$

Where:

- a = Fixed rate established for a given fiscal period
- b = Direct cost base experienced during the fixed rate period
- c = Dollar amount of Carry-Forward from prior period
- c' = Dollar amount of Carry-Forward for next negotiated period
- d = Negotiated actual rate for the given fiscal period covered by rate (a).

Example:

- 1) Given that in FY 1973, the year prior to the initial year in which this Carry-Forward procedure is to be utilized, institution XYZ experienced an actual indirect cost rate of 40% of direct salaries and wages: total indirect costs of \$3,200,000 ÷ total direct salaries and wages of \$8,000,000.

In the absence of data indicating a material change in the institution's level of operations during its next fiscal year, it is agreed that the 40% rate will be fixed, with Carry-Forward Provision, for the institution's FY 1974 and, to maximize the administrative advantages of the procedure the period of applicability is extended through the institution's FY 1975.

- 2) Sometime after June 30, 1974, it is determined that the institution's actual rate for its FY 1974 was 43% of direct salaries and wages: total indirect costs of \$4,300,000 ÷ total direct salary and wages of \$10,000,000. To determine the Carry-Forward amount the aforementioned formula is applied:

$$(ab - c) - db = c'$$

$$\text{Substituting: } (40\% \times \$10,000,000 - 0) - 43\% \times \$10,000,000 = c'$$

$$\text{Simplifying } \$4,000,000 - \$4,300,000 = -\$300,000$$

Since the minus sign indicates an underrecovery of \$300,000 by the institution during fiscal 1974, the \$300,000 is added to the previously determined pool of \$4,300,000. The resultant rate of 46% (\$4,600,000/\$10,000,000) is fixed for the institution's FY 1976. (NOTE: Since fiscal 1975 has already been fixed it is not possible to reopen the rate for that year).

- 3) Sometime after June 30, 1975 it is determined that the institution's actual rate for its FY 1975 was 41% of direct salaries and wages: total indirect costs of \$3,690,000 ÷ total direct salaries and wages of \$9,000,000. Again applying the formula:

$$(ab - c) - db = c'$$

$$(40\% \times \$9,000,000 - 0) - 41\% \times \$9,000,000 = c'$$

$$\$3,600,000 - \$3,690,000 = -\$90,000$$

Again, the institution has an underrecovery, this time in the amount of \$90,000. Thus, \$90,000 is added to the already determined pool of \$3,690,000 and a fixed rate of 42% (\$3,780,000/\$9,000,000) is established for the institution's FY 1977. (NOTE: As in paragraph 2 above, c has a value of zero dollars since the base year, 1973, had no Carry-Forward element).

- 4) Sometime after June 30, 1976 it is determined that the institution's actual rate for FY 1976 was 39% of direct salaries and wages: total indirect costs of \$3,627,000 ÷ total indirect salaries and wages of \$9,300,000. Again applying the formula:

$$(ab - c) - db = c'$$

$$(46\% \times \$9,300,000 - \$300,000) - 39\% \times \$9,300,000 = c'$$

$$(\$4,278,000 - \$300,000) - \$3,627,000 = c'$$

$$\$3,978,000 - \$3,627,000 = +\$351,000$$

In fiscal 1976 the institution had an overrecovery of \$351,000. Thus, a fixed rate of 35.2% (\$3,627,000 - \$351,000 divided by the \$9,300,000 base) is established for the institution's FY 1978.

It is important to understand that c' becomes c in the period during which the dollars are carried forward and that c is always expressed as a dollar amount. The latter is necessary since the base will inevitably vary from period to period and consequently the differential if expressed as a percentage rather than a dollar amount would produce a distortion.

- VI As a general rule, the last actual rate (adjusted for any Carry-Forward from a prior period) agreed to by the Department of Health, Education, and Welfare Regional Comptroller and the institution will be used as the fixed rate for the next stipulated future period. However, where there is knowledge that an institution's level of operations or mix of Federal support will materially change during such period, the change will be duly considered in establishing the fixed rate.

VII. In the event that an institution has a multiple rate structure developed on discrete bases, recovery will be assumed to be at the appropriate fixed rate against the corresponding base. The fixing of rates under a given rate structure in a given year shall not preclude a later combination of such rates, or, conversely, establishment of further discrete rates, for future periods.

VIII. When the actual rate for a period is found to materially vary from the rate which was fixed for that period, and the resulting dollar variation is so great as to cause an unreasonable distortion in the next rate period's overhead pool, the variation may be carried forward to the next two rate periods. However, this procedure may not be used if its ultimate effect will be the intensification of variances in future periods.

IX. With respect to those institutions which currently have predetermined indirect cost rates (only applicable where grants only have been awarded), the Carry-Forward Provision shall not be utilized until the beginning of the institution's fiscal year following the terminal date of the predetermined rate period. In the event that the terminal date of the predetermined rate period does not coincide with the end of the institution's regular fiscal year, the application of the Carry-Forward Provision will only be effective against the base costs incurred from the terminal date of the predetermined rate period until the end of the institution's regular fiscal year. In any succeeding years in which the terminal date is different from the fiscal year ending date, the bases will be adjusted accordingly. As a matter of policy, fixed rates will only be established for periods coincident with the institution's fiscal year.

X. To preclude inequities to the Government and the institution, and institution may not change its costing procedures (including its classification of costs as direct or indirect) without the written approval of the Department of Health, Education, and Welfare Regional Comptroller. Such change(s) should preferably be made effective at the beginning of a fixed rate period; if effective at a different time, the Department of Health, Education, and Welfare shall not be, but the institution may be liable for any difference in resulting cost.

XI. In the event an off-site or other special rate is determined as a derivative of the on-site rate (i.e. the rate is determined by eliminating selected elements of the indirect cost pool without establishing a corresponding discrete base), it will be assumed that recovery was made at the on-site rate. The carry forward should be computed as follows:

1. Fixed rates with carry forward provision are agreed to for the first time for the institution's FY 1974. In the absence of data indicating a material change in the institution's level of operations from FY 1973 to FY 1974 it is further agreed that the fixed rates for FY 1974 will be based on FY 1973 experience.

Fixed Rates for FYE 6/30/74

On-Site	<u>40%</u>
Off-Site	<u>24%</u>

2. Sometime after 6/30/74, the actual rates for FYE 6/30/74 are negotiated as well as the total direct salary and wage base for FYE 6/30/74.

Negotiated Rates and Base for FYE 6/30/74

	<u>Rate</u>	<u>Pool</u>	<u>Base</u>
On-Site	<u>43%</u>	<u>\$4,300,000(a)</u>	
Off-Site	<u>26%</u>	<u>\$2,600,000(a)</u>	
Base			<u>\$10,000,000(a)</u>

(a) In negotiating actual rates for FYE 6/30/74, agreement must also be reached on a negotiated base. The negotiated base amount is needed to determine the carry forward amount. It is not necessary to know individually negotiated elements that make up either the on-site or off-site pool. The negotiated pools for on-site and off-site are determined by applying the negotiated rates to the negotiated base. In this illustration, the negotiated pools are only needed if FYE 6/30/74 negotiated data is used in the computation of fixed rates for FYE 6/30/76.

3. The FYE 6/30/74 carry forward is computed.

	<u>Fixed</u>	<u>Negotiated</u>	<u>Diff. (c)</u>	<u>Base (d)</u>	<u>Carry Forward (c)x(d)</u>
Off-Site Rate	24%	26%	2%	\$10,000,000	\$200,000
Portion of rate applicable to On-Site only	<u>16</u>	<u>17</u>	<u>1</u>	<u>\$10,000,000</u>	<u>100,000</u>
On-Site Rate	<u>40%</u>	<u>43%</u>	<u>3%(b)</u>	<u>\$10,000,000</u>	<u>\$300,000(a)</u>

(a) The \$300,000 underrecovery is carried forward to FYE 6/30/76 and used in determining the FYE 6/30/76 fixed rate.

(b) The difference between the fixed and negotiated on-site rate applied to the negotiated base to arrive at the carry forward assumes that recovery was made at the on-site rate.

4. A fixed rate is determined for FYE 6/30/76 prior to the beginning of that fiscal year.

	<u>Negotiated for FYE 6/30/74 (a)</u>	<u>Carry Forward from FYE 6/30/74</u>	<u>Total</u>	<u>Fixed Rate for FYE 6/30/76</u>
Off-Site	\$ 2,600,000	\$200,000	\$ 2,800,000	28%
Portion of rate/pool applicable to On-Site only	<u>1,200,000</u>	<u>100,000</u>	<u>1,800,000</u>	<u>18</u>
On-Site	<u>\$ 4,300,000</u>	<u>\$300,000</u>	<u>\$ 4,600,000</u>	<u>46%</u>
Base	<u>\$10,000,000</u>		<u>\$10,000,000</u>	

(a) FYE 6/30/74 data need not be used. More current data may be used where available. However, more current data must be expressed, at a minimum, in terms of dollars for the base, for the off-site pool and for the on-site pool.

5. Sometime after 6/30/76, the actual rates for FYE 6/30/76 are negotiated as well as the total direct salary and wage base for FYE 6/30/76.

Negotiated Rates and Base for FYE 6/30/76

	<u>Rate</u>	<u>Pool</u>	<u>Base</u>
On-Site	<u>39%</u>	<u>\$3,627,000(a)</u>	
Off-Site	<u>22%</u>	<u>\$2,046,000(a)</u>	
Base			<u>\$9,300,000</u>

(a) Same as footnote (a) under 2. above.

a. The FYE 6/30/76 carry forward is computed.

	Grantee Received in FYE 6/30/76			Grantee Should Have Received in FYE 6/30/76			Carry Forward
	Fixed Rate	FY 1976 Base	Indirect Costs	FYE 1974 Carry Forward	Negotiated	Total Indirect Costs	
Off-Site	28%	\$9,300,000	\$2,604,000	\$200,000	\$2,045,000	\$2,246,000	(\$358,000)
Portion of rate/ pool applicable							
to On-site only	18%	\$9,300,000	1,674,000	100,000	1,581,000	1,681,000	7,000
On-Site	48%	\$9,300,000	\$4,278,000(b)	\$300,000	\$3,627,000	\$3,927,000	(\$351,000)(a)

(a) The \$351,000 overrecovery is carried forward to FYE 6/30/78 and used in determining the FYE 6/30/78 fixed rate.

(b) It has been assumed that recovery was made at the on-site rate.

7. These computations have been restructured to illustrate a carry forward process that began in FYE 6/30/74 and the fiscal years that were subsequently affected by the initial fixing of the indirect cost rate. A similar cycle would have been initiated for the FYE 6/30/75 and subsequent years.

OFFICE OF THE ASSISTANT SECRETARY, COMPTROLLER CURRENTLY EFFECTIVE INDIRECT COST AND GRANT POLICY PUBLICATIONS

GRANTS ADMINISTRATION MANUAL—Department Staff Manual

BOABO (Revised)	A GUIDE FOR COLLEGES AND UNIVERSITIES—Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Grants and Contracts with the Department of Health, Education, and Welfare
OASC-3 (Revised)	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, Education, and Welfare
OASC-5 (Revised)	A GUIDE FOR NON-PROFIT INSTITUTIONS—Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Grants and Contracts with the Department of Health, Education, and Welfare
OASC-10	A GUIDE FOR STATE AND LOCAL GOVERNMENT AGENCIES—Cost Principles and Procedures for Establishing Cost Allocation Plans, Indirect Cost and Other Rates for Grants and Contracts with the Federal Government

All of these publications are available for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The publication Revised OASC-5, A Guide for State Government Agencies; OASC-5, A Guide for Local Government Agencies; and OASC-10, A Reference for State and Local Governments—Federal Agencies Responsible for Audit and Approval of Cost Allocation Plans Required by BOB Circular A-87.

Prepared by:
Division of Financial Management Standards & Procedures
Washington, D.C. 20201

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

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¹ This table of contents does not appear in the law.

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Part A—Aid to Families With Dependent Children

Appropriation

Section 401. For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid and services to needy families with children.

State Plans for Aid and Services to Needy Families With Children

Sec. 402. (a) A State plan for aid and services to needy families with children must—

- (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;
- (2) provide for financial participation by the State;
- (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

¹ This table of contents does not appear in the law.

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness;

(5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and¹

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any expenses reasonably attributable to the earning of any such income;²

¹ In the case of Guam, Puerto Rico, and the Virgin Islands, Section 402(a)(5) reads as follows:

"(5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community services aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; and".

² P.L. 90-248, sec. 218(c), provides:

"Effective July 1, 1969, neither the provisions of clauses (A) through (C) of section 402(a)(7) of such Act as in effect before the enactment of this Act nor the provisions of section 402(a)(8) of such Act as amended by section 202(b) of this Act shall apply in the case of Puerto Rico, the Virgin Islands, or Guam. Effective no later than July 1, 1972, the State plans of Puerto Rico, the Virgin Islands, and Guam approved under section 402 of such Act shall provide for the disregarding of income in making the determination under section 402(a)(7) of such Act in amounts (agreed to between the Secretary and the State agencies involved) sufficiently lower than the amounts specified in section 402(a)(8) of such Act to reflect appropriately the applicable differences in income levels."

P.L. 93-647, sec. 101(c)(1), provides:

"Notwithstanding the provisions of section 402(a) of the Social Security Act, in addition to the amounts required to be disregarded under clause (8)(A) of such section, there is imposed the requirement (and the State plan shall be deemed to include the requirement) that for the 15 months beginning July 1, 1975, in making the determination under clause (7), the State agency shall with respect to any month in such year and in addition to the amounts required to be disregarded under clause (8)(A), disregard amounts payable under section 457(a)(1)."

(8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first \$30 of the total of such earned income for such month plus one-third of the remainder of such income for such month (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than \$5 per month of any income; except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the per-

sons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;¹

(9) provide safeguards which restrict the use of disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part B, C, or D of this title or under title I, X, XIV, XVI, XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, and (C) the administration of any other Federal or federally assigned program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient;²

(10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, subject to paragraphs (25) and (26), be furnished with reasonable promptness to all eligible individuals;³

(11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);³

(12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act;

(13) [Repealed].⁴

(14) [Repealed].⁴

(15) provide as part of the program of the State for the provision of services under title XX (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing

¹ See also section 101(c) (1) of Public Law 93-647.

² Section 402(a) (9) was amended by Public Laws 93-647 and 94-88.

³ Sections 402(a) (10) and 402(a) (11) were amended by Public Law 93-647.

⁴ See footnote 1 on page 212.

or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services, but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services; ¹

(16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have;

(17) [Repealed].

(18) [Repealed].

(19) provide—

¹ In the case of Guam, Puerto Rico, and the Virgin Islands, section 402(a)(13), (14), and (15) read as follows:

"(13) provide a description of the services which the State agency makes available to maintain and strengthen family life for children, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

"(14) provide for the development and application of a program for such family services as defined in section 406(d) and child welfare services, as defined in section 425, for each child and relative who receives aid to families with dependent children and each appropriate individual (living in the same home as a relative and child receiving such aid whose needs are taken into account in making the determination under clause (7)), as may be necessary in the light of the particular home conditions and other needs of such child, relative, and individuals, in order to assist such child, relative, and individuals to attain or retain capability for self-support and care and in order to maintain and strengthen family life and to foster child development;

"(15) provide (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services, but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such service;"

(A) that every individual, as a condition of eligibility for and under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual is—

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; or

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph);

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register;

(B) that aid under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 432(b) (2) or (3);

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 435(b);

(D) that (i) training incentives authorized under section 434, and income derived from a special work project under the program established by section 432(b) (3) shall be disregarded in determining the needs of an individual under section 402(a) (7), and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program

established by section 432(b) (2) or (3) shall be taken into account;

(E) [Repealed].

(F) that if and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G)) has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 406(b) (2) (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 408 will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7);

except that the State agency shall for a period of sixty days, make payments of the type described in section 406(b) (2) (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be,

to participate in such program in accordance with the determination of the Secretary of Labor; and

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to subparagraph (A), in accordance with the order of priority listed in section 433(a), such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under part C, and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for employment or training under part C, (iii) will participate in the development of operational and employability plans under section 433 (b); and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1960, provide for aid to families with dependent children in the form of foster care in accordance with section 408;

(21) [Repealed].

(22) [Repealed].

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted;

(24) provide that if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family under this title;

(25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such

account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;¹

(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed,

(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed; and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section);²

(27) provide, that the State has in effect a plan approved under part D and operate a child support program in conformity with such plan; and³

(28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D, and retained by the State under section 457, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part.⁴

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to families

¹ Sections 402(a)(25), 402(a)(26), and 402(a)(27) were added by Public Law 93-647.
² Section 402(a)(23) was amended by Public Law 94-88. See also sections 201(a), 201(b), and 208(d) of Public Law 94-88 printed in this document on pp. 765 and 766.
³ Section 402(a)(27) was amended by Public Law 94-88. See also section 201(a) of Public Law 94-88.
⁴ Section 402(a)(28) added by Public Law 94-88.

with dependent children a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

Payment to States

Sec. 403.¹ (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month

¹ See also section 508 of P.L. 94-506 which is printed in this document on page 848.

and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A); not counting so much of any expenditure with respect to any month as exceeds (i) the product of \$32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of \$100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of Title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds \$18 multiplied by the total number of recipients of such aid for such month; and¹

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

(B) one-half of the remainder of such expenditures, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a)(1) of this Act other than services the provision of

¹ Pursuant to sec. 9 of the Act of April 19, 1950 (84 Stat. 44, 47), the Secretary of the Treasury must also pay to the States, in addition to the amounts produced by sec. 403(a) of the Social Security Act, an amount equal to 80 percent of the State share of assistance expenditures under the State plan with respect to Navajo and Hopi Indians.

which is required by section 402(a) (19) to be included in the plan of the State; and

(4) [Repealed].

¹ In the case of Guam, Puerto Rico, and the Virgin Islands, section 403(a) (3) reads as follows:

"(3) In the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for—

"(i) any of the services described in clauses (14) and (15) of section 402(a) which are provided to any child or relative who is receiving aid under the plan, or to any other individual (living in the same home as such relative and child) whose needs are taken into account in making the determination under clause (7) of such section,

"(ii) any of the services described in clauses (14) and (15) of section 402(a) which are provided to any child or relative who is applying for aid to families with dependent children or who, within such period or periods as the Secretary may prescribe, has been or is likely to become an applicant for or recipient of such aid,

"(iii) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision.

"(B) one-half of the remainder of such expenditures.

"The services referred to in subparagraph (A) shall include only—

"(C) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this part shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (1) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (D), if provided by such staff, and

"(D) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies); except that services described in clause (ii) of subparagraph (C) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved; and except that, to the extent specified by the Secretary, child-welfare services, family planning services, and family services may be provided from sources other than those referred to in subparagraphs (C) and (D). The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) applies shall be determined in accordance with such methods and procedures as may be permitted by the Secretary."

Section 248(b) of the Social Security Amendments of 1967 also applies:

"(b) Notwithstanding subparagraphs (A) and (B) of section 403(a) (3) of such Act (as amended by this Act), the rate specified in such subparagraphs in the case of Puerto Rico, the Virgin Islands, and Guam, shall be 60 per centum (rather than 75 or 85 per centum)."

(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

The number of individuals with respect to whom payments described in section 403(b)(2) are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 10 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 10 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 402(a)(19)(F) or section 402(a)(26).¹

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarters; and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare; (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter; and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan; except that such increases or reductions shall not be made to the extent that such

¹ Section 403(a) was amended by Public Law 94-88.

sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) Notwithstanding any other provision of this Act, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified under the program of such State established pursuant to section 402(a)(19)(G), to the local employment office of the State as being ready for employment or training under part C, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 402(a)(19)(A).

(d)(1) Notwithstanding subparagraph (A) of subsection (a)(3) the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to social and supportive services provided pursuant to section 402(a)(19)(G).

(2) Of the sums authorized by section 401 to be appropriated for the fiscal year ending June 30, 1973, not more than \$750,000,000 shall be appropriated to the Secretary for payments with respect to services to which paragraph (1) applies.

(e) [Repealed].¹

(f) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under section 403(g)) of such amount if such State—

(1) in the immediately preceding fiscal year failed to carry out the provisions of section 402(a)(15)(B) as pertain to requiring the offering and arrangement for provision of family planning services; or

¹ In the case of Guam, Puerto Rico, and the Virgin Islands, section 403(e) reads as follows:

"(e) Notwithstanding any other provision of subsection (a), with respect to expenditures during any calendar quarter beginning after December 31, 1972 (as found necessary by the Secretary for the proper and efficient administration of the plan) which are attributable to the offering, arranging, and furnishing, directly or on a contract, of family planning services and supplies, the amount payable to any State under this part shall be 90 per centum of such expenditures."

(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of section 402(a)(15)(B) of the Social Security Act with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part.

(g) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1974, be reduced by 1 per centum (calculated without regard to any reduction under section 403(f)) of such amount if such State fails to—

(1) inform all families in the State receiving aid to families with dependent children under the plan of the State approved under this part of the availability of child health screening services under the plan of such State approved under title XIX,

(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services.

(h) Notwithstanding any other provision of this Act, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1976, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 402(a)(27) in any fiscal year beginning after September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof).

Operation of State Plans

Sec. 404. (a) In the case of any State plan for aid and services to needy families with children which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(b) No payment to which a State is otherwise entitled under this title for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this part with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child.

(c) No State shall be found, prior to January 1, 1977, to have failed substantially to comply with the requirements of section 402 (a) (27) if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

(d) After December 31, 1976, in the case of any State which is found to have failed substantially to comply with the requirements of section 402 (a) (27), the reduction in any amount payable to such State required to be imposed under section 403 (h) shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section.

Use of Payments for Benefit of Child

Sec. 405. Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefor of protective payments as provided under section 406 (b) (2), or in seeking appointment of a guardian or legal representa-

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tive as provided in section 1111, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for withholding funds from such State under section 404 and shall not prevent such payments with respect to such child from being considered aid to families with dependent children.

Definitions

Sec. 406. When used in this part—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him) and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 407), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 402(a)(7)) which do not meet the preceding requirements of this subsection but which would meet such requirements except that such payments are made to another

individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative or other individual, but only with respect to a State whose State plan approval under section 402 includes provision for—

(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child and, therefore, it is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

(B) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(C) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary;

(D) aid in the form of foster home care in behalf of children described in section 408(a); and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made;

(c) The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection (a) and with whom such child is living, (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

(d) [Repealed].¹

(e) (1) The term "emergency assistance to needy families with children" means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child

¹ In the case of Guam, Puerto Rico, and the Virgin Islands, section 406(d) reads as follows:

"(d) The term 'family services' means services to a family or any member thereof for the purposes of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence."

under the age of 21, who is (or, within such period as may be specified by the Secretary, has been) living with any of the relatives specified in subsection (a) (1) in a place of residence maintained by one or more of such relatives as his or their own home, but only where such child is without available resources, the payments, care, or services involved are necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, such child or any other member of the household in which he is living, and

(B) such services as may be specified by the Secretary; but only with respect to a State whose State plan approved under section 402 includes provision for such assistance.

(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate.

(f) Notwithstanding the provisions of subsection (b), the term "aid to families with dependent children" does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate.

Dependent Children of Unemployed Fathers

Sec. 407. (a) The term "dependent child" shall, notwithstanding section 406 (a), include a needy child who meets the requirements of section 406 (a) (2), who has been deprived of parental support or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of his father, and who is living with any of the relatives specified in section 406 (a) (1) in a place of residence maintained by one or more of such relatives as his (or their) own home.

(b) The provisions of subsection (a) shall be applicable to a State if the State's plan approved under section 402—

(1) requires the payment of aid to families with dependent children with respect to a dependent child as defined in subsection

(a) when—

(A) such child's father has not been employed (as determined in accordance with the standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid;

(B) such father has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment; and

(C) (i) such father has 6 or more quarters of work (as defined in subsection (d) (1)) in any 13-calendar-quarter period ending within one year prior to the application for such aid or (ii) he received unemployment compensation under an unemployment compensation law of a State or of the United States, or he was qualified (within the meaning of subsection (d) (3)) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid; and

(2) provides—

(A) for such assurances as will satisfy the Secretary that fathers of dependent children as defined in subsection (a) will be certified to the Secretary of Labor as provided in section 402(a) (19) within thirty days after receipt of aid with respect to such children;

(B) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained;

(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

(i) if and for so long as such child's father, unless exempt under section 402(a) (19) (A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

(ii) with respect to any week for which such child's father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child's father receives under an unemployment compensation law of a State or of the United States.¹

(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a), (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b) (1), or (ii) for any period prior to the time when the father satisfies subparagraph (B) of such subsection, and (B) if, and for as long as, no action is taken (after the 30-day period referred to in paragraph (A) of subsection (b) (2)), under the program therein specified, to certify such father to the Secretary of Labor pursuant to section 402 (a) (19).

(d) For purposes of this section—

(1) the term "quarter of work" with respect to any individual means a calendar quarter in which such individual received earned income of not less than \$50 (or which is a "quarter of coverage" as defined in section 213 (a) (2)), or in which such individual participated in a community work and training program under section 409 or any other work and training program subject to the limitations in section 409, or the work incentive program established under part C;

(2) the term "calendar quarter" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31; and

(3) an individual shall, for purposes of section 407 (b) (1) (C), be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

(A) he would have been eligible to receive such unemployment compensation upon filing application, or

(B) he performed work not covered under such law and such work, if it had been covered, would (together with any

¹ Subsection (b) (2) was amended by section 507 (a) of P.L. 94-566.

covered work he performed) have made him eligible to receive such unemployment compensation upon filing application.¹

(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.²

Federal Payments for Foster Home Care of Dependent Children

Sec. 408. Effective for the period beginning May 1, 1961—

(a) The term "dependent child" shall, notwithstanding section 406(a), also include a child (1) who would meet the requirements of such section 406(a) or of section 407, except for his removal after April 30, 1961, from the home of a relative (specified in such section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, (2) whose placement and care are the responsibility of (A) the State or local agency administering the State plan approved under section 402, or (B) any other public agency with whom the State agency administering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring development of a plan, satisfactory to such State agency, for such child as provided in paragraph (f)(1) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 402, (3) who has been placed in a foster family home or child-care institution as a result of such determination, and (4) who (A) received aid under such State plan in or for the month in which court proceedings leading to such determination were initiated, or (B)(i) would have received such aid in or for such month if application had been made therefor,

¹ Paragraph (3) was amended by section 507(b) of P.L. 94-566.

² Subsection (e) was added by section 507(d) of P.L. 94-566.

or (ii) in the case of a child who had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made therefor;

(b) the term "aid to families with dependent children" shall, notwithstanding section 406(b), include also foster care in behalf of a child described in paragraph (a) of this section—

(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary with a view to including as "aid to families with dependent children" in the case of such foster care in such institutions only those items which are included in such term in the case of foster care in the foster family home of an individual;

(c) the number of individuals counted under clause (A) of section 403(a)(1) for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such month as aid to families with dependent children in the form of foster care; and

(d) services described in paragraph (f)(2) of this section shall be considered as part of the administration of the State plan for purposes of section 403(a)(3); but only with respect to a State whose State plan approved under section 402—

(a) includes aid for any child described in paragraph (a) of this section, and

(f) includes provision for (1) development of a plan for each such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution) to assure that he receives proper care and that services are provided which are designed to improve the conditions in the home from which he was removed or to otherwise make possible his being placed in the home of a relative specified in section 406(a), and (2) use by the State or local agency administering the State plan, to the maximum extent practicable, in placing such a child in a foster family home or child-care institution, of the services of employees, of the State public-welfare

agency referred to in section 522(a) (relating to allotments to States for any child welfare services under part 3 of title V) or any local agency participating in the administration of the plan referred to in such section, who perform functions in the administration of such plan.

For the purposes of this section, the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type as meeting the standards established for such licensing; and the term "child-care institution" means a nonprofit private child-care institution which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing.

Community Work and Training Programs

Sec. 409. (a) For the purpose of assisting the States in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, expenditures (other than for medical or any other type of remedial care) for any month with respect to a dependent child (including payments to meet the needs of any relative or relatives, specified in section 406(a), with whom he is living) under a State plan approved under section 402 shall not be excluded from aid to families with dependent children because such expenditures are made in the form of payments for work performed in such month by any one or more of the relatives with whom such child is living if such work is performed for the State agency or any other public agency under a program (which need not be in effect in all political subdivisions of the State) administered by or under the supervision of such State agency, if there is State financial participation in such expenditures, and if such State plan includes—

(1) provisions which, in the judgment of the Secretary, provide reasonable assurance that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by such relatives are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law

for the same type of work and not less than the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, do not result either in displacement of regular workers or in the performance by such relatives of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations, and (except in cases of projects which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or community, as the case may be;

(D) in determining the needs of any such relative, any additional expenses reasonably attributable to such work will be considered;

(E) any such relative shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such relative will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; and

(G) aid under the plan will not be denied with respect to any such relative (or the dependent child) for refusal by such relative to perform any such work if he has good cause for such refusal;

(2) provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment or occupational training of any such relatives performing work under such program, including appropriate provision for registration and periodic reregistration of such relatives and for maximum utilization of the job placement services and other services and facilities of such offices;

(3) provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational education and adult education in the State, looking toward maximum utilization of available public vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such relatives performing work under such program and otherwise assist them in preparing for regular employment;

(4) provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any such relative performing work under such program in

order to assure that such absence and work will not be inimical to the welfare of the child;

(5) provision that there be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work; and

(6) such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in section 401.

(b) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, the proper and efficient administration of the State plan, for purposes of section 403(a) (3) and (4) may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.¹

FOOD STAMP DISTRIBUTION

Sec. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b) (2).

(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this

¹ P.L. 90-248, sec. 204(c) (2) provides:
 "The provisions of section 409 of the Social Security Act shall not apply to any State with respect to any quarter beginning after June 30, 1968."

part¹ of such State, to institute or carry out a procedure, described in subsection (a).^{1 2}

Part B—Child-Welfare Services

Appropriation

Sec. 420. For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child-welfare services, the following sums are hereby authorized to be appropriated: \$196,000,000 for the fiscal year ending June 30, 1973, \$211,000,000 for the fiscal year ending June 30, 1974, \$226,000,000 for the fiscal year ending June 30, 1975, \$246,000,000 for the fiscal year ending June 30, 1976, and \$266,000,000 for each fiscal year thereafter.

Allotments to States

Sec. 421. The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary, as follows: He shall allot \$70,000 to each State, and shall allot to each State an amount which bears the same ratio to the remainder of the sum so appropriated for such year as the product of (1) the population of such State under the age of 21 and (2) the allotment percentage of such State (as determined under section 423) bears to the sum of the corresponding products of all the States.

Payment to States

Sec. 422. (a) From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State—

(1) that has a plan for child-welfare services which has been developed as provided in this part and which—

(A) provides that (i) the individual or agency designated pursuant to section 2003 (d) (1) (C) to administer or supervise the administration of the State's services program will administer or supervise the administration of such plan for child-welfare services and (ii) to the extent that child-welfare services are furnished by the staff of the State agency or local agency administering such plan for child-welfare services, a single organizational unit in such State or local agency, as the

¹ Section 410 was added by section 1(a) of P.L. 94-585.

² See also section 1(b) of P.L. 94-585 which is printed on page 704 of this document.

case may be, will be responsible for furnishing such child-welfare services,¹

(B) provides for coordination between the services provided under such plan and the services provided for dependent children under the State plan approved under part A of this title, with a view to provision of welfare and related services which will best promote the welfare of such children and their families, and

(C) provides, with respect to day care services (including the provision of such care) provided under this title—

(i) for cooperative arrangements with the State health authority and the State agency primarily responsible for State supervision of public schools to assure maximum utilization of such agencies in the provision of necessary health services and education for children receiving day care,

(ii) for an advisory committee, to advise the State public welfare agency on the general policy involved in the provision of day care services under the plan, which shall include among its members representatives of other State agencies concerned with day care or services related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with the provision of day care,

(iii) for such safeguards as may be necessary to assure provision of day care under the plan only in cases in which it is in the best interest of the child and the mother and only in cases in which it is determined, under criteria established by the State, that a need for such care exists; and, in cases in which the family is able to pay part or all of the costs of such care, for payment of such fees as may be reasonable in the light of such ability,

(iv) for giving priority, in determining the existence of need for such day care, to members of low-income or other groups in the population; and to geographical

¹ In the case of Guam, Puerto Rico, and the Virgin Islands, section 422(a)(1)(A) reads as follows:

"(A) provides that (1) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child-welfare services and (2) to the extent that child-welfare services are furnished by the staff of the State agency or local agency administering such plan for child-welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child-welfare services."

areas, which have the greatest relative need for extension of such day care, and

(v) that day care provided under the plan will be provided only in facilities (including private homes) which are licensed by the State, or approved (as meeting the standards established for such licensing) by the State agency responsible for licensing facilities of this type, and

(vi) for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of the health and development of the child, and

(2) that makes a satisfactory showing that the State is extending the provision of child-welfare services in the State, with priority being given to communities with the greatest need for such services after giving consideration to their relative financial need, and with a view to making available by July 1, 1975, in all political subdivisions of the State, for all children in need thereof, child-welfare services provided by the staff (which shall to the extent feasible be composed of trained child-welfare personnel) of the State public welfare agency or of the local agency participating in the administration of the plan in the political subdivision,

except that (effective July 1, 1969, or, if earlier, on the date as of which the modification of the State plan to comply with this requirement with respect to subprofessional staff is approved) such plan shall provide for the training and effective use of paid subprofessional staff with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency, an amount equal to the Federal share (as determined under section 423) of the total sum expended under such plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child-welfare services, in developing State services for the encouragement and assistance of adequate methods of community child-welfare organization, in paying the costs of returning any runaway child who has not attained the age of eighteen to his own community in another State, and of maintaining such child until such return (for a period not exceeding fifteen days), in cases in which such costs cannot be met

by the parents of such child or by any person, agency, or institution legally responsible for the support of such child. In developing such services for children, the facilities and experience of voluntary agencies shall be utilized in accordance with child-care programs and arrangements in the State and local communities as may be authorized by the State.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of subsection (a).

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

(c) If on December 1, 1974, the agency of a State administering its plan under this part was not the agency designated pursuant to section 402(a)(3), subsection (a)(1)(A) of this section shall not apply with respect to such agency but only so long as such agency is not the agency designated under section 2003(d)(1)(C), and if on December 1, 1974, the local agency administering the plan of a State under this part in a subdivision of the State is not the local agency in such subdivision administering the plan of such State under part A of this title, subsection (a)(1)(A) of this section shall not apply with respect to such local agency but only so long as such local agency is not the local agency administering the program of the State for the provision of services under title XX.

Allotment Percentage and Federal Share

Sec. 423. (a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(b) The "Federal share" for any State for any fiscal year shall be 100 per centum less that percentage which bears the same ratio to

50 per centum as the per capita income of such States bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than $33\frac{1}{3}$ per centum or more than $66\frac{2}{3}$ per centum, and (2) the Federal share shall be $66\frac{2}{3}$ per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(c) The Federal share and allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 524(c) of the Social Security Act in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.¹

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

Reallotment

Sec. 424. The amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in such section shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under that section and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 421.

Definition

Sec. 425. For purposes of this title, the term "child-welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or

¹ Subsection (c) was amended by section 22 of Public Law 94-273.

remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities.

Research, Training, or Demonstration Projects

Sec. 426. (a) There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

(1) for grants by the Secretary—

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships with such stipends and allowances as may be permitted by the Secretary; and

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds neces-

sary to carry out the purposes of the grants, contracts, or other arrangements.

Part C—Work Incentive Program for Recipients of Aid Under State Plan Approved Under Part A.

Purpose

Sec. 430. The purpose of this part is to require the establishment of a program utilizing all available manpower services, including those authorized under other provisions of law, under which individuals receiving aid to families with dependent children will be furnished incentives, opportunities, and necessary services in order for (1) the employment of such individuals in the regular economy, (2) the training of such individuals for work in the regular economy, and (3) the participation of such individuals in public service employment, thus restoring the families of such individuals to independence and useful roles in their communities. It is expected that the individuals participating in the program established under this part will acquire a sense of dignity, self-worth, and confidence which will flow from being recognized as a wage-earning member of society and that the example of a working adult in these families will have beneficial effects on the children in such families.

Appropriation

Sec. 431. (a) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare for each fiscal year a sum sufficient to carry out the purposes of this part. The Secretary of Health, Education, and Welfare shall transfer to the Secretary of Labor from time to time sufficient amounts, out of the moneys appropriated pursuant to this section, to enable him to carry out such purposes.

(b) Of the amounts expended from funds appropriated pursuant to subsection (a) for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 33 $\frac{1}{3}$ per centum thereof shall be expended for carrying out the program of on-the-job training referred to in section 432(b)(1)(B) and for carrying out the program of public service employment referred to in section 432(b)(3).

(c) Of the sums appropriated pursuant to subsection (a) to carry out the provisions of this part for any fiscal year (commencing with the fiscal year ending June 30, 1973), not less than 50 percent shall be allotted among the States in accordance with a formula under which

each State receives (from the total available for such allotment) an amount which bears the same ratio to such total as—

(1) in the case of the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, the average number of recipients of aid to families with dependent children in such State during the month of January last preceding the commencement of such fiscal year bears to the average number of such recipients during such month in all the States; and

(2) in the case of the fiscal year ending June 30, 1975, or in the case of any fiscal year thereafter, the average number of individuals in such State who, during the month of January last preceding the commencement of such fiscal year, are registered pursuant to section 402(a)(19)(A) bears to the average number of individuals in all States who, during such month, are so registered.

Establishment of Programs.

Sec. 432. (a) The Secretary of Labor (hereinafter in this part referred to as the Secretary) shall, in accordance with the provisions of this part, establish work incentive programs (as provided for in subsection (b) of this section) in each State and in each political subdivision of a State in which he determines there is a significant number of individuals who have attained age 16 and are receiving aid to families with dependent children. In other political subdivisions, he shall use his best efforts to provide such programs either within such subdivisions or through the provision of transportation for such persons to political subdivisions of the State in which such programs are established.

(b) Such programs shall include, but shall not be limited to, (1) (A) a program placing as many individuals as is possible in employment, and (B) a program utilizing on-the-job training positions for others, (2) a program of institutional and work experience training for those individuals for whom such training is likely to lead to regular employment, and (3) a program of public service employment for individuals for whom a job in the regular economy cannot be found.

(c) In carrying out the purposes of this part the Secretary may make grants to, or enter into agreements with, public or private agencies or organizations (including Indian tribes with respect to Indians on a reservation), except that no such grant or agreement shall be made to or with a private employer for profit or with a private non-profit employer not organized for a public purpose for purposes of the work experience program established by clause (2) of subsection (b).

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

Title 16

TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED¹

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Appropriation

Section 1601. For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to needy individuals who are 65 years of age or over, are blind, or are 18 years of age or over and permanently and totally disabled, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of individuals who are 65 years of age or over and who are not recipients of aid to the aged, blind, or disabled but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-support or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and are approved by the Secretary of Health, Education, and Welfare, plans for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged.

State Plans for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged

Sec. 1602. (a) A State plan for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged, must—

¹P.L. 92-603, section 301, amended title XVI in its entirety under the title "Supplemental Security Income for the Aged, Blind, and Disabled," effective January 1, 1974, but pursuant to P.L. 92-603, sec. 303(b), such amendment does not apply to Puerto Rico, Guam, and the Virgin Islands. The amended title starts on page 377, this volume.

²This table of contents does not appear in the law.

(1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) (A) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to

do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for;

(10) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under title I or aid under the State plan approved under part A of title IV or under title X or XIV;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this title, for determining eligibility for and the extent of aid or assistance under the plan;

(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual—

(A) if such individual is blind, the State agency (i) shall disregard the first \$85 per month of earned income plus one-half of earned income in excess of \$85 per month, and (ii) shall, for a period not in excess of 12 months, and may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan;

(B) if such individual is not blind but is permanently and totally disabled, (i) of the first \$80 per month of earned

income, the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder, and (ii) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during which substantially all of which he is actually undergoing vocational rehabilitation,

(C) if such individual has attained age 65 and is neither blind nor permanently and totally disabled, of the first \$20 per month of earned income the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder, and

(D) the State agency may, before disregarding the amounts referred to above in this paragraph (14), disregard not more than \$7.50 of any income;

(15) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom; and

(D) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual); and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(16) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental

diseases, and where appropriate, with such assistance may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care; arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 1603(a)(4)(A)(i) and (ii) which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(17) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases;

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this title, the State agency which administered or supervised the administration of the plan of such State approved under title X was different from the State agency which administered or supervised the administration of the plan of such State approved under title I and the State agency which administered or supervised the administration of the plan

of such State approved under title XIV, the State agency which administered or supervised the administration of such plan approved under title X may be designated to administer or supervise the administration of the portion of the State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) which relates to blind individuals; and a separate State agency may be established or designated to administer or supervise the administration of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for aid to the aged, blind, or disabled excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for such aid and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title. In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1002(b) following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged, blind or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) was submitted for approval under this title, the Secretary shall approve the plan of such State for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) for purposes of this title, even though it does not meet the requirements of paragraph (14) of subsection (a) if it meets all other requirements of this title for an approved plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged); but payments under section 1603 shall

be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1603 under a plan approved under this section without regard to the provisions of this sentence.

(c) Subject to the last sentence of subsection (a), nothing in this title shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this title.

Payments to States

Sec. 1603. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarters to the aged, blind, or disabled under the State plan (including expenditures for premiums under Part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{31}{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of \$37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection means (i) the number of individuals who received such aid in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i) (I) the Federal percentage (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of \$38 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month

as exceeds the product of \$15 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, or

(ii) (I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to such month as exceeds (a) the product of \$52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of \$37 multiplied by such total number of such recipients plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B) (ii), not counting so much of such excess with respect to such month as exceeds the product of \$38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of \$45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus

the product of \$37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of \$7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 61(c)) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State whose State plan approved under section 1602 meets the requirements of subsection (c)(1), an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid or assistance under the plan if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by

the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan, and individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid or assistance;

(C) one-half of the remainder of such expenditures for services referred to in subparagraphs (A) and (B) and except to the extent specified by the Secretary, include only

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administra-

tion of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 1602 does not meet the requirements of subsection (c) (1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b) (1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to aid or assistance furnished under the State plan, but excluding any amount of such aid or assistance recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased, shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c) (1) In order for a State to qualify for payments under paragraph (4) of subsection (a), its State plan approved under section 1602 must provide that the State agency shall make available to applicants for or recipients of aid to the aged, blind, or disabled under

such State plan at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency, administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (5) of such subsection.

(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

Operation of State Plans

Sec. 1604. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1602; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

Definitions

Sec. 1605. (a) For purposes of this title, the term "aid to the aged, blind, or disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but such term does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(2) any such payments to or care in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1602 includes provision for—

(A) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the aged, blind, or disabled to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(D) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justify such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that such action will best serve the interests of such needy individual; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this title so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period of ninety consecutive days in the case of any other such individual; and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(b) For purposes of this title, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals who are sixty-five years of age or older and who are not recipients of aid to the aged, blind, or disabled (except, for any month, for recipients of aid to the aged, blind, or disabled who are admitted to or discharged from a medical institution during such month) but whose income and resources are insufficient to meet all of such cost—

- (1) inpatient hospital services;
- (2) skilled nursing-home services;
- (3) physicians' services;
- (4) outpatient hospital or clinic services;

- (5) home health care services;
- (6) private duty nursing services;
- (7) physical therapy and related services;
- (8) dental services;
- (9) laboratory and X-ray services;
- (10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;
- (11) diagnostic, screening, and preventive services; and
- (12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution).