



**D.C. Office on Aging**

# **Grants Policy Manual**

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## **I. Introduction**

### **A. Purpose of Manual**

The purpose of this manual is to provide an overview of the DC Office on Aging's (DCOA) grants relationships and processes from pre-award planning to final close-out. The manual sets forth DCOA policies and procedures regarding the award and administration of grants. It implements and supplements guidance and requirements issued through the Office of Management and Budget (OMB) Circulars and the U.S. Department of Health and Human Services regulations. The manual is intended as a resource for program and financial managers of grantee organizations. It should be used in conjunction with the DCOA Financial and Compliance Management Guide, specific directives, instructions, and policy memoranda from DCOA.

**B. Definitions** – These definitions apply to terms as used in this manual.

**ASSURANCES** – The statement signed by a duly authorized representative of the grantee in applying for the grant that it will comply with various applicable laws, regulations, policies, and other requirements of the DCOA.

**AWARD** – The legal authorization of a grant to an entity.

**CARRY OVER FUNDS** – Grant funds from federal appropriations that, with proper approval, may be transferred for use from one grant period to an extended period.

**CASH CONTRIBUTION** – The grantee's cash outlay, including money contributed to the grantee by other public agencies, institutions, organizations and individuals, that is used to meet the Cost Sharing or Matching requirement.

**COGNIZANT FEDERAL AGENCY** – The federal agency with which an organization has most of its federal grants and to which it may apply for and receive a negotiated federal indirect cost rate.

**COMPETITIVE GRANT** – A type of grant for which multiple parties may apply for a single or multiple awards awarded through a formal process that includes certain published notices and an external review panel.

**COMPREHENSIVE UNIVERSAL REPORTING TOOL (CURT)** – The monthly written progress report that DCOA requires from a grantee.

**CONTINUATION GRANT** – A type of grant, for which a new application and award are required, to continue an existing project of a particular grantee that covers a new grant period.

**COST SHARE** – The value of third party cash and in-kind contributions that constitute the portion of the costs of a grant project not borne by DCOA. A cost share is required as a condition of the grant. The terms Cost Share, Cost Sharing, Match, Matching Share, Grantee Share or Local Share are used interchangeably.

**DEBARMENT AND SUSPENSION** – The procedure under Executive Order 12549 through which certain parties are prohibited from receiving federal funds under a grant or contract to protect the public interest and ensure the integrity of the grant programs by conducting business only with responsible persons. A certification regarding debarment and suspension is required for all DCOA grants.

**DIRECT COST** – Those expenses that can be identified specifically with a particular final cost objective, such as a particular award, project, service, or other direct activity of an organization.

**DISCONTINUATION** – An action taken by DCOA to discontinue funding a particular grantee for a subsequent budget period. A discontinuation of a grant formally ends the grant at the end of a funding period and disqualifies the grantee from applying for a continuation grant for the program for the next budget period.

**DRUG-FREE WORKPLACE** – The Drug-Free Workplace Act of 1988 which requires that recipients of federal funds provide a work environment free of illegal drugs, establish an awareness program, and provide certain information to its employees. A certification of compliance with the Drug-Free Workplace Act is required for all DCOA grants.

**EQUIPMENT** – Non-expendable property purchased with DCOA funds with an acquisition cost of \$500 or more and a useful life of more than one year. Note, however, under OMB guidelines, for purposes of the federal procurement standards, equipment means non-expendable property purchased with federal funds with an acquisition cost of \$5,000 or more and a useful life of more than one year.

**GRANT** - A type of assistance award and a legal instrument which permits DCOA to transfer money, property, services or other things of value to a recipient, to support a public purpose authorized by statute. Most grants awarded by DCOA are performance-based, cost-reimbursement grants. Grants are the primary mechanism of DCOA support.

**GRANTEE** - The organization or other 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. DCOA grants are normally made to organizations rather than to individuals.

**GRANTEE SHARE** – See Cost Share

**GRANT PERIOD** – The timeframe in which a grantee is authorized to expend funds to carry out the grant project.



**GRANT TERMS AND CONDITIONS** – Requirements and restrictions imposed by DCOA that are specifically identified in the grant award whose acceptance by the grantee is a prerequisite for making the award.

**INDIRECT COST RATE (IDCR)** – The percentage of the sum total of certain direct costs that are used to compute reimbursable indirect costs. An indirect cost rate can be established by a cognizant federal agency or established by computing the rate using the criteria set forth by DCOA and OMB guidelines. DCOA generally caps indirect cost rates at 15% of total personnel costs.

**INDIRECT COSTS** – A cost category allowed under a grant budget that includes expenses that are incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Examples are depreciation, maintenance of facilities, salaries and expenses of executive officers, personnel administration, and accounting. Sometimes referred to as management and general or administrative expenses. Generally, DCOA has a cap on the amount of indirect costs that can be charged to a grant.

**IN KIND** – Tangible items, use of facilities or services or volunteer labor donated by a third party for which a fair market value can be calculated. In kind goods or services may be used by a grantee to meet part of its cost sharing or matching requirement.

**KEY PERSONNEL** – Employees or consultants under a grant whose duties are critical to the operation of the grant project and for whom advance, written DCOA approval is required.

**LEAD AGENCY** – The grantee agencies in the DCOA Senior Service Network responsible for coordinated services in a ward or wards, including provision and transportation of congregate and home-delivered meals, nutrition counseling and education, and literacy services. There are currently five lead agencies in the Senior Service Network, representing all eight wards of the District of Columbia.

**LOCAL SHARE** - See Cost Share.

**MATCH or MATCHING SHARE**– See Cost Share.

**NEGOTIATED INDIRECT COST RATE** – A grantee’s indirect cost rate that has been formally negotiated and approved by a cognizant federal agency (generally one from which it has the most grant funding) and is used by the grantee for all its grants with federal agencies.

**NON-UNIT SERVICE** – The activities of a project for which the U.S. Administration on Aging or the DC Office on Aging has not established a unit of service measure.

**NOTIFICATION OF GRANT AWARD (NGA)** – The legal document authorizing a grant.

**OLDER AMERICANS ACT** – The Older Americans Act of 1965, as amended, is the statute establishing the U.S. Administration on Aging and the underlying authority for most DCOA grants.

**OUTCOME MEASURE** - An objective calculation used to determine whether the grantee has achieved the performance goal for that activity.

**PERFORMANCE GOAL**– A desired end result of the grant activity. Used interchangeably with Performance Measure

**PERFORMANCE MEASURE** - See Performance Goal.

**PROGRAM INCOME** – Income earned by a grantee that is directly generated by a supported activity or acquired as a result of the DCOA grant. Program income includes but is not limited to fees for services, the use or rental of real or personal property acquired under the grant, and voluntary contributions made to the grantee by participants.

**PROJECT DIRECTOR** - The individual designated by the grantee and approved by DCOA who is responsible for the programmatic and technical direction of the project.

**PROJECT OBJECTIVE** – A grant activity that carries out the goals and purposes of the grant and the statute authorizing the grant.

**REQUEST FOR APPLICATIONS (RFA)**– The official solicitation for a grant.

**SENIOR SERVICE NETWORK** – The group of grantees and contractors supported by the DC Office on Aging that provide a variety of services to seniors in the District of Columbia.

**SERVICE STANDARD** – The description of activities for certain DCOA grants, that define the objective, unit of service, area, location and allowable and prohibited functions for that type of activity. The service standards provide a basis for DCOA to evaluate grant activity and ensure uniformity and quality of service delivery, regardless of location or provider.

**SOURCE DOCUMENTATION** – The grantee records that provide evidence that specific activities under a grant occurred or were performed. Depending on the activity, source documentation may include such records as timesheets, sign-in sheets, activity announcements, calendars, and meeting agendas and minutes.

**SUSPENSION** – An action taken by DCOA that temporarily withholds grant support of a project pending corrective action by the grantee or a decision by DCOA to terminate the grant.

**TERMINATION** – The cancellation of a grant, in whole or in part, at any time prior to its expiration.

**UNIT OF SERVICE** – The standard measurement for project activities established by the U.S. Administration on Aging and the D.C. Office on Aging for certain programs under the Older Americans Act. DCOA reimburses grantees for those programs based on the number of units of service performed.

**UNIVERSAL PARTICIPANT TRACKING (UPT)** – The swipe-card or Touch Screen system instituted by DCOA to record units of service for certain community-based programs.

### **C. Acronyms**

AoA – U.S. Administration on Aging

CURT – Comprehensive Universal Reporting Tool

DCOA – District of Columbia Office on Aging

IDCR – Indirect cost rate

M-1 – Monthly Financial Report

NGA – Notification of Grant Award

NOFA – Notice of Funding Availability

OAA – Older Americans Act of 1965, as amended.

OMB – U.S. Office of Management and Budget

P Reports – Monthly Financial reports for grantees in the financial pilot

Q and Y Reports – Quarterly and Year-to-Date Financial Reports

RFA – Request for Applications

UPT – Universal Participant Tracking

### **D. Grant Relationship**

DCOA awards grants when the accomplishment of project objectives through the day-to-day performance of the activities and services for beneficiaries are to be provided by a third-party rather than directly by DCOA. Grants establish a formal relationship between DCOA and the grantee in which each has specific responsibilities:

1. DCOA agrees to provide up to a specified amount of financial support for the project under the conditions and requirements of the grant. DCOA monitors grant progress and ensures compliance with applicable District of Columbia and federal laws, OMB Circulars, regulations, grant terms and conditions, policies and procedures, and service standards.

2. The grantee proposes and agrees to carry out the project described in its application, as approved by DCOA, in accordance with the terms and conditions of the grant, to provide prudent fiscal management of the grant funds received, to provide reports as specified in the grant terms and conditions, and to cooperate with DCOA and other District of Columbia and Federal authorities in its monitoring and enforcement of the grant.

### **E. Grant Authority**

Under the District of Columbia Aging Act, DC Law #1-24, as amended, the DC Office on Aging is charged with responsibility for grants funded through the Older Americans Act, other federal funds and District government appropriated funds. Through its awards of grants to public and private nonprofit, community-based agencies, DCOA has established the Senior Service Network which, in partnership with DCOA, provides supportive services to and for the benefit of the elderly and helps carry out the purposes of the Older Americans Act and the District of Columbia Aging Act in the community.

The District of Columbia receives grants primarily from the federal government in the form of formula and competitive or discretionary grants. The Older Americans Act of 1965, as amended, 42 U.S.C. 3001 *et seq.*, is the principal authorizing legislation for federal grant funds to the DC Office on Aging. Federal funding to the District of Columbia under the Older Americans Act is made to enable it to “develop greater capacity and foster the development and implementation of comprehensive and coordinated systems to serve older individuals.” 42 U.S.C. Sec. 3021(a)(1).

The comprehensive system of services which DCOA and its grantees implement is established to:

- i. secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;
- ii. remove individual and social barriers to economic and personal independence for older individuals;
- iii. provide a continuum of care for vulnerable older individuals; and
- iv. secure the opportunity for older individuals to receive managed in-home and community-based long-term care services. 42 U.S.C. Sec. 3021(a)(1)

The major programs authorized by the Older Americans Act for which grant funds are awarded to the DCOA are:

- i. Title III B – community-based support services and senior centers
- ii. Title III C – nutrition services.
- iii. Title III D –disease prevention and health promotion
- iv. Title III E – caregiver programs
- v. Title VII A –Long Term Care Ombudsman
- vi. Title VII B –elder abuse prevention

In addition to funding through the Older Americans Act, DCOA receives grant funding from the Centers for Medicare and Medicaid Services (CMS) under the Omnibus Budget Reconciliation Act of 1990, P.L. 101-508, to implement a state health insurance assistance program to provide counseling and assistance on a wide-range of health insurance issues.

DCOA details the types of services and activities that it provides for the elderly using Older Americans Act and District funds in its State Plan which is submitted to and approved by the U.S. Administration on Aging. The grant programs and services funded through the Older Americans Act, District appropriations, and selected other sources under the current State Plan are set forth in Table I-1. The State Plan may be amended as new initiatives and priorities are established by the federal or District government, and thus the programs and services described in Table I-1 may be subject to change.

**Table I-1 – Grant program authorization**

<b>Funding Authorization</b>	<b>Programs and services</b>
OAA, Title III B & District	Senior centers, adult day care, case management, counseling, recreation/socialization, legal services, homemaker services, Alzheimer’s care, and transportation.
OAA, Title III C & District	Congregate meals, home-delivered meals, and nutrition assessment, education and counseling.
OAA, Title III D & District	Senior centers, health promotion and education, and medication management.
District	Senior wellness centers and senior fitness programs.
OAA, Title III E & District	Caregiver respite, caregiver supplemental services, caregiver support groups, caregiver education, and the DC Caregiver Institute.
OAA, Title VII A & District	Long Term Care Ombudsman
OAA, Title VII B	Adult Abuse Prevention Committee
District	Long-term care facility, emergency shelter, professional training and development
Omnibus Budget Reconciliation Act of 1990, Sec. 4360 & District	Health insurance counseling

## **II. Pre-Award Grant Process**

### **A. Planning and Project Development**

Project or program development (plus the related budget development) is an involved process beyond the scope of this manual. However, a brief overview is included here, because it is critical to the grant planning process. It is noted that some proposals may encompass several “projects,” which when combined constitute their overall “program.” In this section, the terms “project” and “program” are used interchangeably, since some funded grants carry the name “project” in their title.

Grant applicants should review their own operations regularly and engage in program development and strategic planning well in advance of deciding to apply for a grant. Through processes such as program development, quality control initiatives, staff reviews, Board of Directors meetings, external and internal evaluations, client feedback or surveys, staff retreats, and developing annual and long-term plans, organizations establish their own goals and objectives that set the stage for deciding whether they should apply for a particular grant. When the grant competition is announced, organizations with well thought-out plans will be able to assess whether the purpose of the grant is consistent with their own mission, goals and objectives, and what kind of program services they are prepared to provide.

DCOA encourages grant applicants to develop projects that use best practices, evidence-based methodologies and innovative services and delivery methods to reach the most seniors, particularly low-income minority individuals and those with the greatest economic needs. New initiatives and priorities may be directed or encouraged by the Administration on Aging, a major funding source for DCOA grants. Favorable consideration is given to projects that propose new or expanded services, that prevent, reduce or improve problems, and that provide the greatest benefit to the targeted population. In general, DCOA grants are targeted at senior residents of the District of Columbia, but may also target caregivers of District seniors or intergenerational groups.

In developing a program or project, a grant applicant should consider community needs or problems of the targeted population and the availability of existing services to address them. This determination may be made through needs assessments, focus groups, observations of current practices, client feedback, surveys, data analysis, or a combination of information gathering and evaluation methods. In fashioning the proposed project, the grant applicant should consider what types of services respond to the needs or problems and how it is uniquely situated to address those needs. It should be able to identify services being provided by other sources and gaps in services. For example, an applicant may be the only provider to serve an ethnic community or have access to medical services that distinguish it from other providers.

Once the project concept is developed, the applicant must consider what resources are required to carry out the project, including the number and type of staff, space, supplies and equipment needed. A grantee must have or be able to obtain readily all resources necessary to carry out its project in a timely manner. DCOA encourages applicants to make creative

use of non-monetary resources to enhance their projects, including volunteers, in-kind contributions, community supports and collaborative partnerships.

### **1. Project Objectives**

DCOA requires that projects and programs be defined in terms of measurable outcome objectives. A program objective describes an activity that carries out the goals and mission of an organization. In developing program objectives, applicants must ensure that activities reach seniors within the geographic area covered (or citywide if the service area is the entire city) who have the greatest economic need, with particular attention to low-income minority individuals. A good objective contains five elements. An objective

- a. describes an activity---who is doing the activity, with whom, when and where;
- b. describes the beneficiaries of the activity---in most instances, this will be the seniors served;
- c. defines the desired result---this reflects the impact of the activity on the beneficiaries and the community, such as improvement in health, nutrition, or access to services;
- d. includes a measure (methodology or instrument) to determine if the result is reached---this is the means connecting the activity to the desired result; and
- e. defines the standard of success.

DCOA encourages the use of outcome objectives that are predicated on effecting a measurable result, such as caregiver services enabling seniors to remain in their own home for a year, rather than process objectives, describing only an activity without connection to a result, such as providing “x” hours of service. Additional resources on writing objectives are referenced in Paragraph XI.E.8.

### **2. DCOA Service Standards (See also, Chapter VI.F.)**

DCOA has established service standards for its major grant-supported program services as a quality assurance measure to clarify priorities, ensure uniformity in service delivery and reporting, and establish some quality control measures. In developing a project and preparing the program narrative and objectives, the applicant should ensure that the proposed project complies with applicable service standards and that it is capable of meeting the requirements set forth in the standards.

Service Standards currently cover Advocacy, Case Management, Comprehensive Assessment, Congregate Meals, Counseling, Geriatric Day Care, Health Promotion, Heavy Housecleaning, Home-Delivered Meals, Home Health Service, Homemaker, Legal Services, Literacy, Nutrition Counseling, Nutrition Education, Recreation and Socialization, Transportation and Escort, Transportation of Home-Delivered Meals, Transportation to Sites and Activities, Weekend Congregate Meals, Weekend Home-Delivered Meal Service, and Wellness/Health Promotion. As new programs and services are initiated, additional service standards may be implemented. A copy of the Service Standards is attached as Exhibit XII.E.

The Service Standards



- a. define the **service**, detailing the types of activities that may be covered;
- b. establish the **service objective**;
- c. specify the **unit of service**;
- d. define the geographic **service area** covered
- e. define the **location** describing the type of facility in which the service should be performed;
- f. set **service priorities**;
- g. lists minimal **service standards** the program must maintain, covering such items as staff training, record-keeping, client assessment, information and referral, specific activities or events that must be included, time frames and schedules, and safety precautions; and
- h. specifies **prohibited service components**, such as health care, medical, legal or financial services that may not be provided as part of the particular program service.

### **3. Performance Goals and Outcome Measures**

DCOA has established standard performance goals and outcome measures for its major service categories covering (1) In-Home and Continuing Care and (2) Community-Based Support. These standards cover Caregiver Support, Elder Rights Assistance, Health Promotion and Wellness, In-Home and Day Care Services, Community Services, In-Home Nutrition Services, Supportive Residential Facilities, and Training and Education. DCOA standard goals and measures are described in broad terms with the purpose of establishing the extent to which the grantee's proposed service has a positive impact on the health and welfare of the beneficiaries. These measures change annually, based on information reported in DCOA's annual budget submission.

To implement performance goals and outcome measures, baseline information must be collected at the start of the grant period and systems must be developed to collect and record data, so that results may be tabulated and measured at the end of the grant period. At least one objective in the proposal must be developed to address the standard performance goal and outcome measure applicable to that service. However, other objectives can and should address other short, intermediate or long-term outcomes and incorporate different measures appropriate to the type of activity and service being provided.

## **B. Budget Preparation**

The project budget specifies all expenses by type and all revenue by source that are needed to carry out the project. Preparation of the budget is a corollary of project development. Once the grant applicant has determined the number and types of staff and other resources required to carry out the project, it can systematically develop the budget reflecting associated costs for each item. For multiple projects or where staff time is allocated to more than one project, costs in the budget must be allocated based on the projected time to be spent on each project. Additional information on budget development and financial management systems is contained in the DCOA Financial and Grants Administration Manual.

For purposes of the DCOA grant proposal, the budget must include the following categories:

1. Personnel
2. Fringe Benefits – includes payroll taxes, health, disability and life insurance, unemployment compensation taxes, retirement benefits
3. Travel – separating out mileage at the approved DCOA rate and fares
4. Occupancy – includes rent or mortgage costs, utilities, security system, maintenance and other costs associated with physical plant
5. Communications – includes phones, pagers, postage, delivery charges, internet service
6. Supplies and Equipment
7. Other Direct Costs
8. Indirect Costs

Organizations may have other or more detailed cost categories in their budgets based on the types of services they provide. DCOA does not provide capital funds for construction or depreciable equipment that costs \$500 or more. Authorization to purchase depreciable equipment may be approved by DCOA on a case by case basis after a grant has been awarded. However, such costs should not be included in a grant application. Only costs that are allowable under OMB Cost Principles (OMB Circulars A-21, and A-87, 2 CFR Parts 220 and 230) may be included in the project budget.

In developing the revenue side of the budget, the applicant should identify the type of revenue sources it has or projects to receive for the project period sufficient to cover project costs. Revenue categories typically include grants, corporate contributions, donations, special events, program fees or contributions, earned interest, unrelated business income, and in kind goods and services. The budget may include projected revenue only to the extent that the applicant has a reasonable expectation of receipt.

### **C. Notice of Funding Availability – Competitive Grants**

The Notice of Funding Availability (NOFA) is the official statement in which DCOA informs the public that it is conducting a grant competition. The NOFA describes the grant project, the total amount of funds available, and eligibility criteria, and provides other information concerning the competitive process, including the date the Request for Application will be issued. The NOFA is issued online on the DC Office on Aging's website ([www.dcoa.dc.gov](http://www.dcoa.dc.gov)) and the Office of Partnerships and Grants Development's website ([www.opgd.dc.gov](http://www.opgd.dc.gov)) under "District Grants Clearinghouse," published in its Grants Funding Alert, and published in local newspapers.

### **D. Request for Applications**

The Request for Applications (RFA) is the official solicitation for a grant. The RFA sets out in detail the specific format for the grant proposal. Typically, this includes a table of contents, an applicant profile, a proposal abstract, a program narrative, budget information, certain required certifications and assurances, and mandatory appendices. The RFA

generally is issued online on the Office on Aging's website ([www.dcoa.dc.gov](http://www.dcoa.dc.gov)), on the DC Office of Partnerships and Grants Development's website ([www.opgd.dc.gov](http://www.opgd.dc.gov)), under "District Grants Clearinghouse," published in its Grants Funding Alert, and is available for pick-up at the DC Office on Aging.

### **1. Competitive Grants**

For competitive grants, the RFA provides general and specific information on the grants being solicited, eligibility criteria for applicants, the grant application and instructions, review and scoring criteria, and instructions for transmitting the application. The RFA details the amount of award(s) for the projects, the award period and any continuation options, and any matching requirements. The RFA will specify whether DCOA is permitting multiple submissions from a single entity to compete for more than one project. Generally, however, if multiple submissions are permitted, each application must be self-contained and include all required information. The RFA will also indicate whether DCOA, at its discretion, will require a pre-award site visit.

### **2. Continuation Grants**

Continuation grants administered by DCOA are renewed noncompetitively on an annual basis. For those renewals, DCOA establishes a budget mark, setting forth the maximum amount of funds it will make available to the grantee and a minimum matching requirement for the grantee. The grant development and proposal writing process for renewal grants are similar to those of competitive grants, in that a Request for Continuation Application is issued and made available at the Budget Mark Meeting. This continuation RFA contains the instructions for proper completion of a continuation grant application. Certain information need only be updated for continuation grants, but generally, grantees must submit new certificates in good standing from the DC Department of Consumer and Regulatory Affairs and the DC Office of Tax and Revenue, federally mandated certifications regarding debarment, suspension and other responsibility matters, drug-free workplace requirements, and lobbying, and Board of Directors roster.

## **E. Eligibility**

The eligibility criteria to apply for DCOA grant funds are stated in the Notice of Funding Availability and Request for Applications. Unless otherwise specified, most DCOA grants require applicants to be duly incorporated, nonprofit organizations with places of business within the physical boundaries of the District of Columbia. If for-profit applicants are eligible, they may not include any profit in their grant applications. Grantees must establish their tax-exempt status under the Internal Revenue Code and have an assigned Dun and Bradstreet number. They must be corporations in good standing by having filed all currently required reports to DC and having an active Board of Directors, be compliant with all DC tax requirements, and be properly licensed in DC for businesses requiring licensure as an entity, such as a Master Business license, Charitable Solicitation license, and other applicable operating licenses.

### **1. Organizational Capacity**

In preparing an initial application for DCOA funding, a grant applicant must establish that it has the organizational capacity to carry out the grant. Information establishing organizational capacity includes a brief history of the organization, its mission and goals and how carrying out the grant is consistent with them; a description of its organizational structure, including make-up of its Board of Directors, advisory committees, and personnel structure; a description of current programs, activities, and recent accomplishments; evidence of its ability to carry out the type and scope of work required under the grant, including successful programmatic experience in carrying out the same or similar projects; evidence of its fiscal soundness and capacity, including the capacity to meet cost-sharing requirements, and evidence of its administrative capacity to manage the grant. Documentation to support its experience includes external evaluations, results of customer surveys, or other objective measurements. An applicant's performance in carrying out current or recent DCOA grants will be considered as a factor establishing its organizational capacity to perform the work. The applicant must also establish that it has the physical facilities in which to carry out grant activities. If the physical facilities are not currently under its possession and control, it must specify the timeframe in which they will be acquired and establish that it can carry out required grant objectives with no or as little disruption in services to clients as possible.

For noncompetitive, continuation grants, a grantee that has been funded through the DCOA within the past three years, may establish its organizational capacity by updating its most recently submitted information.

## **2. Personnel Capacity**

In addition to demonstrating organizational capacity, a grant applicant must establish that it has or will be able to acquire readily the personnel needed to carry out the specific goals and objectives of the grant. The applicant's personnel roster must be sufficient in number and type of positions to support the proposed grant activities. The applicant must identify key personnel dedicated to the grant, provide resumes of those already hired, and proposed position descriptions for those not yet hired. The applicant is responsible for ensuring that key personnel are qualified for the position and for the functions required under the grant and that employees whose official duties require licensure have valid and current licenses. If the applicant proposes to hire key personnel, it must establish how it would do so, including the timeframe that would entail to get the project started. For continuation grants, the grantee must provide resumes of new employees and any new or modified position descriptions.

If the applicant retains consultants to perform all or some of the objectives of the grant, a description of the consultant's qualifications, a copy of the consultant contract specifying the hours and rate to be paid, and a description of the work to be performed under the grant should be included with the application.

### **III. Grant Proposal**

*Note:* This Chapter describes the preparation of a grant proposal in general. Where different procedures apply to competitive and continuation grants, the sections are separated out. *However, applicants should be sure to follow the specific requirements in the Request for Applications for which they are applying. If there are any discrepancies between this Chapter and the RFA, the RFA governs.*

#### **A. Summary Information**

The grant proposal begins with three summary items: an Applicant Profile, a Table of Contents, and a Proposal Abstract. The Applicant Profile is a cover sheet that identifies the applicant, type of organization, its tax identification number, its Dun and Bradstreet number, contact names and numbers, the program area, the program description, program costs, and signature of the official authorized to file the proposal. In cases where the Executive Director and Project Director are the same, the grant application and the signature on the NGA accepting the terms and conditions of the grant must be signed by the President or Chairperson of the Board of Directors. The Proposal Abstract is a brief synopsis of the proposal that may be made available to the general public. It should contain a short description of the project or program, the program goals, objectives, and overall approach including target population and significant partnerships, anticipated outcomes and timeframes. There is a page limit for the Proposal Abstract in the RFA.

#### **B. Project or Program Narrative**

The Program Narrative is the description of the applicant's project in response to the RFA. It should describe who will carry out the activity, establishing the capability of the organization and the key project personnel; what work will be performed; who the beneficiaries are in terms of numbers, demographics and characteristics; and what results are expected to be achieved. A successful narrative will show innovation, familiarity with and use of best practices, creative use of resources, collaborative arrangements with community partners, non-duplication of services provided elsewhere in the community, emphasis on services to seniors with the greatest economic and social needs with particular attention to low-income, minority individuals, and, as appropriate, involvement of the target population in program development. Other specific priorities and initiatives required in the RFA should be addressed.

As part of the Program Narrative, for continuation grants, the applicant must include a summary of the prior year objectives and results achieved. The applicant must include outcome objectives (described in Chapter II. A.1.) for each activity it proposes to undertake. Finally, the narrative must include a work plan that specifies the action steps and timeframe for carrying out each of the objectives proposed. The work plan may be in timeline or logic model form but must include timeframes for completion, number of units or beneficiaries involved, and results achieved in qualitative and quantitative terms. At a minimum, the Program Narrative must include the specific mandatory DCOA performance goals and outcome measures applicable to the particular service category. However, other objectives

should address short, intermediate and long-term outcomes that the project is designed to achieve including appropriate measures for evaluating results.

### **1. Personnel**

All DCOA grant projects must be headed by a full-time project director and employ sufficient staff to carry out the work proposed. The RFA may specify other positions, such as a nutritionist or fitness director; or the type of work may require other licensed individuals, such as social workers, nurses, and nutrition site managers. The grant applicant must attach an organization chart, position descriptions, and resumes for key personnel. For continuation grants, if the grantee has reorganized staff from its current operational structure by adding, deleting or changing positions, it must include an explanation of those changes. Only new or updated position descriptions are required as attachments for continuation grants, unless otherwise specified in the RFA. A personnel roster, identifying key personnel by name, position, and salary, and the number and type of all other positions, is required as Budget Schedule B-6A.

DCOA encourages the appropriate use of volunteer services to expand human resources available to carry out grant services. In-kind volunteer hours that are properly documented may constitute part of the organization's non-cash grantee share. The applicant organization must be headed by a full-time Executive Director and governed by an active Board of Directors. If the Executive Director of the organization and the full-time Project Director are one and the same, special permission must be obtained from DCOA, as an Executive Director carries out duties that extend beyond a project funded by DCOA.

## **C. Certifications and Assurances**

DCOA grants are subject to federal requirements governing debarment and suspension, drug-free workplace and lobbying. DCOA requires the applicant to certify compliance with these provisions. DCOA applies these certification requirements on all grants, including those funded in whole or part with DC appropriated funds. In addition, grantees must include certifications of compliance with DC laws and regulations by attaching an up-to-date Certificate in Good Standing from the DC Department of Consumer and Regulatory Affairs (DCRA), a current certification of compliance with DC tax laws from the DC Office of Tax and Revenue, and a certification of current payment of unemployment taxes if not covered by the DC Unemployment Trust Fund from the grantee's unemployment insurance provider. DCOA will obtain certifications of current payment of unemployment taxes of all applicants from the DC Department of Employment Services. A brief description of these certifications follows:

### **1. Debarment and Suspension**

Executive Order 12549, implemented by the Department of Health and Human Services at 45 CFR Part 76, prohibits federal grantees, their employees, contractors, subcontractors and agents from using grant funds to purchase any direct goods or services from individuals or groups appearing on the Federal government's debarment and suspension roster, which is published at [www.epls.arnet.gov](http://www.epls.arnet.gov). Grantees and their

subcontractors may not use grant funds to purchase direct goods or services from debarred or suspended individuals or groups. The applicant for grants administered by DCOA must certify that they are not debarred or suspended by any federal agency and have not been charged with, convicted of or had a civil judgment against them for fraud or other crimes involving breach of trust in a public transaction, or had a federal, state or local transaction terminated for cause or default.

## **2. Drug-Free Workplace**

The Drug-Free Workplace Act of 1988 requires recipients of federal grant funds to provide a drug-free workplace as a condition of the grant. DCOA extends the requirement to all its grantees, including those receiving only DC appropriated funds. The grant applicant must certify that it is complying with specific provisions of the Act. To comply with the Act, the grantee must:

- a.** publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace. The statement should also notify employees of any punitive actions that will be taken.
- b.** establish a drug-free awareness program to inform employees about
  - i.** the dangers of drug abuse in the workplace;
  - ii.** the policy of maintaining a drug-free workplace;
  - iii.** any available drug counseling, rehabilitation, and employee assistance programs; and
  - iv.** the penalties that may be imposed upon employees for drug abuse violations.
- c.** make it a requirement that each employee be given a copy of the workplace substance abuse policy. This should be documented in the employee's personnel folder.
- d.** notify its employees through its policy statement that as a condition of employment, the employee must abide by the policy and must notify the employer of any criminal drug conviction within 5 days of such conviction.
- e.** notify DCOA of any employee convicted under a criminal drug statute and the appropriate, required action taken against such employee.

## **3. Lobbying Restrictions**

Under 31 U.S.C. Section 1352 and 45 CFR Part 93, federal funds may not be used to lobby an employee or officer of an agency, Congress, and its members and employees in connection with any federal grant, contract, loan, cooperative agreement, or extension, continuation, amendment or modification thereto. Furthermore, a grant applicant must file a disclosure statement if it uses nonfederal funds to lobby an agency, Congress or its members or employees in connection with a grant, loan, cooperative agreement or contract. These provisions extend to any sub-grants and subcontracts. DCOA requires its grant applicants to certify compliance with both the anti-lobbying restriction and the disclosure requirement and to include similar certification language in all sub-awards, sub-grants and subcontracts. Violation of these requirements is subject to civil penalties ranging from \$10,000 to \$100,000 per violation.

#### **4. OMB Regulations**

Applicants must provide assurances and certifications of their compliance to the extent applicable with OMB regulations (formerly published as OMB Circulars):

- a.** Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, OMB Circular A-110, 2 CFR Part 215;
- b.** Cost Principles for Non-Profit Organizations, OMB Circular A-122, 2 CFR Part 230;
- c.** Cost Principles for Educational Institutions, OMB Circular A-21, 2 CFR Part 220; and
- d.** Audits of States, Local Governments and Non-Profit Organizations, OMB Circular A-133.

#### **5. DC Certifications**

Applicants must request the following certifications from the appropriate District of Columbia agencies to submit an original, sealed certification regarding corporate status and tax compliance. Since obtaining records may take some time, applicants are encouraged to request certifications early in the grant preparation process. Grants funds are not available until all certifications and assurances are received.

- a.** To certify that it is properly incorporated, the applicant must submit a current Certificate in Good Standing, which may be obtained from the DC Department of Consumer and Regulatory Affairs.
- b.** For grants over \$100,000, the applicant must obtain a certification from the DC Office of Tax and Revenue that the organization is current in District of Columbia tax requirements. This provision applies to any grantee whose cumulative grant awards in one year from DCOA are \$100,000 or more.

#### **6. Other Certifications**

The applicant must also provide standard assurances and certifications to certain other provisions required under federal laws, including:

- a.** Uniform Relocation Assistance and Real Property Acquisitions Act of 1970;
- b.** Fair Labor Stands Act;
- c.** Flood Disaster Protection Act;
- d.** Environmental Protection Act;
- e.** National Historic Preservation Act; and
- f.** Omnibus Crime Control and Safe Streets Act of 1968.

#### **D. Standard Terms and Conditions**

DCOA requires certification that grantees comply with certain requirements related specifically to the District of Columbia or DCOA policy requirements. In particular, the grantee must:



1. Give preference in hiring to DC residents among equally qualified candidates when filling vacant positions;
2. Give preference in hiring to individuals age 55 and over among equally qualified candidates;
3. Properly complete required client intake forms and service logs;
4. Have its Project Director attend monthly DCOA Project Director meetings;
5. Submit required reports in a timely manner, including the Comprehensive Uniform Reporting Tool (CURT), information required by the Office on Aging Client Management System, and monthly, quarterly and year-to-date financial reports.;
6. Give access and the right to examine all records, books, papers or documents related to the grant, to DCOA, the DC Office of Inspector General, the DC Attorney General, the U.S. Department of Health and Human Services, U.S. Administration on Aging, Office of Inspector General and the Comptroller General of the United States;
7. Include the DCOA logo and statement of support on its oral and written promotional material and vehicles purchased or supported with DCOA funds;
8. Comply with DCOA policy memoranda, in particular Policy Memorandum 01-P08 regarding grantees reimbursed both through DCOA funds and Medicaid and Policy Memorandum 02-P07 requiring approval of Key personnel, and Policy Memoranda 01-P04 and 04-P07 on Voluntary Contributions.
9. Adhere to the DCOA mandate limiting reimbursement for participant travel to inside the Washington beltway.

#### **E. Required Attachments**

In addition to the Program Narrative, Budget Narrative and Schedules, and required Certifications, the other required attachments to the grant application are:

1. Audited financial statements for the most recent fiscal year. Current DCOA grantees must reconcile data to the DCOA fiscal year ending September 30. For continuation grants, the grantee does not need to resubmit its audited financial statement, if it previously submitted its most recent audit under its current grant.
2. Proof of non-profit status - federal tax exemption determination letter from the Internal Revenue Service.
3. Current roster of the Board of Directors, showing name, address, phone numbers, positions held, ethnicity and gender.
4. Minutes from the Board of Directors' meeting signed by the Secretary or President that authorize the applicant's representative to file the grant. If the organization does not require such written authorization, a statement so certifying and authorizing the official to file signed by the Executive Director or Chair of the Board of Directors must be included instead.
5. A copy of the federally negotiated indirect cost rate, if the applicant has one. If applicant does not have a negotiated rate, the basis for calculation of indirect costs is required.
6. Inventory of equipment, including vehicles, purchased with or supported by any DCOA funds, identifying serial or VIN numbers, as appropriate and dates of purchase.

7. An Emergency Preparedness Plan for the organization, including shelter in place provisions.
8. Proposed organizational chart for the project.
9. Letters of support from collaborating community organizations. Current DCOA grantees may not use letters of support from other entities in the DCOA Senior Service Network.
10. Resumes of key personnel; and
11. Proposed position descriptions.

## **F. Project Budget**

The project budget is the total amount of direct and indirect costs estimated to carry out the proposed grant project. Only costs that are allowable, allocable and reasonable for the project may be included. Unallowable costs, such as fundraising, lobbying, and entertainment costs, are identified in OMB Circular A-122, 2 CRF Part 230, and may not be included in the budget. See, Chapter VIII, Allowable Costs, for further detail. In addition, certain costs will not be paid with DC funds, including equipment costing \$500 or more and travel outside the DC metropolitan Beltway, unless otherwise approved by DCOA.

DCOA establishes a minimum amount of cost share that must be provided by the grantee. The RFA specifies the cost share by percentage and for continuation grants the percentage is also identified as a dollar amount with the budget mark. Unless otherwise specified, this match may be met through cash and in-kind contributions.

DCOA requires budget information to be submitted in summary table form, accompanied by a detailed narrative explaining the components in each cost category. In addition, for continuation grants, the grant application includes several budget schedules (B-1 through B-12) in excel format. For competitive grants, these budget schedules are required after the grant award is made. Detailed instructions for completing the schedules are included with the grant application package.

### **1. Summary Budget Table**

The Summary Budget Table reports the DCOA share of project costs for each expense category separate from the grantee cost share:

Budget Category	Grantee Share	DCOA Share	TOTAL
Personnel			
Fringe			
Travel			
Occupancy			
Communications			
Supplies			
Equipment			
Other Direct			
TOTAL DIRECT			
Indirect Costs			
TOTAL PROJECT COSTS			

**Table III-1 Summary Budget Table**

## 2. Grantee Cost Share

As long as it meets the minimum cost share, the grantee has discretion how to allocate its share of costs. Many grantees calculate the percentage of the grant award compared to the total project costs and use a fixed percentage for each cost category. For example, under this method if the grant is \$100,000 and the total project costs are \$400,000, then the DCOA share of each category of costs would be  $\$100,000/\$400,000 = 25\%$ . The grantee's share is the remaining \$300,000, or  $75\% = \$300,000/\$400,000$ , and the grantee would calculate 75% of the total costs for each category to determine its cost share. However, in determining how to allocate their grantee share among the various cost categories, grantees should consider total grant costs, the specific cost items that their organization is providing and available sources of funding.

The grantee's share of expenses may be made up of cash contributions, such as employee salaries paid by other grants, and in-kind goods and services, such as volunteer labor and donated supplies. However, in-kind contributions may not be used to meet the minimum *cash* amount of the matching share where a cash cost share is required. In the example, if the cash requirement is 15% of the grant ( $= 15\% \times \$100,000$ ), then \$15,000 of the grantee's share of expenses of \$300,000 must be paid through cash, not through in-kind support. Participant contributions to cover grant expenses may not exceed 25% of the grantee's matching share.

## 3. Narrative Budget Description

The narrative description of the budget should identify by item and cost all significant components of each cost category. A brief description of the information to include in the budget narrative follows:

- a. **Personnel (Budget Schedule B-6):** The description should identify the number, percentage of time (Full-time equivalent), title and cost of each position; costs may be annual salary or hourly rate plus total hours, depending on type of position. Individuals paid under consultant contracts are not employees and

should not be included in the Personnel (B-6) schedules. Costs for consultants should be recorded under Other Direct Costs, Schedule B-12. In-kind labor may be shown as a separate column or a separate line in the Grantee share, but should not be included with its cash contribution.

- b. Fringe Benefits (Budget Schedule B-6B)** are determined on a position-by-position basis and include payroll taxes, unemployment taxes, health, life, disability and workers compensation insurance, retirement benefits, and vacation time.
- c. Travel expenses (Budget Schedule B-7)** include fares, mileage and other travel-related expenses. Mileage is limited to the DC mileage rate. Only travel within the Beltway may be charged to the DCOA share of the grant.
- d. Occupancy (Budget Schedule B-8)** encompasses costs relating to the physical space used for the project, such as rent, security system, utilities, and maintenance.
- e. Communications (Budget Schedule B-9)** includes telephone, internet, postage, courier and deliveries, and similar charges.
- f. Equipment (Budget Schedule B-10)** includes durable items with an expendable life of more than one year and costing equal to or more than the rate established for capitalization established by the nonprofit organization for financial statement purposes or \$5,000, whichever is less. Depreciable equipment costing \$500 or more may not be included in the project budget unless approved in advance by DCOA.
- g. Supplies (Budget Schedule B-10)** covers all consumable products costing \$500 or less, including supplies for participant activities.
- h. Indirect costs (Budget Schedule B-11)** are “those costs that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective.” OMB Circular A-122, 2 CFR 230, Appendix A, Paragraph C. There are many ways to compute indirect costs. Thus an itemized list of types of costs is not possible. However, typically indirect costs include such items as depreciation, operations and maintenance expenses, mortgage interest, management and administrative costs, such as salaries of the executive director, accounting, and personnel administration. The DCOA share of indirect costs is limited to 15% of Total Personnel Costs. For grants to universities for training and education, indirect costs payable from DCOA grant funds are limited to 8% of the grantee’s Modified Total Direct Costs, computed under its negotiated federal indirect cost rate.
- i. Other Direct Costs (Budget Schedule B-12)** is the catch-all for all other costs not fitting under other categories, such as copies and printing, insurance, training,

operating licenses and consultant contracts. All consultant contracts must identify the consultant by name, hourly rate, total cost, and activity to be performed. Copies of consultant contracts must be made available upon request.

#### **4. Budget Schedules**

Budget schedules (B-1- B-12) in excel format provided by DCOA are part of the grant application package. (For competitive grants, the budget schedules are completed after an award is made.) Detailed instructions for preparing the budget schedules are included as Exhibit XII. O. In general, grantees should complete Schedules 6 through 12 first, as the excel spreadsheets are tied together, and totals from these last pages carry over to the summary schedules B-1-B-5.

Before submitting the application, grantees should check to ensure that

1. the totals from Budget Schedules 6 through 12 are identical to the expense totals in Budget Schedule B-3;
2. the DCOA share of indirect costs on Budget Schedule B-11 is not more than 15% of total personnel costs on Budget Schedule B-6;
3. the total grantee share on Budget Schedule B-2 is at least 15% of the grant award; and
4. the totals in the Budget Schedules (B-1, B-2 and B-3) conform to the totals in the Budget Summary Table.

#### **G. Proposal Submission**

The proposal must be submitted in the style and format with the required number of copies specified in the RFA. The RFA specifies a page limit for the narrative, font size and spacing. Pages should be numbered. A checklist is included in the RFA to help applicants ensure that all required sections and attachments are included in their proposal. The proposal may be clipped but not bound, for ease of additional copying.

An authorized official of the organization must sign the application and attach the minutes from the Board of Directors meeting authorizing that submission or an explanation of the agency's procedures for obtaining Board approval of grant applications. An authorized official must also sign the Certifications and Assurances regarding Debarment, Suspension, Drug-Free Workplace, Lobbying and other Requirements. An original proposal is required, and faxed or e-mailed proposals or copies only will not be accepted.

Deliveries of the proposal may be made by mail or in person to arrive at the specified location by the date and time in the RFA. Applicants are encouraged to use registered or at least first-class mail. Proof of mailing may be established by:

1. A legibly dated U.S. Postal Service postmark;
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;
3. A dated shipping label, invoice, or receipt from a commercial carrier; or
4. Any other proof of mailing acceptable to the Government of the District of Columbia.

The following are not acceptable proofs of mailing:

1. A private metered postmark, or
2. A mail receipt that is not dated by the U.S. Postal Service.

Hand deliveries of the proposal must be properly packaged, addressed and brought to the designated site during business hours (9 a.m. to 5 p.m.) by the closing date. A picture ID is required to enter all DC government agencies, and ample time should be allowed to pass through building security. Late applications are not accepted.

## **H. Technical Review of Proposal - Competitive Grants**

A review panel of at least three individuals is appointed to review all competitive grant applications and make recommendations to the DCOA Executive Director, who makes the final grant determinations. The review panel scores each proposal based on criteria and a point system detailed in the RFA. The review factors typically include criteria such as quality of the project design, plan of operation, innovation, qualifications of key personnel, budget, adequacy and reasonableness of proposed resources, and demonstrated capability for managing the proposed project. Other criteria may be added in the RFA that are appropriate to the type of grant competed. Extraneous materials not requested under the RFA will not be considered.

A pre-award site visit may be conducted by DCOA staff to determine if the applicant does, in fact, have the physical and organizational capacity to manage the grant. This site visit may include a review of financial and personnel systems, a review of the physical plant, and organizational support devoted to the project.

DCOA staff conduct an administrative review of each review panelist's performance. After considering the technical and administrative reviews and the results from any pre-award sites visits, the Executive Director of DCOA makes the final determination whether to award a grant and its amount, terms and conditions.

DCOA notifies the successful applicant of the award including a notification of grant award. The award is discussed extensively in Chapter IV. DCOA notifies an unsuccessful applicant that the proposal was not selected for award. An unsuccessful applicant may make a written request to obtain the technical review documents for its own proposal. There is no reconsideration or appeal of a determination declining a proposal for grant funding.

## **I. Administrative Review of Proposal – Continuation Grants**

Noncompetitive continuation grants are reviewed by DCOA staff to ensure that the proposal addresses all the requirements specified in the RFA. The financial review ensures that budget information complies with financial requirements and budget calculations are correct. DCOA staff may request the applicant to provide additional documentation if information in the proposal is incomplete. The Executive Director of DCOA makes the final grant determinations.

	<b>Competitive</b>	<b>Continuation</b>
Notice of Funding Availability	y	
Request for Applications	y	y
Technical review	y	
Administrative review	y	y
<b>GRANT Application</b>		
Organizational Eligibility	y	update
Position Descriptions	y	update; explain, if staff structure has been reorganized
Budget Schedules	after award	y
Certifications and Assurances	y	y
DC Certifications	y	y
Audit	y	If not previously submitted
Prior Year objectives		y

**Table III-2 Comparison of Competitive vs. Continuation Applications**

#### **IV. Grant Award**

##### **L. Grant Instrument**

The actual grant itself consists of several documents, described below, which constitute the agreement between DCOA and the grantee.

##### **1. Notification of Grant Award**

The Notification of Grant Award (NGA) is the formal award document authorizing the grant. It includes a project identification number, the project period, the source and amount of funds authorized, the approved project budget by cost categories, the estimated total cost identifying the DCOA and grantee shares respectively, the amounts allotted for specific services and units of services, if applicable, and specific terms and conditions for acceptance of the grant. The NGA is signed by the DCOA Executive Director. To be accepted by the grantee, the NGA must be signed and dated by an authorized official of the grantee, usually the Executive Director.

A revised NGA must be issued and accepted to authorize any revision to the budget categories, budget total, units of services, or reallocation of funds for particular services.

##### **2. Grant Transmittal Letter**

The NGA references additional conditions that are included in the grant. Typically, these additional conditions are specified in the grant transmittal letter enclosing the NGA. For example, at the start of the fiscal year, it is not uncommon for DCOA to include a condition indicating that the grant is contingent upon availability of funds, because

Congress has not completed its appropriation covering the Administration on Aging budget. In addition, DCOA may include program-specific conditions as an attachment to the grant.

### **3. Grant Application**

The grant application responsive to the Request for Applications, as accepted and approved by DCOA and referenced in the grant transmittal letter, establishes the project, objectives, and goals which the grantee agrees to carry out. During the application review process, DCOA may request clarification or corrections to the application from the applicant, such as correction of an arithmetic error in the budget. The corrected version constitutes the final, approved application accepted by DCOA.

The budget schedules in the grant application constitute the budget for the grant to the extent they are approved on the NGA. If there are errors or adjustments required on the budget schedules, DCOA will request a revised, corrected schedule to reflect the figures on the NGA.

### **4. Grant Revisions**

All major changes to the grant, discussed in Paragraphs V. C. through V.G. below, must be approved by DCOA in writing and reflected in the grant instrument, that is, the NGA, and revised budget schedules, as appropriate.

## **M. Grant Conditions**

The back of the NGA establishes conditions that govern the grant. Standard conditions in most DCOA program grants are:

1. The grant is governed by the rules and regulations of the District of Columbia and the U.S. Department of Health and Human Services.
2. The DCOA share on the face of the NGA is a ceiling for DCOA participation unless the NGA is revised.
3. The DCOA share of the project cost is earned only when the grantee accrues costs and contributes its grantee local share or match. Receipt of funds through advance or reimbursement does not establish that the grantee has earned the funds.
4. DCOA funds may not be used to purchase or lease capital equipment having a cost or value of \$500 or more and a useful life of over one year, unless approved in writing in advance by DCOA.
5. If the total project cost is less than the total on the face of the NGA, the DCOA share and grantee share of actual costs are computed respectively based on the percentage of their shares to the total project cost.
6. Advance written approval is required for filling any new or vacant key position.
7. The DCOA logo and statement of support must be shown on all publicity materials and related written media communications. This requirement includes websites and electronic communications.



8. The grantee must undergo an audit by an independent auditor who is licensed in the District of Columbia, in compliance with applicable OMB Circulars and DCOA audit guidelines, covering the DCOA fiscal year beginning October 1 and ending the following September 30. Failure to timely submit this audit report will result in suspension of funding for the third quarter of the DCOA fiscal year.

Other conditions may be added in the NGA or transmittal letter, such as the contingency based on the availability of federal or DC funds, special terms for first-time or high-risk grantees, or specific conditions directed toward particular programs or unique circumstances of a grantee.

Although not referenced on the NGA, the grant is governed by all applicable OMB Circulars and policies and procedures established by the DCOA.

### **C. Grant Period**

The grant period is the time shown on the face of the NGA during which allowable expenses for the grant project may be incurred. The grant gives authority to the grantee to commit and expend funds for allowable costs in support of the project up to the grant amount specified in the grant award at any time during the grant period. Most DCOA grants, including the grants under Title III and Title VII of the Older Americans Act, are for a one year period conforming to the fiscal year of the DC government from October 1 through September 30.

The effective date of the grant is specified on the face of the NGA and is the date from which expenses under the grant may be incurred. For most DCOA grants, the effective date is October 1, the start of the DC and federal fiscal year. DCOA does not authorize pre-award costs incurred prior to the effective date of the grant.

The expiration date of the grant is specified on the face of the NGA and is the date by which all allowable expenses under the grant must be obligated. For most DCOA grants, the expiration date is September 30, the end of the DC and federal fiscal year.

A grantee may not expend grant funds beyond the grant period. Stated differently, if a grantee incurs expenses for a project after the expiration date of the grant, it is not entitled to reimbursement for those expenses.

#### **1. Changes in Grant Periods**

Some federally funded grants begin or end at a date different than the DCOA fiscal year. When a grant begins during the course of the DCOA fiscal year, the grant period will end on September 30, the end of the DC fiscal year, to meet requirements of the city's budget process. In those circumstances, a continuation grant may be authorized to complete the remainder of the grant project.

##### **a. Carryover of Federal Funds**

Unobligated federal grant funds remaining at the end of the DC fiscal year or the end of the grant period may be eligible for carry-over if a no-cost extension is approved.

A no-cost extension extends the grant period without increasing the costs of the project and requires advance written approval from DCOA and amendment of the NGA. If a no-cost extension is approved, the unobligated funds are “carried over” into an extended grant period. In general, DCOA will not approve a request to carry over federal grant funds if current grant funds are still available to the grantee for the period and purpose requested.

Grant funds authorized under Titles III and VII of the Older Americans Act are awarded to cover the DC fiscal year, so grantees receiving those funds should not request carry over beyond the end of the fiscal year. District of Columbia appropriated funds are not eligible for carry over.

#### **b. No Cost Extension**

To request a no-cost extension to carry over unobligated federal funds, the grantee should

- i.** Make the request to DCOA in writing at least 45 days prior to the expiration date of the grant; and
- ii.** Explain the need for the extension and include an estimate of the unobligated funds remaining and a plan for their use. The plan of use for the carry-over funds should be consistent with previously approved objectives of the project.

### **2. Liquidation of obligations**

For federal discretionary grants, the grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the grant period, unless the federal agency has granted DCOA an extension of this time. To liquidate an obligation means to submit all documentation required for reimbursement, such as the units of service and source documentation, the M-1 financial report with supporting invoices and receipts, or any other required financial documents.

If a no-cost extension is granted, the grantee has 90 days after the end of the extended period to liquidate its obligations. If the no-cost extension is denied, the grantee has 90 days from the expiration of the grant to submit invoices for expenses incurred during the approved grant period.

For other DCOA grants, the grantee should liquidate all obligations incurred under the grant by submitting invoices and any required financial reports by the date specified by DCOA, usually in early October. This date is governed by deadlines established by the DC Controller and is not subject to extensions.

### **D. Changes in Funding Support**

Renewed or continued support is additional funding for a support period subsequent to that provided by a DCOA grant. Renewal or continuation grants, if any, will be in the form of a new grant, with a new grant number, new grant application and new NGA. Costs incurred

under the old grant cannot be transferred to the new grant. Unobligated residual funds remaining in the old grant cannot be transferred to the new grant.

DCOA reserves the right to reduce the authorized limit of the grant award if unobligated funds remain under the grant project.

In rare circumstances, supplemental funding may be available for obligation. In general, if this occurs, it is usually towards the end of the DCOA fiscal year. DCOA may review grantees' needs or a grantee that has a special need may request a one-time increase in its award. For such special, one-time needs, a grantee should make a request in writing and include

1. a summary of the work proposed;
2. a justification for the supplemental funding, including the special needs and circumstances that triggered the request and why this was not foreseeable in the original application;
3. verification of actual and projected use of all unobligated funds in the original grant award; and
4. a detailed budget by cost category for the increased funding requested.

If supplemental funding is approved, a revised NGA will be issued, and the grantee must provide the appropriate revised budget schedules, objectives and plan of action.

## **V. Grant Administration**

### **A. Monitoring Project Performance**

Grantees are responsible for properly carrying out the grant project or program to meet goals and objectives in the approved grant and for all administrative matters related to the grant award. Grantees should monitor the on-going performance of the grant, including all subcontracted work, to ensure that they meet performance goals, objectives, and timetables and comply with applicable federal and DC laws and regulations, DCOA service standards and their own internal policies and directives. For example, a grantee should:

1. Oversee the work of its own employees and ensure that their time is properly documented through accurate timesheets, signed by the employee and approved by their supervisor;
2. Make sure that services are being provided in accordance with approved objectives and service standards and are on target to meet performance goals and outcome measures;
3. Check on the work of contractors, ensuring that the work they perform, whether on or off-site, is actually and adequately being performed and that time and expenses are allowed under the contract, are properly supported and timely submitted; and
4. If it is a lead agency, monitor the nutrition sites it services to ensure that meals are being served properly, the voluntary contribution policy is being followed and not abused, and that the sites are using the UPT or Touch Screen system to record meals and other services properly and transmitting electronic data on a timely basis.

Grantees must maintain accurate documentation for each expenditure and action taken under the grant, including appropriate reviews and approvals according to the grantee's own organizational system. To that end, grantees are encouraged to develop written materials including policies, procedures and position descriptions, and implement practices that clearly identify levels of authority and provide for quality assurance in carrying out the functions of the organization, service provision and grant administration. Grantees are encouraged to communicate regularly with the DCOA program and financial staff who are assigned to their grant on programmatic and financial matters.

DCOA monitors each program, function or activity under the grant to ensure that grantees are complying with applicable Federal and DC requirements and that performance goals are being achieved. DCOA monitors progress through oral and written communications, review of information through regular reports or specific requests, on-site visits, and formal audits.

## **B. Notifications to DCOA and Requests for Approval**

Events or developments may occur during the grant period that have a significant impact, either positive or negative, on the program's or project's implementation. Grantees are required to report **immediately** to DCOA any problems, delays or adverse conditions that materially affect their ability to carry out the terms and conditions of the grant. Significant reportable events include but are not limited to unusual incidents or accidents, major site renovations or closures, external events affecting program operations, and a significant drop in program attendance or revenue. In such instances, grantees must notify DCOA as soon as the conditions are known to the grantee. This disclosure must include the basic facts of the incident or event, the persons involved, the persons notified, a description of the action taken or contemplated, and any assistance needed to resolve the situation.

Significant developments that enable the grantee to meet time schedules and objectives sooner or at less cost than anticipated or that produce more beneficial results than originally planned should also be reported. Grantees should inform DCOA of minor changes in the scope of the project through normal channels of communication, including the CURT.

Grantees who need to make significant changes to the grant must obtain advance written approval from DCOA before making the change. Significant changes include but are not limited to changes in scope or objectives of the grant; facility or location of project site; key personnel; budget; or other factors that affect the ability of the grantee to carry out the grant, such as fulfilling objectives or meeting time schedules or performance outcomes. If any change under this Chapter requires a budget revision, the grantee must submit a budget revision request described in Paragraph V.G, below.

## **C. Changes in Scope or Objectives**

In general, except for extreme circumstances beyond their control, grantees should not request a change in scope or objectives before the completion of the first quarter of the grant year but should try to adjust grant implementation so that the scope or objectives can be met. However, where changed circumstances warrant a change in the scope or objectives of the grant, after notification and discussions with DCOA officials, the grantee should request approval in writing from DCOA at least 30 days before the proposed implementation date, specifying the reason for the change, the proposed revision to the scope or objective, the proposed effective date of the change, the impact the change will have on the services provided and clients served, any personnel implications of the change, and, as appropriate, the budget impact of such change.

In its discretion, DCOA may approve the request, ask for additional information or documentation, approve the proposed revision as modified or with conditions, deny the request, or, if the circumstances are appropriate, terminate the grant or take such other action that it deems necessary. If the request for change in scope or objectives is approved, DCOA will amend the grant by issuing an amended Notification of Grant Award, as appropriate.

## **D. Changes in Facility or Site**

While some DCOA grants provide services to DC seniors city-wide, many are located in and targeted to specific Wards or areas, where a change of location could cause a major disruption in service provision. In most circumstances, a change in facility or site, including a temporary closure for renovation, is a significant event requiring prior written approval. If a grantee wishes to change the site or facility from which it provides services, it should notify the DCOA as soon as the need becomes apparent. When an alternate site is located but before a commitment is made, the grantee should request approval to change the site, including the reason for the change, identification and description of the alternate site selected and others considered but rejected, the timing of the move, the impact the move will have on provision of services to its existing as well as prospective clients, the effects on transportation of clients, any projected drop in attendance anticipated and plans to address it, and any changes to the grant budget arising from the change in facility or site.

## **E. Changes in Key Personnel**

Key Personnel are those people (identified in the B-6 Personnel Budget Schedules of the grant application) who fill positions that are critical to the operation of the program. Key personnel positions vary depending upon the program the grantee operates. They include the Executive Director of the organization where the Executive Director and the Project Director are the same, the Project Director and Assistant Project Director, or persons functioning in these capacities, regardless of title, any professional position, including but not limited to social worker, nurse, case manager, program or volunteer coordinator, or any position for which the incumbent must possess a license or certification, such as site managers and drivers for 16- passenger and larger vehicles.

### **1. Vacancies**

When the grantee anticipates a vacancy in a key position, e.g., through a resignation notice, it must notify DCOA as soon as possible describing what steps it is taking to fill the position and to maintain level of services in the interim.

To request approval of key personnel, the grantee should submit the resume of the applicant selected before hiring, the names and a description of at least two other candidates considered but not selected, the salary and related personnel costs offered, revised budget schedules if the salary costs deviate from the original grant, and the proposed start date. In rare circumstances, if the grantee is unable to advertise for the position, it must state what efforts it took to seek competition, why they were unsuccessful and why the selected candidate is appropriate. Job offers should not be made and key personnel should not be hired until DCOA approval is granted. If not submitted in advance, a revised budget schedule showing the new employee with actual salary must be submitted to DCOA after approval of the candidate.

### **2. Temporary Absence of Project Director**

Grantees must notify DCOA for all scheduled absences greater than one day of the Project Director and specify what arrangements are being made to carry out the project in the interim. If the Project Director will be absent cumulatively more than three months

during the grant year, the grantee must notify DCOA, justify retaining the individual as the project director, and state what arrangements are being made in that person's absence and the impact on grantee's ability to carry out the project and related administrative requirements.

### **3. Changes in FTE Devoted to the Project**

Since grants are approved based on the proposed personnel structure and time devoted to carry out objectives, a significant drop in person-hours spent on the grant or change in the personnel structure may impair the grantee's ability to carry out the grant. A grantee must submit a written request if it plans to reorganize the personnel structure. When plans or conditions are known to the grantee that substantially less time than what was proposed in the personnel budget schedules will be devoted to the grant, it must notify DCOA. Any reduction of 25% of the total FTE or the elimination of any key position is considered "substantially less" than what was approved. However, a lesser reduction may trigger the requirement to request approval of the change from DCOA if it has a significant impact on the grantee's ability to carry out grant objectives. For instance, if a grantee fails to fill a vacant position at all or for a substantial period of time, it may have a significant impact on the program and on the budget and require reporting to DCOA, even though the grantee has not undergone a formal reorganization of personnel. A grantee must explain how it intends to meet the grant objectives with the reduced staff time or revised personnel structure. If the reduction would result in a change in the scope or objectives, the grantee must comply with the requirements in Chapter V.C, above).

### **F. Changes in Contractors and Consultants**

Grantees must obtain advance written approval for changes in contractors or consultants retained under the grant and paid using DCOA funds from those identified in the grant. To obtain approval from DCOA, the grantee must provide the resume of the consultant or description documenting organizational capacity of a company, along with a description of competitors considered but not selected, a clear description of the work to be performed and costs. Financial information for contractors or consultants should include total contract cost, hourly rate, and a breakdown of other expenses being paid. Grantees must comply with Procurement standards in retaining contractors and consultants under OMB Policy Guidance, 2 CFR Part 215 Sections 41-48 and AoA regulations, 45 CFR Sec. 92.36(a).

### **G. Changes in the Grant Budget**

The budget in the Notification of Grant Award (NGA) incorporating approved budget documents in the grant application constitute the financial plan covering DCOA and grantee share of expenses to carry out the grant. However, circumstances may develop where the budget does not reflect an accurate picture of actual and planned expenditures, the grantee may wish to make changes in the grant that trigger a change in budget, or the grantee may not be able to meet its financial obligations under the grant. In these situations, grantees must confer with the DCOA to request a budget revision. Grantees will not be reimbursed for expenses exceeding the total budget or for expenses in a particular cost category that exceed the approved total for that cost category. Grantees should request a budget revision if:

1. a change is proposed to any cost category or the total budget amount;
2. a change is needed to reallocate from one cost category to another, including a reallocation when all funds in one cost category have been expended, but additional unused funds are available in another category or a reallocation between direct and indirect costs;
3. a change in the grantee cost share requirement or the percentage of the grantee share is requested (In general, DCOA will not approve a request to reduce the grantee share below the minimum of 15% of the total grant amount.); and
4. a personnel change is requested.

However, grantees should review their entire budget rather than each separate category to avoid the need for multiple budget revisions.

When a grantee wishes to revise its budget, it must make the request in writing, explain why the budget modification is needed, how the revised budget changes will affect clients served and services provided, include a detailed explanation of the changes by cost category and amount made in the revised budget by grantee share and DCOA share, identify what services or items are being deleted and added, and attach revised budget schedules. The DCOA share in the proposed revised budget cannot exceed the amount awarded in the grantees most current NGA.

Requests for budget changes should be submitted to DCOA at least 21 days before the desired effective date. DCOA will not consider grantee proposals for budget revision in the first quarter of the year or after the tenth month (61 days before the end) of the grant year. Thus, at the end of the third quarter of the grant year, grantees should plan ahead and make their best estimates of their projected year-end expenses and any need for realignment of costs. Requests for budget changes after the tenth month of the grant year will be considered only in emergency circumstances. Grantees must submit information in Table V-1, below, as part of their request for budget revision. Detailed procedures for making a budget revision request are contained in DCOA Policy Memorandum 07-P01, attached at Exhibit XII.I.



When a request for budget revision is approved, DCOA will issue an amended Notification of Grant Award.

**Table V-1 – Request for Budget Revision**

**H. Cost Sharing or Local Share**

**1. Requirements**

Cost Category	Current Budget		Adjustment +/-	Revised Budget		Narrative Justification
	Local	DCOA		Local	DCOA	
<b>Personnel</b>						
<b>Occupancy</b>						
<b>Communication</b>						
<b>Supplies/equipment</b>						
<b>Indirect/Overhead</b>						
<b>Other Directs</b>						
<b>Total</b>						

As a condition of the grant, DCOA requires all grantees to make cash and/or in-kind contributions toward grant expenses. This cost sharing (interchangeably referred to as matching or local share) requirement constitutes the grantee’s share of the grant. DCOA expects grantees to share in the costs of the project reflecting their interest in the grant and their ability to cost share. DCOA establishes a minimum amount for a grantee to meet the cost sharing requirements. The standard minimum grantee cost share required for most DCOA grants is 15% of the grant award. Certain grants may have a higher matching requirement. Regardless of the minimum share required, grantees have the discretion to set and assume responsibility in determining the level of cost sharing in their proposal higher than the minimum amount required.

The grantee’s share is its proportion of expenses compared to the total grant costs on the NGA, expressed as a percentage. The respective percentages for the DCOA and local share are set forth as one of the terms and conditions on the back of the NGA. For example, if the DCOA share is \$100,000 and the grantee share is \$50,000, the total budget would be \$150,000, and the grantee’s share is 33 1/3%.

If the grantee expends less than the total grant costs for the grant project, the grantee's and DCOA's shares of the total actual costs are based on their respective percentages set forth in the NGA, rather than the dollar amount of the grant. Thus, in that instance, the grantee would be entitled to less than the total grant award. DCOA may require the grantee to apply the difference as a credit on a subsequent continuation grant, it may seek an offset from a current payment due to the grantee, or it may seek reimbursement if the total award has already been paid to a grantee. By or before the close of the third quarter of the fiscal year, if the grantee anticipates that its total local share will be lower than that stated in the grant, it should notify DCOA as soon as possible to discuss a budget modification, under Chapter V.G, above. If a grantee's match exceeds its matching percentage, the grant is limited by the total award amount.

## **2. Allowable Matching Costs**

OMB Policy Guidance A-110, 2 CFR Part 215, and AOA regulations, 45 CFR Sec. 92.24, govern cash and in-kind contributions that satisfy the DCOA cost-sharing or matching requirements. To meet the grantee's cost sharing or matching requirement, cash or in-kind contributions must meet the following criteria. They:

- a. are not paid from any other DC grant or contract funds;
- b. are not included as a match to meet any other federally-assisted program or project or other DC grant;
- c. are necessary and reasonable to carry out the grant;
- d. are allowable under applicable cost principles;
- e. are verifiable by adequate record-keeping;
- f. are provided for under the approved grant; and
- g. conform to other requirements in 2 CFR 215 and 45 CFR 92.

Volunteer services that are an integral and necessary part of the grant project may be used to meet the matching requirements. They must be valued at the rate paid for similar work in the grantee's organization. If such work is not found in the grantee's organization, they must be valued at the fair market rate for that type of labor in the DC metropolitan area. Donated supplies or equipment included to meet matching requirements must be valued at their fair market value at the time of the donation.

## **3. Cost Sharing Records and Reports**

Records that document a grantee's cost sharing expenses, for both cash and in-kind, are considered grant records and are subject to the same verification, storage, record retention, and disclosure requirements as other grant documents. To the extent feasible, grantees should document volunteer hours worked in the same manner that they use for their employees. At a minimum, records must identify the volunteer by name, include date and hours worked, and be approved by signature of an authorized employee of the grantee organization.

Grantees that are reimbursed through the M-1 and P financial reports must include documentation of all cost-sharing, including donated volunteer and in-kind expenses, with those reports. It is not sufficient to record 1/12<sup>th</sup> of the budgeted cost share each

month; the grantee share recorded on the M-1 and P reports must be based on *actual* cash and in-kind contributions occurring that month.

Grantees report their share total and share per-unit costs at the end of the fiscal year to DCOA in the required audit schedules. See Chapter VII.F.

## **I. Reporting Requirements**

During the course of the grant, DCOA requires a number of reports and information to 1) ensure that the grantee is properly using grant funds and making progress in carrying out its project or program and 2) meet federal and other data collection and reporting requirements. Project Directors are encouraged to contact the appropriate DCOA program or financial staff at any time to answer questions or discuss implementation of the grant.

### **1. Project Directors Meetings**

DCOA conducts monthly Project Directors meetings at the DCOA offices to share information applicable to all grantees, bring guest speakers, discuss topics of general interest to the Senior Service Network, and provide the grantees an opportunity to share information about their programs and raise shared concerns. Project Directors are *required* to attend the monthly Project Directors meetings. If in the rare instances they are unable to do so, they must notify DCOA in advance and send an alternate to the meeting.

### **2. Incident Reports**

Because most DCOA grants involve the provision of direct services to the elderly, many of which affect the health and welfare of vulnerable individuals, grantees must report accidents, unusual incidents, attempts to lobby or conduct political activity at program sites, or other matters of a sensitive nature to the appropriate DCOA official as soon as possible. DCOA does not have a standard incident report form. However, many agencies have their own standard incident report forms which may be used in reporting to DCOA. At a minimum, the incident report to the DCOA should include the date and time of the incident, the basic facts of what occurred, the parties (internal and external) to whom the incident was reported, how the incident was resolved, and any follow-up that is planned or required.

### **3. Comprehensive Universal Reporting Tool (CURT)**

The DCOA Comprehensive Universal Reporting Tool (CURT) is the principle reporting document that grantees submit to provide information on progress in the grant. Grantees are required to provide descriptive information on the current activities conducted, monthly and year-to-date client or units of service counts for each objective under the grant; a summary of the grant finances showing monthly and year-to-date DCOA and grantee share expenses, with explanations of significant variances; and information on outreach activities and any deviations from the approved personnel roster. A description of each section of the CURT is contained in Policy Memorandum 06-07, included in Exhibit XII.I. The CURT Report form is attached as Exhibit XII.A.

The CURT is due 30 days following the end of each month. While DCOA developed the CURT for its monitoring use, the information gathered should be utilized by the grantee as a management tool for assessing its progress and awareness of significant issues arising in the grant. Information in the CURT may be made available to the general public through the Freedom of Information Act.

#### **4. Client Service Information System Reporting Requirements**

DCOA collects and compiles information required by AoA for grantees that receive funds under Titles III and VII of the Older Americans Act. Grantees report this information through the Client Service Information System.

##### **a. Units of Service**

Most grantees receiving federal Title III or VII funds must report information regarding client services they have provided based on standard units of service. DCOA reimburses some grantees on a unit cost reimbursement basis, and uses units of service to measure performance progress. AoA requires that DCOA report on the following selected services and service units:

- i. Personal Care, Homemaker, Adult Day Care/Adult Day Health, Case Management, Legal Assistance, and Respite Care - 1 hour;
- ii. Outreach and Access Assistance - 1 contact;
- iii. Home-Delivered Meals and Congregate Meals - 1 meal;
- iv. Transportation and Escort and Transportation to Sites and Activities - 1 one-way trip;
- v. Nutrition Education - 1 session; and
- vi. Counseling, including nutrition counseling - 1 session.

At the end of each fiscal year, grantees receiving Title III and Title VII funds must verify to DCOA by type of service the total number of clients served and the total number of units of service and provide an explanation of any decrease in units of service from the prior fiscal year or failure to meet the total projected number of units of service in the grant. Detailed descriptions of each type of unit of service are contained in the Service Standards, attached as Exhibit XII.F.

##### **b. Universal Participant Tracking System**

In 2004, DCOA implemented the Universal Participant Tracking System (UPT) for units of service counts for its congregate meal and wellness programs. Participants are registered to receive a magnetic identification card, similar to a credit card, which must be swiped through a magnetic terminal before receiving a meal or passed under a scanner, depending on the site. The Congregate Meal site managers are authorized to use a guest UPT card for eligible guests only. In 2006, DCOA began expanding the UPT system to additional sites and services using a Touch Screen and card scanner. DCOA is contracting for technological changes in its tracking system. As new client tracking systems are developed, additional guidance will be forthcoming.

**c. Source Documentation**

For other units of service, grantees must maintain adequate records in accordance with the grantee's policies and procedures to verify the amount and type of services provided to an eligible senior. Depending on the type of service provided, this source documentation may be client attendance sheets, service records, travel logs, caseworker logs, or employee or volunteer logs. Source documentation should show by some identifier the client served, the date and hours of service, and the hours or units of service provided. When manual client attendance sheets are kept, the client must sign to verify attendance. An authorized employee may sign on behalf of a client who is unable to sign. Grantees provide copies of source documentation to DCOA at the time they submit rosters to the Client Service Information System

**5. Financial Reports – See Chapter VII. D, below**

**J. Records Retention and Access**

Grant records include but are not limited to grant financial records and related original and supporting documents that substantiate performance of the grant and costs charged to the activity. Records include written or recorded material, regardless of media, including electronic transmissions, CD's, videos, tapes and copies. Grant documents include copies of all grant and subgrant awards, applications, reports and correspondence relating to the grant. Personnel and payroll records include time and attendance reports for all individuals paid under the grant, including records of volunteers whose services are included to meet cost sharing requirements and consultants' time and effort reports. The descriptions in this paragraph are not intended to be comprehensive, and other items not described or listed here may constitute grant records.

Grant records must be retained by grantees for a minimum of three years following the date of the final notice from DCOA formally closing out the grant. For grants that are renewed on an annual or periodic basis, records shall be kept from the date of submission of the annual audited financial statement covering that grant period. The only exceptions to these limits are:

1. If any litigation, claim or audit is started before the expiration of the 3-year period, records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
2. Records for real property and equipment acquired wholly or in part with federal funds shall be retained for 3 years after final disposition of the property.

DCOA, the DC Office of Inspector General, the DC Attorney General, the U.S. Department of Health and Human Services/Administration on Aging, Office of Inspector General, and the U.S. Comptroller General and their authorized representatives and contractors shall have access to any pertinent records relating to the grant of the grantee and its subcontractors to conduct audits, examinations, excerpts and transcripts. Records may be maintained at the headquarters of the grantee or place of performance of the grant, as appropriate to use and

need, provided there is adequate security to protect privacy and confidentiality based on the type of record involved. However, upon request by DCOA, they must be made available at the headquarters of the grantee.

#### **K. Site Visit and Enforcement**

DCOA has the right at all reasonable times to make site visits to review project accomplishments and grantee administration and management of the grant with or without prior notification to grantees. Grantees and their subcontractors shall provide reasonable facilities and assistance for DCOA representatives at any such site visit. Upon request or at such site visits, DCOA shall have access to all records relating to the grant and to any employee or contractor paid under the grant.

DCOA shall issue a site visit report following a formal site visit, making findings and recommendations and requesting corrective action, as necessary. Upon consideration of the grantee's response, or at any time if circumstances warrant it, DCOA may take further action to ensure that the terms of the grant and applicable federal and DC laws and regulations and DCOA policies are carried out and that the interests of the government and the clients served under the grant are protected.

DCOA, through its officials or subcontractors, may conduct periodic audits of a grantee for any grant year for which grant records are required to be retained. DCOA may refer the results of its site visits or audits to the DC Inspector General, DC Attorney General or federal officials for further action if appropriate.

#### **L. Grant Close-out**

Grant closeout is the process by which DCOA determines that all applicable administrative actions and all required work of the grant have been completed. Close-out is initiated on the date that all work under the grant is completed or on the last approved budget expiration date. Within 30 days after the grant project is concluded, the grantee must refund to DCOA any balance of *unobligated* funds advanced or paid to the grantee.

Within 90 days after the date of completion of the grant, grantee must meet all its unpaid grant obligations and submit to DCOA final financial and performance reports. DCOA may extend the 90-day final reporting period if the grantee makes a written request with valid reasons for the extension.

1. The final financial report must include a current accounting of any property or equipment funded with grant funds, identifying any item to which DCOA retains title, a final accounting of all grant funds received, the total final grantee share of approved costs and a zero balance for unliquidated obligations and indicate the exact amount of unobligated funds which are to be deobligated by DCOA from the grant.
2. The final performance report should contain a summary of the project's success in meeting the goals, objectives and performance measures in implementing the grant, final year-to-date client counts and units of service, a description of what steps were

taken to transition clients to other programs or service providers, and such other information as DCOA may require.

- 3.** DCOA may require a financial and compliance audit of the grant. If a final audit has not been performed prior to the closeout of the grant, DCOA reserves the right to recover appropriate amounts after fully considering the recommendations on disallowed costs resulting from the final audit.

## **VI. Grantee Standards**

### **A. Background**

As discussed in this Chapter, “grantee standards” refers to the policies, procedures, standards and practices that govern grantees to:

1. ensure organizational and managerial soundness and ability to carry out, report on, and account for a grant;
2. ensure quality, uniformity and comparability across the Senior Service Network by establishing certain program-specific requirements; and
3. conform to certain policies and procedures established by DCOA.

Grantee standards may appear in various forms. Some grantee standards are specifically identified as “Standards,” such as the DCOA Service Standards that establish the parameters of service provision for specific program services. Some grantee standards are imposed by the federal government. For example, OMB Circular A-110, 2 CFR Part 215, prescribes three sets of standards for academic and other non-profit recipients of federal grants that govern financial management systems (discussed in Chapter VII. B.), procurement policies and procedures, and property management. Other grantee standards are set forth as “Policies” and define and/or restrict activities that apply to the grant and grantee. The DCOA policy memoranda on Travel and Voluntary Contributions are examples of this kind of standard. Finally, some grantee standards are not specifically or generally referenced as “standards”, but arise from principles governing sound organizational and management practices.

### **B. Organization and Management**

An underlying requirement for all DCOA grantees, beyond their capacity to carry out specific programs for seniors, is their basic organizational and management capacity. As discussed in Chapter II.E.1, Organizational Capacity, above, DCOA requires prospective grantees to furnish basic organization and management information to allow DCOA to assess their financial and managerial responsibility. After an award, DCOA monitors a grantee’s ongoing organizational and management soundness by reviewing a number of indicators that establish that the grantee has an organizational structure in place that enables it to carry out grant objectives effectively and efficiently in compliance with DCOA and federal requirements. DCOA does not prescribe a particular organizational structure or specific management practices. However, it will look to the agency’s written documentation and actual practices to ensure that the structure developed and implemented is adequate to carry out the grant and protect the public interest.

A well-developed organizational structure provides for the assignment of authority and responsibility among departments or units, positions, and employees. It should have clear lines of authority and clearly articulated duties. Evidence of an organization’s structure include, but are not limited to, such documents as its organization chart, Board of Directors’ and employee rosters, position descriptions, written personnel manual, personnel files, and



other written internal policies and procedures. However, the actual personnel and management practices engaged in by the organization, including whether it operates in accordance with its written documentation, are also evidence of the organization's structure.

Management responsibilities for operations, records and reporting should be separate and distinct and subject to clear scrutiny by and accountability to the chief executive and Board of Directors. An organization maintains oversight of its management responsibility through its system of internal controls. A system of internal controls may be simple or complex depending on the size, sophistication and needs of the organization. It includes all coordinated methods and measures the organization uses to safeguard resources, protect against incurring improper liabilities, ensure the accuracy and reliability of its accounting and program data, and encourage and ensure compliance with established management policies and procedures, applicable rules and regulations, and funding authorities.

DCOA encourages organizations to establish written internal controls for oversight of its grants. An internal control system might be elaborate, including written policies and procedures for continuous quality improvement, or, for a small organization, it might be effected largely through supervision and reporting. Activities that reflect oversight of management include:

1. written by-laws;
2. regular and documented meetings of the Board of Directors and advisory committees;
3. quality assurance or quality improvement initiatives and policies;
4. staff meetings;
5. supervisory review and regular, written performance evaluations;
6. inspections;
7. staff and Board training and development programs;
8. written accounting procedures and financial operating manuals establishing authorized employees use of, and accounting for, grant funds; and
9. written budget and established processes for budget development, revision and implementation.

### **C. Standards of Conduct and Conflict of Interest Policies**

DCOA requires that grantees maintain Employee Standards of Conduct and Conflict of Interest policies. DCOA, however, does not prescribe the specific content. A grantee should have written standards of conduct not only for its employees, but also for its Board of Directors. Frequently, an organization's standards of conduct are included in its written personnel policies identifying activities that are encouraged as well as those that are unacceptable on, and sometimes off, the job. Standards of Conduct may include but are not limited to such topics as appropriate clothing, courtesy, use of the telephones, computers and other equipment, political activity, prohibitions on use of alcohol or illegal drugs (which must conform to the Drugfree Workplace Act of 1988), and engaging in inappropriate or criminal activity and the consequences for continued employment.

A conflict of interest arises when an individual has a significant financial interest, directly, indirectly, or through an interest in an entity, that would reasonably appear to be affected by the activities funded by the DCOA-funded grant. An individual could have a conflict of interest that is based on family ties or his or her relationship to an entity. For example, an employee could have a conflict of interest if a contract under the grant is awarded to a family member. A significant financial interest means anything of monetary value, including but not limited to salary or other payments for services such as consulting fees or honoraria, an equity interest and intellectual property rights.

As discussed in Paragraph D, below, grantees receiving federal funds must have written conflict of interest policies for all employees involved in the procurement process. Typically, a conflict of interest policy includes requirements governing disclosure of a potential conflict; the review process to determine what conditions or restrictions should be imposed to manage, reduce or eliminate the conflict; and enforcement mechanisms and sanctions, as appropriate.

Grantees should ensure that their employees, contractors and consultants, and Board of Directors do not have a conflict of interest in carrying out their assigned duties under the grant. Grantees minimally should have a policy that prohibits employees from accepting for their own personal use, money or anything of value, as defined by the employer, from a service recipient for work performed under the grant. Grantees must notify DCOA when a conflict of interest arises with respect to the DCOA-funded grant and the actions the grantee is taking to address it, as soon as the conditions indicating a potential conflict of interest are known to the organization.

#### **D. Procurement Standards**

All DCOA grantees that receive federal funds must follow the standards for the procurement of supplies, equipment, construction and other services in OMB Circular A-110.40-48, 2 CFR Part 215.40-48, and AoA regulations at 45 CFR Sec. 92.36. A grantee whose cumulative grant awards from DCOA total \$100,000 or more shall also be governed by these requirements. The procurement policies that a grantee develops should conform to applicable federal and DC laws and regulations. Grantees are responsible for their contractual obligations without recourse to DCOA or the federal funding source, and disputes under their contracts are under the jurisdiction of the state or local authority, usually the District of Columbia. Some of the key requirements of the OMB and AoA procurement standards are:

1. The grantee must have written procurement procedures, written standards of conduct governing the performance of its own employees engaged in the award and administration of contracts, and a system for contract administration;
2. All procurement transactions must be conducted in a manner to provide open and free competition to the maximum extent practical, avoid unnecessary or duplicative purchases, and select only responsible parties possessing the ability to perform successfully under the terms and conditions of the contract;
3. The grantee must be alert to and avoid organizational conflicts of interest;

4. The grantee must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible; and
5. The grantee must maintain documentation sufficient to detail the significant history of the procurement, including but not limited to the type of contract selected, the selection process, and the basis for the contract price.

Grantees that do not receive federal grant funds *and* receive less than \$100,000 cumulatively from DCOA must have written procedures for the purchase of supplies, equipment, and other services that identify staff positions authorized to make and approve purchases and the dollar thresholds for which competition and internal approvals are required. In addition, they are governed by the principles in OMB Circular A-110, 2 CFR Part 215, encouraging competition for purchases where feasible, the use of small-business, minority-owned and women-owned businesses, the avoidance of conflicts of interest, the selection of qualified vendors and contractors, and the requirements to keep adequate documentation of all purchases.

#### **E. Consultant Contracts**

Some grantees retain consultants to provide services under their DCOA grant awards. OMB Circulars A-110, 2 CFR Part 215 and A-133 (governing audits), 2 CFR Part 220, distinguish between a contract for services under the procurement standards and sub-recipients or sub-awardees. The federal procurement standards in OMB Circular A-110 apply to vendors of goods and services. DCOA and an auditor will look to the substance of the relationship, not the form of the agreement, to determine whether a consultant contract is a procurement, a sub-award or *de facto* employment relationship that subjects the consultant to audit and other accountability under the grant.

Factors indicating that a procurement relationship for goods and services exists when the vendor/consultant:

1. Provides the goods and services within normal business operations;
2. Provides similar goods or services to many different purchasers;
3. Operates in a competitive environment;
4. Provides goods or services that are ancillary to the operation of the grant program;  
and
5. Is not subject to compliance requirements of the Federal program.

If a consultant is operating under a position description, subject to agency supervision and control, or responsible for carrying out duties primary to the objectives of the grant, the individual may have a *de facto* employment relationship for purposes of grant accountability and the application of the procurement standards.

Consultant contracts under a DCOA grant award must be in writing, be consistent with grant objectives and budget schedules, and be negotiated under the organization's own written procurement policies. Consultant contracts should be included under Budget Schedule 12, Other Direct Costs, rather than the Personnel Schedules under Budget Schedule 6. At a minimum, consultant contracts should specify the work to be performed, the total or maximum cost and cost basis, the period of the contract and the process for termination by

the grantee. Compensation for an individual consultant must be reasonable and consistent with that paid for the individual's particular service or for other similar services locally or nationally, whichever is less. Time and effort records for consultants must be maintained. Consultant travel may be reimbursed only at the mileage rate approved by the Office on Aging in the applicable Request for Application or actual fares.

## **F. Property Management Standards**

DCOA grantees that receive federal funds must comply with the Property Management Standards for real property, equipment and intangible property in OMB Circular A-110.30-.37, 2 CFR 215.30-.37, and AoA regulations at 45 CFR Sections 92.31-92.34. The OMB provisions apply to non-expendable equipment having a purchase price of \$5,000 or more per unit and a useful life of more than one year.

### **1. Equipment**

In general, DCOA does not authorize the purchase of equipment with an acquisition cost of \$500 or more and a useful life of more than one year in its grants. A request to purchase equipment using grant funds must be made in writing, detailing the need for the purchase, its cost, and the impact that the use or lack of equipment will have on the program. Unless otherwise specified by DCOA, title to equipment purchased with grant funds vests in the organization upon acquisition.

A grantee must request advance written approval from DCOA before selling or disposing of equipment purchased with DCOA funds. In seeking approval to sell or dispose of such equipment, the grantee should identify the object by description, identification number, its purchase price and date, its current estimated fair market value, and the proposed disposition (sale or disposal) of the item. If the grantee proposes to dispose of the equipment, it should include a brief explanation why. DCOA requires that the proceeds be used for replacement of the equipment or other uses to further the purposes of the grant.

All grantees must use equipment that is purchased with grant funds for the purpose in the project or program for which it was acquired for as long as needed, regardless of whether DCOA funding continues. The grantee may share use of the equipment for other federally or DCOA-sponsored projects with the approval of DCOA, as long as the DCOA-sponsored project is not adversely affected.

Grantees must maintain property/inventory records for all equipment purchased with grant funds. The records must include a description of the equipment, the manufacturer's serial number, model number, or other identification number; source of the purchase, date of purchase, cost, percentage of DCOA grant funds used in the purchase of the equipment, condition of equipment, and information on disposition if equipment is disposed of or sold. Grantees should conduct an inventory of equipment purchased with grant funds at least once each year to reconcile property to the records. DCOA requires an inventory of equipment purchased with DCOA grant funds as part of a continuation grant application. A similar updated inventory is required as part of the audited financial

statement. Grantees must report any lost or stolen equipment purchased with DCOA funds to DCOA describing their investigation into the loss and steps being taken to avert further loss.

Depreciation for equipment purchased with grant funds may not be included in indirect costs charged to the current grant or a continuation grant.

## **2. Copyright**

A grantee may copyright any work that is subject to copyright that was developed under a DCOA grant. However, DCOA, and the federal government where federal funds are used, retain a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for DCOA purposes and to authorize others to do so. DCOA and the federal government have the right to obtain, reproduce, publish or otherwise use data first produced under a grant award and to authorize others to do so.

## **G. DCOA Service Standards**

DCOA has established service standards covering 23 of the program services provided through the Senior Service Network. The service standards define the activity and establish minimum requirements for a grantee performing the service to provide in order to be reimbursed by DCOA. The Service Standards are updated periodically. A copy of the DCOA Service Standards is attached as an Exhibit in Chapter XII.E. Each program service standard includes the following provisions:

### **1. Service Definition**

The service definition describes the activities constituting the service under the grant, explains the purposes of the service, and includes the eligibility criteria. DCOA grant-funded services are available to DC residents 60 years or older, except for its employment programs which serve DC residents from age 55 and older. Depending on the type of service, additional eligibility restrictions may be established. For example, Heavy Housecleaning is available to “frail and vulnerable seniors who are infirm, disabled, chronically-ill or mentally impaired.”

### **2. Service Objective**

The service objective is the primary accomplishment that is expected to be achieved by providing the service to individuals. For example, the service objective for Weekend Congregate Meals is “to provide a nutritious mid-day meal to improve or maintain nutritional status and to maintain the maximum functioning and independence of the individual.”

### **3. Service Unit**

The service unit is the quantitative measure of the activity provided. For some grantees, the unit of service is the basis of reimbursement. Some grantees record units of service but are reimbursed, in whole or part, based on actual budgeted costs. The standard units of service for DCOA programs are shown in Table VI-1.

SERVICE	UNIT MEASURE		
	1 hour	1 meal	Other
Advocacy	✓		
Case Management	✓		
Comprehensive Assessment	✓		
Congregate Meals		✓	
Counseling	✓		
Geriatric Day Care	✓		
Health Promotion	✓		
Heavy Housecleaning	✓		
Home-Delivered Meals		✓	
Home Health Service	✓		
Homemaker	✓		
Legal Services	✓		
Literacy	✓		
Nutrition Counseling	✓		
Nutrition Education	✓		
Recreation & Socialization	✓		
Transportation & Escort			1 one-way trip
Transportation of Home-Delivered Meals			1 meal delivered
Transportation to Sites & Activities			1 one-way trip
Weekend Congregate Meals		✓	
Weekend Home-Delivered Meals		✓	
Wellness/Health Promotion	✓		

**Table VI-1: Standard Units of Service**

#### **4. Service Area**

The service area identifies the scope of clients and the geographic area covered by a service. A service area may be city-wide, or it may be subdivided by area (frequently by Ward) among agencies in the Senior Service Network. For example, legal services are provided city-wide, but counseling services are allocated among the lead agencies across the city.

#### **5. Service Location**

The service location describes the type of facility in which the service is provided. Many services are provided in the participant's residence, a community facility, or at the organization's offices. However, some services, such as Congregate Meals, must be provided in facilities that meet specific criteria.

#### **6. Service Priorities**

The Service Priorities identify the primary target recipients of the service provided. Services for seniors funded by DCOA are generally available to DC seniors 60 years or older. The Older Americans Act makes several references to serving those with the greatest social and economic needs, particularly low-income minority individuals. Accordingly, the DCOA service standards incorporate this priority to serve those who are most socially and economically disadvantaged, with special emphasis on low-income minority elderly. To conserve DCOA resources, many service standards also specify that they should not be made available to those who would otherwise qualify for the service under any other program. For some services, priority may also be based on the source of referrals, such as from hospitals, nursing homes and other DCOA grantee agencies, or Geriatric Assessment and Case Management sites.

#### **7. Service Standards**

The functional service standards for each program are the minimal requirements that the grantee must provide or achieve. These program-specific standards cover such actions as establishing a minimal frequency of the activity, timeframes and deadlines, intake and record-keeping requirements, involvement of other parties, such as family members or caretakers, referral to other services, client confidentiality, hours of operation, staffing criteria, and specific duties or activities that must be provided.

#### **8. Prohibited Service Components**

Each service standard identifies types of activities that are not allowed for that particular service. For example, the case management and comprehensive assessment service standards prohibit the provision of medical, financial, legal or other service or advice, (except for referral to qualified agencies or programs).

### **H. Performance Goals and Outcome Measures**

DCOA has established Performance Goals and Outcome Measures for each of its primary program services, and one is included in each grant award. A copy of the Performance Goals and Outcome Measures is attached as Exhibit XII.H. Although DCOA distinguishes them from its Service Standards, the Performance Goals and Outcome Measures are a "grantee

standard” as discussed in this Chapter, for which grantees are accountable. The Performance Goal is the long-term result that provision of the program services is intended to achieve. For example, for many community based services, the primary goal is to enable the individual to remain in their own home during the fiscal year. For legal services and advocacy, the primary goal is to respond in a timely and satisfactory manner to the client’s complaint.

The Outcome Measure is an objective calculation used to determine whether the grantee has achieved its performance goals. Some outcome measures, such as the wellness and meals programs, measure a change in status of clients from the start to the end of the fiscal year. Others measure client satisfaction or continuity in the program, for example, by continuing to live at home during the fiscal year. These outcome measures require the grantee to conduct client surveys at the start and conclusion of the year, so that a twelve-month period is measured. While it is often difficult to get participants to respond to surveys, grantees should make every effort to survey all participants, so that the outcome measures provide a realistic representation of actual achievement. DCOA requires the results of the Performance Goals and Outcome Measures to be provided in October after the conclusion of the fiscal year. However, some programs are required to provide Performance Goals and Outcome Measure data to DCOA on a quarterly basis.

## **I. Personnel Policies**

DCOA requires that its grantees have and update regularly a written personnel policy and written position descriptions for all staff paid under the grant. As a matter of good organizational and management practices, grantees should have established procedures for recruiting and selecting new staff, a systematic process for determining staff salaries and benefits, a personnel record-keeping system, training and development plan or program, and annual written staff evaluations. DCOA encourages grantees to provide for merit promotion, career and employee assistance, counseling, and opportunities to express grievances, as appropriate to the organization’s size and circumstances. In selecting among equally qualified applicants to work on DCOA grant-funded programs, grantees should give preference to DC residents and those persons 55 years and older.

## **J. Travel Policy**

DCOA does not reimburse for travel outside the beltway (Interstate Route 495) in the DC metropolitan area, except where specifically provided under the grant or approved in advance in writing by DCOA. A grantee that includes participant trips outside the beltway may do so at its own expense; no DCOA-funded equipment or personnel may be used on such trips. In that circumstance, participants or the grantee must bear the travel costs, and staff that are paid under the DCOA personnel roster must take leave or perform the duties on their own time to accompany participants.

For those grantees not reimbursed through units of service, travel is reimbursed based on the mileage rate established by DCOA. Increases in the federal mileage rate are not



automatically applicable to DCOA grants and do not go into effect until DC has adopted them and DCOA notifies the grantee.

## **K. Voluntary Contributions**

Services provided by a grantee under a DCOA grant are to be made available free of charge to eligible participants. (Note: This standard does not prohibit the charging of rent, room and board at the DCOA-funded group homes or the charging of fees by a grantee for services not funded by DCOA.) Grantees may ask participants to make a voluntary contribution if they have a written voluntary contribution policy that is posted at the service site that complies with the DCOA standard set forth in Policy Memoranda 01-P04 and 04-P07, which are attached as Exhibits in Chapter XII.H.

To comply with this DCOA policy, the grantee must:

1. inform participants, and other appropriate parties, such as family members and caregivers, of the cost of providing the service;
2. offer them an opportunity to make a *voluntary* contribution;
3. use the voluntary contributions to help defray program costs and make additional services available to others; and
4. clearly state that “No one will be denied the service if they are unable to make a donation.”

In implementing this standard, grantees should inform the participant or responsible party in a clear and unambiguous manner that any contributions are purely voluntary. Not only the wording of the grantee’s policy, but how it is provided and explained, establish whether it is presented as a voluntary policy, rather than a subterfuge to collect fees. Statements that look like a bill or fail to state specifically that contributions are voluntary and the participant is not required to make a contribution are impermissible. Grantees must ensure that their employees do not imply or otherwise intimidate clients into believing that a payment or contribution must be made to receive services or discourage eligible potential clients from participating based on failure to “contribute.” As with all other program income, grantees must account for all voluntary contributions and document that they were used to serve additional participants in the program supported.

Voluntary contributions are different from costs for events charged by a third party. For example, a senior center may sponsor a trip to see a play. The ticket costs charged by the theater and paid by the participant are not a contribution made to the grantee, even if staff collect the money, and thus are not covered under this section.

## **VII. Financial Requirements, Standards and Payments**

### **A. Financial Management System**

The acceptance of a grant from DCOA creates a legal duty on the part of the grantee to use the funds in accordance with the conditions of the grant and to account for them in accordance with applicable federal, DC and DCOA requirements. This chapter provides an overview of the financial requirements and payments processes governing DCOA grants.

All DCOA grantees are required to have financial management systems that comply with the financial management standards in OMB Circular A-110.20-.28, 2 CFR §§215.20-215.28. Those standards require that a grantee's financial system provide for:

1. Accurate, current and complete disclosure of the financial results of the grant award;
2. Records that identify the source and application of grant funds.
3. Effective control over and accountability for all funds, property, and other assets;
4. Written procedures to minimize the time elapsing between the transfer of funds to the recipient from DCOA and the use of those funds by the grantee for program purposes, when funds are provided in advance;
5. Written procedures for determining the reasonableness, allocability and allowability of costs, in accordance with federal cost principles and the terms and conditions of the grant award; and
6. Accounting records that are supported by source documentation.

No payments under a grant may be made until the Notification of Grant Award is signed on behalf of DCOA and the grantee. DCOA grants are made on a cost-reimbursement basis. A grantee earns the DCOA share of the project cost only when the cost is accrued and the local share of the cost has been contributed. DCOA has a reversionary interest in the unused balance of advance payments, in any funds improperly used, in any unearned payment for which the local share was not contributed, and in property acquired through the grant to which DCOA either retains title or reserves the right to transfer title.

### **1. Segregation of Grant and Project Expenses**

The development of a financial management system is beyond the scope of this manual, so only certain key concepts will be discussed in this chapter. Many commercial financial and accounting software packages, when properly set up, meet the OMB financial management standards. At a minimum, the grantee's financial management system must account for the cost categories specified in the DCOA budget---personnel, fringe benefits, supplies, equipment, travel, occupancy, communications, other direct costs (broken down by type) and indirect costs. Accounting must be based on generally accepted accounting principles for government awards and must be consistently applied regardless of source of funds. Grantees are referred to additional information in the DCOA Financial and Compliance Management Manual, pages 14-21.

A key requirement of a grantee's financial management system for cost reimbursement grants is that it separate out project costs by project and source of funds, to meet the OMB standard that the grantee identify the source and application of grant funds. Where more than one project is covered by a grant, as reflected on the face of the NGA, each project must be accounted for separately. Since DCOA

requires that grantees include a local share as part of the grant, some types of project expenses may be paid partly by DCOA grant funds and partly by other sources. In this instance, the grantee's financial management system must be able to distinguish both the sources and the amounts incurred from each source.

## **2. Examples**

a. A grantee is awarded a grant for \$100,000 for a single program and contributes \$15,000 (15%) as its local share---\$10,000 for supplies paid through fundraising events and \$5,000 in volunteer labor. Grantee's accounting system should identify by type of expense (e.g, salaries, utilities, supplies, communication, etc.), those items claimed for reimbursement up to the \$100,000 award from DCOA. The system must separate by source of funds those expenses (in this case, supplies) paid for by DCOA grant funds from those purchased using other funds that grantee claims as its local share. The system also should provide for tracking the in-kind portion of the local share (\$5,000 in volunteer labor) claimed under the grant. Documentation for all expenses, regardless of source of funding, must be maintained as part of the grantee's system, including all local share and in-kind expenses claimed. Although fundraising events are the source of funds for some of grantee's local share, fundraising expenses are not allowable under the grant; so they must be recorded but accounted for separately in the grantee's system.

b. A grantee has three programs supported by DCOA under a single grant. Employee A splits her time and works under each of the three programs. The budget estimates that she splits her time evenly (33 1/3% for each program.) However, in actuality, some weeks she spends more time on one program than another. Employee B works three days a week under one DCOA-funded program and two days a week on a program not funded by DCOA. The grantee's financial management system must segregate expenses for each of the three programs under the DCOA grant, separate from the expenses for its non-DCOA program. In addition, the expenses should be separated by source of funds, as in the previous example.

Employee A's actual time spent on each program (not the estimated budgeted amount) should be recorded in the accounting system. Employee B's actual time spent on the DCOA program should be recorded separately from the time spent on the non-DCOA-funded program. (A sample timesheet enabling employees to break down time worked by program is attached as Exhibit XII.K.)

## **B. Written Financial Procedures**

Grantees must have written financial procedures governing their organization's financial processes. The procedures supplied with the grantee's accounting software do not constitute acceptable written procedures for a grantee's internal processes. At a minimum the written procedures should:

1. Specify, by position and scope of authority, the employees authorized to take any action obligating funds (committing the organization to spend money), signing checks, utilizing petty cash, reviewing and approving payroll, receiving or depositing any revenue received by or on behalf of the organization, and taking part in the procurement, bookkeeping and reconciliation processes;
2. Provide for a uniform process for making payments including the authorizing signatures, supporting documentation establishing the purpose and amount of the expenditure, and tie-in to the general ledger by budget line item (See sample payment request form, documenting the payment approval process at Exhibit XII.L);
3. Establish the rules for satisfying and separating out the grantee's local cost share;
4. Detail the organization's payroll and time and attendance process, including supervisory review and approval and recordkeeping; and.
5. To the extent possible, provide for separation of duties and internal checks and controls with respect to any financial transaction. That is, no single employee should have access to all financial operations, procedures, and records.

However, depending on the needs of the organization, any number of additional policies and procedures affecting financial operations might be included in an organization's written financial procedures, such as the invoice and check-writing process, establishing bank accounts, dollar limits on an employee's authority to make or approve transactions, how depreciation is accounted for, allocation of indirect costs between programs, and travel approval procedures, to name a few.

In general, written financial procedures should be proportionate to the size and complexity of the organization's operations and the support it receives. For example, a small organization or one that receives funding from a limited number of sources may conduct financial operations largely through its Executive Director, designated Board of Director's financial officer, and its accountant; thus, a fairly concise written description of authorities and procedures will suffice. By contrast, a large organization may have an entire financial department with segregated duties and responsibilities in addition to programmatic lines of authority and have an extensive financial manual as well as an operating procedures manual.

### **C. Program Income**

The financial standards in OMB Circular A-110.24, 2 CFR Sec. 215.24, and U.S. Department of Health and Human Services regulations, 45 CFR Sec. 92.25, require that grantees account for program income. Program income is gross income received by the grantee directly generated by a grant-supported activity or earned only as a result of the grant during the grant period. Unless otherwise restricted by federal regulations or the grant agreement, grantees may deduct costs incident to the generation of gross income to determine program income under a grant. Examples of program income include, but are not limited to, fees for service, the sale of items made under an award, income from the use or rental of real or personal property acquired with grant funds, and voluntary contributions by program participants. Program income does not include interest earned

on grant funds; rebates, credits, discounts or proceeds from the sale of equipment or real property.

The federal financial standards require the grantee to use program income only in one of three ways:

1. To deduct program income from the total program cost in determining the net allowable costs on which the DCOA share, including federal dollars, is based;
2. To add the funds committed to the project by DCOA and the grantee and use them to further eligible program objectives; or
3. To use the program income to finance the grantee's local share of the project .

DCOA permits grantees to use some program income to finance their local share, provided that the grantee has proposed such use in its budget narrative and schedules. However, under AoA and DCOA policy, voluntary contributions for programs under Title III of the Older Americans Act must be used to increase services (See #2, above). Participant contributions may not exceed 25% of a grantee's cost share.

#### **D. Payments and Financial Reports**

DCOA reimburses grantees for allowable costs incurred under the grant either on a unit of service or an actual cost basis, up to the authorized grant amount. The procedures for obtaining reimbursement for units of service differ from those for actual cost reimbursements. Failure to submit the information required for reimbursement in a timely manner may result in suspension of all future payments, forfeiture of reimbursement for the period affected particularly at the end of the fiscal year, termination of the grant award or other consequences or conditions imposed by DCOA authorized by law.

##### **1. Units of Service Reimbursement**

Grantees funded for programs under Titles III and VII of the Older Americans Act are required to collect and report to DCOA on the number of clients served and amount of services provided each month based on standard units of service. (*See also*, Chapters V.I.2 and VI.F.) For most grantees providing units of service, DCOA reimburses costs by paying a unit cost for each unit performed. Each year, DCOA establishes a maximum reimbursement rate for each type of program for which units of service are required. However, the actual rate paid per unit of service to a grantee, up to the maximum rate for that service, is established in the grantee's budget and grant award based on the actual costs to the grantee, projected number of clients proposed to be served, and the amount of local share being contributed. A copy of the current maximum rate of reimbursement is attached as Exhibit XIII.F.

Currently, grantees reimbursed for units of service submit their data through the Client Service Information System (CSIS) or the Universal Participant Tracking (UPT) System. DCOA sets a monthly due date, usually in the second week of the following month, by which time the data must be provided in hard copy and/or electronic form with source documentation to verify the units of service claimed. When the grantee's data has been processed, DCOA sends a report back to the grantee. Grantees who

believe there is an error in the report should notify DCOA within five business days of the date the report was sent to correct the error. This period may be extended for good cause if the error could not have been discovered within the five-day period, except at the end of the fiscal year when deadlines are final. DCOA is in the process of modifying the CSIS and UPT systems, and procedural and policy changes are expected for unit of service reporters as the modifications are implemented.

## **2. Actual Cost Reimbursement**

Grantees who do not report units of service are reimbursed on an actual cost basis by submitting a monthly M-1 Financial Report to the Finance Unit in DCOA. The M-1 requires grantees to report total costs incurred by the cost categories in the NGA and the local share contributed that month. Grantees must include copies of all supporting documents for expenses claimed with the M-1 Report, including payroll documentation, invoices, vouchers and receipts, and documentation for the local share claimed.

Under a pilot project, a few grantees that report units of service were selected to be reimbursed based on actual costs, rather than units of service, although they still report the units of service and number of clients served under the CSIS and UPT systems. These grantees submit monthly P Reports, similar to the M-1 Report, along with supporting documentation.

The M-1 and P Reports are due on the 20<sup>th</sup> of the month following that for which reimbursement is claimed, except where grantees are notified of an earlier due date. The M-1 and P Reports must include an original signature by an authorized official certifying their accuracy. Copies of the M-1 and P Reports are included as Exhibits XII.B and E.

Twenty days after the end of each quarter, grantees who report on the M-1 and P Reports are required to submit quarterly (Q) and year-to-date (Y) reports to DCOA, showing the cumulative expenses incurred during those timeframes. Copies of the Q and Y Reports are included as Exhibits XII.C and D.

## **3. Source Documentation**

All grantees must maintain source documentation verifying the amounts of service performed and the actual costs incurred, and that documentation must tie in to the information in their accounting system. All supporting records of grant expenditures shall be kept in sufficient detail to show the exact nature and cost of the expenditures for each account. Records must be maintained in a manner to permit the preparation of accurate, required financial reports and to validate that the project funds were used for the purposes for which the grant was made. Source documentation may vary from grantee to grantee depending on the nature of the grant services and the organization's procedures. Source documentation includes original records that establish that services were provided and include, but are not limited to, such items as employee timesheets, payroll records from a payroll service, client or volunteer attendance and sign-in records, consultant time and effort sheets, invoices, vouchers, bills, and receipts; for

events, they may include such items as calendars, flyers, minutes of meetings, ticket stubs, and certificates of attendance. Secondary records created by the organization, such as spreadsheets showing a variety of costs incurred, are not source documentation of the underlying activity and expenses incurred and will not be accepted as a basis for payment. While these secondary records may be helpful in organizing bills paid, they are not acceptable as substitutes for the original bills, receipts and other expense documentation.

#### **E. Cash Refunds and Credits to DCOA and Recovery of Overpayments**

At the end of the grant year, any unexpended amounts left under the NGA revert to DCOA and are not available to the grantee the following fiscal year (with the very narrow exception of carry-over funds discussed in Chapter IV.C.1). If the grantee has not earned a payment already made by reimbursement or advance, it shall refund the unearned payment to DCOA promptly. Entitlement to reimbursement of the DCOA share of project costs is not earned until the grantee has contributed its local share and accrued an allowable cost. Thus, even if a payment is made to a grantee, DCOA may require reimbursement or offset from current payments to the grantee or from a current DCOA grant award if the grantee failed to meet its local share contribution requirement or failed to incur an allowable cost.

If DCOA determines that an overpayment or unearned or otherwise erroneous payment has been made to a grantee, it shall notify the grantee in writing of the overpayment or unearned or erroneous payment and the basis for its determination. In this notification, DCOA may request a refund, an offset of the erroneous payment from current funds due to the grantee, or a reduction in the grantee's current DCOA award. Grantees shall have 21 days after the date of such notice in which to respond in writing. After considering the Grantee's response, DCOA may take such actions as authorized by law to get reimbursement, including but not limited to establishing a repayment schedule, offsetting the overpayment from a current grant award or payment due by DCOA to the Grantee, and referral to the DC Attorney General for collection, or other legal action.

#### **F. Annual Audit**

DCOA requires grantees to have an annual, independent financial audit conducted in accordance with OMB Circular A-133, and the DCOA Audit Guide (attached as Exhibit XII.J.) The DCOA Audit Guide includes additional schedules not contained in the general requirements under OMB A-133. The audit must be performed by a certified public accountant *licensed in the District of Columbia* and must cover the grant year.

Organizations that operate and conduct audits based on a different fiscal year from the DCOA fiscal year ending September 30, must reconcile the audit to the DCOA grant year. The audit, including the reconciliation if required, is due on March 31, covering the grant year that just ended. If a grantee fails to submit an approved audit on time, DCOA may suspend funding for the third quarter of the current grant year until the report is submitted and approved.

DCOA generally requires a final financial and compliance audit when a grant is closed out (See Chapter V.L). At its discretion, DCOA may have an audit conducted at any time on a current or past grant as part of its monitoring and fiduciary functions.

### **G. Final Disbursement Reporting**

DCOA does not require a final disbursement report at the end of each grant year if the grantee has a continuing grant for that program with DCOA. If a grant is closed out, the procedures discussed in Chapter V.L. apply.



## **VIII. Allowable Costs**

### **A. Cost Principles**

DCOA applies the federal cost principles to determine whether costs claimed under a DCOA grant are reimbursable. These federal cost principles, set forth in OMB Circular A-122, 2 CFR Part 230 for nonprofit organizations and OMB Circular A-87, 2 CFR Part 220 for colleges and universities, establish general principles that determine what costs will be allowed under the grant and establish how certain types of costs are evaluated to determine whether and to what extent they are reimbursable. The cost principles apply to the grantee and any sub-award made by the grantee, such as costs reimbursable to a contractor.

Several general principles determine whether particular costs claimed under the grant will be reimbursed. Some key principles are listed below.

1. The maximum obligation of DCOA to support the program will not exceed the amount specified in the Notification of Grant Award.
2. The cost of an item claimed must be reasonable.
3. The cost of an item claimed must be clearly allocable to the grant and to one or more specific objectives under a grant. That is, it must contribute to the purposes and execution of the grant project. Indirect costs are often allocable to several programs, and how the grantee determines the amount allocable to the specific grant must be detailed in the budget narrative.
4. The cost of an item claimed must be consistent with any specific limitations and exclusions in the grant award.
5. Each cost item must be treated consistently by the grantee within its grant and its non-grant activities and be determined in accordance with generally accepted accounting principles.
6. Each cost item must be adequately documented.
7. With respect to any federal dollars in the grant award, an expense claimed may not be included as a cost or used to meet a cost sharing requirement of any other federally financed program in the current or a prior period.

### **B. Allowable and Unallowable Costs**

The OMB cost principles include a listing of types of cost which are allowable under federally funded grants. This section summarizes some, but not all, costs covered in the OMB cost principles. However, for evaluating a particular cost item, grantees should refer directly to the detailed explanations in the OMB Circulars and, if questions remain, confer with the DCOA Compliance and Administration Manager.

#### **1. Unallowable Costs**

These costs are unallowable under DCOA grants:

- a. Alcoholic beverages;
- b. Bad debts;
- c. Donations and contributions (In-kind expenses) (These may be used to meet the grantee's local share requirement, but are not reimbursable under the grant from DCOA funds.);

- d. Entertainment;
- e. Fines and penalties;
- f. Fundraising and investment management;
- g. Goods and services for personal use, such as subscriptions and memberships;
- h. Honoraria;
- i. Lobbying; and
- j. Losses on another grant or contract.
- k. Although not a restriction under the federal cost principles, DCOA does not allow pre-award costs to be reimbursed.

## 2. Personnel Costs

**Salaries and wages** for employees working on a DCOA grant project during the grant period are allowable if:

- a. the total compensation is reasonable for the work performed, conforms to the amount submitted in the approved budget, and conforms to the established policy of the organization applied consistently to government and non-government activities; and
- b. the charges are properly documented. This documentation requirement applies to direct salary charges, as well as salaries allocated to indirect costs, and to both the DCOA share and grantee's local share.

Grantees must have personnel policies and procedures in place that establish the process for documentation and require approval by a responsible official of the time employees work on the grant. These time and attendance documents may be manual or electronic, but must be signed by the employee and authorized supervisory official. An employee whose personnel costs are charged to the grant must record an after-the-fact determination of actual time spent on activities under the grant. For employees working exclusively on one project, this requirement may be fulfilled by documentation of that dedication to the project and source of funding and completion of the agency's standard time and attendance records. If an employee works on more than one project, the time and attendance records must reflect the actual time spent on each project. *Routinely recording a fixed percentage of time worked on the grant (i.e., merely repeating the percentage estimated in the grantee's budget) is not an acceptable documentation of actual time worked on the grant project.*

In a similar manner, employees whose time is allocated in part for indirect costs must allocate the actual hours spent on those functions. Employees whose salaries and wages are used to meet cost sharing requirements must have time and attendance records to support the cost share for the grant in the same manner as those whose salaries are a direct cost under the grant. A sample acceptable time sheet which provides space for separating time worked on each project, as well as time spent on management functions attributable to indirect costs is attached as Exhibit XII. K.

It should be noted that contractors and consultants are not employees and thus are not paid salaries or wages, even though they may be paid an hourly rate. Contractors and consultants should submit time and effort records under their contractual agreements

with the grantee. Their costs should not be included on the B-6 Personnel Schedules in the grant application.

**Fringe benefits** computed under a formally established and consistently applied organizational policy are allowed as a direct cost if they are included in the grantee's budget schedules and narrative.

3. Certain costs for **meetings and conferences** required as part of the approved grant project are allowable. DCOA discourages the use of facilities that charge a fee and does not reimburse for rented space outside the District of Columbia. The cost of meals for an employee attending a meeting is an unallowable personal expense. In general, unless expressly approved in advance, DCOA does not reimburse for meetings and conferences attended outside the District of Columbia metropolitan Beltway.
4. **Equipment** whose cost is \$500 or more is not allowable unless DCOA has approved the item and expense in advance. Equipment paid with DCOA grant funds may not be included subsequently in depreciation costs charged to a DCOA grant. Thus, for example, where DCOA has authorized the purchase of a vehicle with grant funds, no depreciation on that vehicle may be included in the M-1 Financial Reports, requesting reimbursement in the current and subsequent years.
5. **Travel** costs are allowable for travel inside the Beltway. In limited circumstances, DCOA may approve an exception, for example, where a federal grant requires attendance at an out-of-state event. Travel is reimbursed at the DCOA-established mileage rate or actual fares. A change in the federal mileage rate does not automatically result in an increase in the DCOA-established rate. Grantees should incorporate the DCOA mileage rate in contracts and consultant arrangements, where applicable.
6. **Consultant services.** Grantees normally are expected to use the services of their own employees to the maximum extent in carrying out the activities supported by DCOA grants. However, where it is necessary to contract out the work for the services of an individual who is not an employee, the grantee must do so in accordance with its own organizational contracting procedures and the factors specified in the federal cost principles. The grantee's budget and/or request for approval of a consultant contract must specify the rates for service and other consultant costs broken down by category. Contractor and consultant costs are part of "other direct" expenses in the DCOA grant application budget schedule (B-12); their costs should not be included in the B-6 Personnel schedules.
7. **Audit costs** are allowable as part of the grantee's indirect costs.

### C. Indirect Costs

Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. They are sometimes referred to as “management” or “general and administrative” costs. Because organizations are diverse and their accounting practices vary, there is no single comprehensive, uniform list of the types of costs that are included in indirect costs. However, some expenses typically included as indirect costs are depreciation or use allowances on buildings and equipment, cost of operating and maintaining facilities, insurance, salaries and expenses of executive officers, personnel administration, accounting, and audit.

There are multiple ways to compute and allocate indirect costs to each program, described in OMB Circular A-122, 2 CFR Part 230. For example, a small organization with only one or a few programs may determine its total indirect costs and divide it by its total direct costs to establish its indirect cost rate.

#### Example 1:

The total value of a grantee’s indirect costs (depreciation, accounting, executive director’s salary, audit, and other management expenses) is \$120,000. Its total direct program costs are \$1,000,000.

Its indirect cost rate is determined based on total indirect costs/total direct costs =  $\$120,000/\$1,000,000 = 12\%$ .

If program A has \$200,000 in costs, and program B has \$800,000, the allocation of the \$120,000 in indirect costs is

- $12\% \times \$200,000 = \$24,000$  in indirect costs for program A and
- $12\% \times \$800,000 = \underline{\$96,000}$  in indirect costs for program B.
- Total indirect costs = \$120,000

Other more complex methods of determining an organization’s indirect cost rate are described in OMB Circular A-122, 2 CFR Part 230. Some organizations that receive a considerable amount of federal funding may have a “negotiated federal indirect cost rate.” This is an indirect cost rate negotiated with the federal agency with which the organization does most of its business. A negotiated federal indirect cost rate uses a more complex formula for establishing the rate and a different cost base (Modified Total Direct Costs) than that used in the simplified formula of the example above.

Regardless of the formula that an organization uses to determine its indirect cost rate, DCOA requires that grantees that claim indirect costs under the grant must provide documentation of what is included in its indirect cost pool. In the example above, it would show what costs are included in the \$120,000 total indirect costs and the \$1,000,000 total direct costs that were used to determine the 12% rate. Merely claiming a 12% rate or providing the \$120,000 total without a cost breakdown is not sufficient to document indirect costs. If an organization has a negotiated federal indirect cost rate, it should supply a copy of the approved federal rate as documentation.

DCOA limits the amount of indirect costs that may be included in the DCOA share under the grant to 15% of total personnel costs in the grant. Total personnel costs are the salaries and

fringe benefits determined under the B-6 Personnel Schedules in the grant application. For grants whose primary purpose is training, DCOA limits the amount of indirect costs that may be included in the DCOA share of the grant to 8%. DCOA permits indirect costs, including an excess above these 15% and 8% limits to be part of the grantee's cost share. However, as a rule of thumb, an indirect cost rate exceeding 25% would be looked upon questionably as a matter of good nonprofit management.

Example 2:

Using the same figures from Example 1, the organization has total personnel costs of \$150,000 for Program A and \$350,000 for program B. Because of the 15% limitation under the DCOA grant, indirect costs that may be charged to DCOA under Program A are limited to  $15\% \times \$150,000 = \$22,500$ ; the balance of indirect costs for Program A of \$1,500 ( $\$24,000$  total indirect costs -  $\$22,500$  allowed for DCOA share) may be included as the grantee share. Similarly, the 15% limitation on total personnel costs for Program B, would mean that only  $15\% \times \$350,000 = \$52,500$  can be included as the DCOA share of indirect costs; the balance of \$43,500 in indirect costs ( $\$96,000 - \$52,500 = \$43,500$ ) would need to be borne by the grantee.

## **IX. Handling of Information**

### **A. Reports and Publications**

DCOA encourages the dissemination of information about the activities undertaken by grantees to the elderly population in the District of Columbia and the general public. Some grants may include the preparation of specific reports or other publications relating to the grant. To the extent authorized in the grant budget, costs relating to the preparation, publication and dissemination of those materials may be allowable costs. While preparation of the content of such materials is the responsibility of the grantee, DCOA requires an opportunity in advance of release to review and comment on major reports or publications based on activities undertaken with grant funding. At least two copies of any final report or publication prepared with DCOA grant funds should be provided to the grantee's project officer.

#### **1. Inclusion of DCOA logo**

Grantees are required to include the following official DCOA logo and statement of support on all stationery, publicity material, their web site, and written media communications, including newsletters, flyers, brochures, and other printed materials:



**Part of the Senior Service Network  
Supported by the D. C. Office on Aging**

The logo and support statement also must be printed in a conspicuous place on vehicles acquired or operated with DCOA funding.

## **2. Acknowledgment of DCOA Support**

Grantees are required to acknowledge DCOA support in every publication of any material based on or developed under a DCOA grant. For example,

**This Report was prepared by Grantee Organization with the support of a grant from the D.C. Office on Aging to foster family caregiving.**

Where federal agency support is also provided, that agency usually should be included in the acknowledgment. However, federal agencies require a disclaimer as to the content of the information, along with the acknowledgment of the grant support. Therefore, grantees should confer with DCOA staff on the specific wording of any acknowledgment.

Beyond formal acknowledgement of DCOA support and use of the DCOA logo, grantees should acknowledge their partnership with DCOA when writing and talking about the services for which they receive Office on Aging funds, including newspaper articles, newsletters, fundraising materials, and orientation materials for staff, clients and family members. See Policy Memorandum 02-P05 attached at Exhibit XIII.I. Grantees should orally acknowledge support of the DC Office on Aging in news media interviews when discussing the reports, publications or activities funded through DCOA grants.

## **3. Freedom of Information Act (FOIA)**

Reports and documents that a grantee provides to the DCOA are subject to the DC Freedom of Information Act, Title 2 DC Code, Chapter 5, Subchapter II. Grantees should be aware that these reports and information are subject to public disclosure under this statute. DCOA will provide agency records, with certain exceptions, if the request is in writing, includes the requester's name and mailing address, is clearly identified as a Freedom of Information Act request, and describes the records sought with sufficient specificity to permit identification. DCOA may also charge fees for the copying of records requested under the Act.

## **B. Press Releases, Media Contacts and Incident Reports**

Grantees should inform DCOA of contacts with the press and media and provide a copy of press releases with their monthly CURT. Grantees should inform DCOA of press and media contacts, in advance if possible, when issues relating to the grant or grantee are of a sensitive nature or it is anticipated that DCOA may be contacted by the media.

When any incident of a sensitive nature occurs under the grant, at the grantee site, or involving the grantee or its clients, the grantee should report the incident to DCOA as soon as possible by phone or email. A follow-up report of the incident may be requested and should be included in the CURT. An incident may include, but is not limited to, any significant physical or health matter involving a client, destruction of property due to accident, fire or mishap, an event where the emergency medical system (911), police or fire department are contacted or involved, disruptive behavior at the grantee site, or major good or bad news involving the grantee that may generate interest of the media, a DC Council member or other high ranking official.

### **C. Protection of Privacy**

Grantees frequently acquire and store information of a personal nature about individuals, including clients and employees. Grantees should take steps to ensure that the confidentiality of such information is maintained, that information is made available to a third party only with the consent of the individual, and that it is accessible by employees of the grantee on a need-to-know basis. Grantees should take measures to manage the collection and storage of information of a personal nature in carrying out their grants, with heightened sensitivity to the possibilities of identity theft. For example, where information can be collected and stored without use of a Social Security number, the less restrictive format should be favored. Information of a personal, confidential nature collected or used in carrying out a grant must be stored in a secure area, such as a locked file cabinet, locked storage room, or in electronic storage by restricted access protocols.

Some grantees are subject to the requirements of the Health Insurance Portability and Accountability Act (HIPAA) which imposes extensive procedural, notice, consent and disclosure requirements to protect the privacy of health information of an individual.

### **D. Records Retention and Access – (See Chapter V.J. for additional discussion)**

The general rule for records retention is that the grantee must keep all grant records for at least three years following the date of the final notice from DCOA formally closing out the grant. DCOA encourages grantees to establish a record retention policy for all its records, in consultation with their legal and accounting advisors.

DCOA, the DC Office of Inspector General, the DC Attorney General, the U.S. Department of Health and Human Services/Administration on Aging, Office of Inspector General, and the U.S. Comptroller General and their authorized representatives and contractors shall have access to any pertinent records relating to the grant, including subcontractor records, at any time. Records may be maintained at the headquarters of the grantee or place of performance of the grant, as appropriate to use and need, provided there is adequate security based on the type of record involved. However, upon request by DCOA, they must be made available at the headquarters of the grantee.

## **X. Suspension, Discontinuation, and Termination**

### **A. Policy**

DCOA may suspend, discontinue, or terminate a grant, in whole or in part if:

1. The grantee has materially failed to comply with the terms and conditions of the grant or carry out the objectives of the grant;
2. DCOA has other reasonable cause, including but not limited to protecting the interest of the participants served under the grant or of the government;

3. DCOA learns of serious misconduct affecting the ability of the grantee to carry out the grant; or DCOA has reason to believe that the grantee is unable to carry out its fiscal responsibilities under the grant;
4. DCOA and the grantee mutually agree, (but if the parties cannot agree, DCOA reserves the right to act unilaterally to suspend or terminate the grant) or
5. The grantee makes a written request to DCOA, setting forth the reasons for such action, the effective date, and the portion of the grant to be suspended or terminated, and the request is approved by the DCOA.

It is within the discretion of DCOA to determine which action to take: a suspension, discontinuation, partial termination or total termination of the grant. Normally, action by DCOA to suspend or terminate a grant will be taken only after DCOA has notified the grantee of the deficiency, provided the grantee an opportunity to correct it, and informed the grantee of the proposed action to suspend or terminate the grant. However, DCOA may immediately suspend or terminate a grant without notice or advance opportunity to correct, when it believes such action is reasonable to protect the interests of the government. The grantee may not incur new obligations on and after the effective date of the suspension or termination under the affected portion of the grant. The final decision to suspend, discontinue or terminate a grant is made by the Executive Director of DCOA and is not subject to appeal.

A decision by DCOA to reduce the amount of grant funds in the NGA is not a suspension, discontinuation or termination as used in this Chapter.

## **B. Discontinuation**

A discontinuation is an action taken by DCOA to end funding to a particular grantee for a subsequent grant period. If DCOA discontinues a grant, the grantee is ineligible to apply for a continuation grant or competitive grant for that program immediately following the end of its current grant. DCOA may decide to discontinue a grant in connection with or without a proposed suspension or termination. After a grant is discontinued, the close-out procedures in Chapter V.L. apply.

## **C. Procedures to Suspend, Discontinue or Terminate a Grant**

### **1. Notice and Opportunity to Correct Deficiency**

If DCOA determines that the grantee has failed to comply with one or more terms and conditions of the grant or that there is other cause to warrant suspension, discontinuation, or termination, it will notify the grantee in writing of the deficiency and include notice that failure to correct the deficiency may result in suspension, discontinuation, or termination of the grant. DCOA may include a suspension, discontinuation or termination individually or jointly in the notice. The grantee will be requested to respond to the notice within 14 calendar days from the date of the letter, describing what action it has taken or plans to take to correct the deficiency.



If the grantee fails to respond adequately within the 14-day period, DCOA may proceed with the suspension, discontinuation, or termination, and the suspension or termination will be in effect as of the date set in the original notice.

After considering the grantee's response, DCOA may delay further action, accept the proposed plan of correction, require a modified plan of correction, or proceed with the proposed suspension, discontinuation or termination. If DCOA determines to proceed with the suspension, discontinuation or termination after considering the grantee's response, it will send a new notice to the grantee setting forth the terms of the suspension, discontinuation or termination and its effective date.

## **2. Suspension Duration**

DCOA sets the duration of the suspension taking into account the nature and severity of the deficiency and the time needed for the grantee to come into compliance. DCOA may condition the suspension period on the achievement of certain corrective actions. If the corrective action remains incomplete, DCOA, in its discretion, may extend the period of suspension, discontinue funding the grant if the period of suspension coincides with the end of the grant period, or decide to terminate the grant during the suspension period. During the suspension, the grantee may not incur new obligations in connection with the grant or the portion of the grant suspended without written authorization from DCOA. When the corrective action is completed to the satisfaction of DCOA, it will notify the grantee in writing that the suspension is lifted.

If the deficiency is not corrected to the satisfaction of DCOA, DCOA may issue a notice of discontinuation or termination, setting forth the terms of the action and its effective date. In this instance, DCOA does not provide a new opportunity to correct the deficiency.

## **3. Emergency Determination**

If DCOA determines that it must suspend, discontinue, or terminate the grant without advance notice to protect the interests of the government, it will notify the grantee in writing of the action, without providing the notice and opportunity to respond described in Paragraph B.1., above. Circumstances that may trigger an emergency determination to suspend or terminate without notice and opportunity to respond include but are not limited to when:

- a. DCOA determines that a serious risk of substantial injury to or loss of project funds or property exists;
- b. A violation of a federal, state or local criminal statute exists; or
- c. The nature and severity of the deficiency require immediate action to protect the beneficiaries of the grant or the government's interests.

## **D. Termination**

### **1. Termination by Agreement**

Circumstances may arise where either DCOA or the grantee wish to terminate a project. When both parties agree that continuation of the project would not produce the desired objectives or have other reasons for ending all or part of the grant, the grant may be terminated by mutual agreement. If the grantee wishes to terminate the project, it should notify DCOA in writing at least 60 days in advance of the proposed termination to allow DCOA to make appropriate arrangements to replace the grantee and continue services without interruption. Normally, grantees should have conversations about the proposed termination with DCOA staff before sending the formal notice. The notice from the grantee should state the reasons for the termination, what steps it proposes to take to ensure continuity of services to its clients, how it will effect an orderly closeout and transition with any substitute grantees and the process and time-frame for notifying clients and grantee staff. DCOA may accept, modify or reject the terms of the proposed termination.

When termination is mutually agreed upon, DCOA may terminate a grant by sending a notice to the grantee setting forth the terms and effective date of the termination. Nothing in this section precludes DCOA from making a determination to suspend, discontinue or terminate the grant unilaterally under this Chapter.

**2. Close Out of Terminated Grants**

After a grant is terminated, the procedures for Grant Close-out in Chapter V.L. apply based on the effective date of termination, rather than the date of completion of the grant. DCOA may require additional reports or actions in connection with a termination

**Authority:** 5 U.S.C. 301; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738 (3 CFR, 1973 Comp., p. 799); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

**Source:** 68 FR 66544, 66630, 66632, Nov. 26, 2003, unless otherwise noted.

**§ 76.25 How is this part organized?**

(a) This part is subdivided into ten subparts. Each subpart contains information related to a broad topic or specific audience with special responsibilities, as shown in the following table:

In subpart . . .	You will find provisions related to . . .
A.....	general information about this rule.
B.....	the types of HHS transactions that are covered by the Governmentwide nonprocurement suspension and debarment system.
C.....	the responsibilities of persons who participate in covered transactions.
D.....	the responsibilities of HHS officials who are authorized to enter into covered transactions.
E.....	the responsibilities of Federal agencies

	for the Excluded Parties List System (Disseminated by the General Services Administration).
F.....	the general principles governing suspension, debarment, voluntary exclusion and settlement.
G.....	suspension actions.
H.....	debarment actions.
I.....	definitions of terms used in this part.
J.....	[Reserved]

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(b) The following table shows which subparts may be of special interest to you, depending on who you are:

If you are . . .	See subpart(s) . . .
(1) a participant or principal in a nonprocurement transaction.	A, B, C, and I.
(2) a respondent in a suspension action...	A, B, F, G and I.
(3) a respondent in a debarment action....	A, B, F, H and I.
(4) a suspending official.....	A, B, D, E, F, G and I.
(5) a debarring official.....	A, B, D, E, F, H and I.
(6) a (n) HHS official authorized to enter into a covered transaction.	A, B, D, E and I.
(7) Reserved.....	J.

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**§ 76.50 How is this part written?**

(a) This part uses a “plain language” format to make it easier for the general public and business community to use. The section headings and text, often in the form of questions and answers, must be read together.

(b) Pronouns used within this part, such as “I” and “you,” change from subpart to subpart depending on the audience being addressed. The pronoun “we” always is the HHS.

(c) The “Covered Transactions” diagram in the appendix to this part shows the levels or “tiers” at which the HHS enforces an exclusion under this part.

**76.75 Do terms in this part have special meanings?**

This part uses terms throughout the text that have special meaning. Those terms are defined in Subpart I of this part. For example, three important terms are—

(a) *Exclusion or excluded*, which refers only to discretionary actions taken by a suspending or debarring official under this part or the Federal Acquisition Regulation (48 CFR part 9, subpart 9.4);

(b) *Disqualification or disqualified*, which refers to prohibitions under specific statutes, executive orders (other than Executive Order 12549 and Executive Order 12689), or other authorities. Disqualifications frequently are not subject to the discretion of an agency official, may have a different scope than exclusions, or have special conditions that apply to the disqualification; and

(c) *Ineligibility or ineligible*, which generally refers to a person who is either excluded or disqualified.

**Subpart A—General**

**§ 76.100 What does this part do?**

This part adopts a governmentwide system of debarment and suspension for HHS nonprocurement activities. It also provides for reciprocal exclusion of persons who have been excluded under the Federal Acquisition Regulation, and provides for the consolidated listing of all persons who are excluded, or disqualified by statute, executive order, or other legal authority. This part satisfies the requirements in section 3 of Executive Order 12549, "Debarment and Suspension" (3 CFR 1986 Comp., p. 189), Executive Order 12689, "Debarment and Suspension" (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

**§ 76.105 Does this part apply to me?**

Portions of this part (see table at §76.25(b)) apply to you if you are a(n)—

- (a) Person who has been, is, or may reasonably be expected to be, a participant or principal in a covered transaction;
- (b) Respondent (a person against whom the HHS has initiated a debarment or suspension action);
- (c) HHS debarring or suspending official; or
- (d) HHS official who is authorized to enter into covered transactions with non-Federal parties.

**§ 76.110 What is the purpose of the nonprocurement debarment and suspension system?**

- (a) To protect the public interest, the Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons.
- (b) A Federal agency uses the nonprocurement debarment and suspension system to exclude from Federal programs persons who are not presently responsible.
- (c) An exclusion is a serious action that a Federal agency may take only to protect the public interest. A Federal agency may not exclude a person or commodity for the purposes of punishment.

**§ 76.115 How does an exclusion restrict a person's involvement in covered transactions?**

With the exceptions stated in §§76.120, 76.315, and 76.420, a person who is excluded by the HHS or any other Federal agency may not:

- (a) Be a participant in a(n) HHS transaction that is a covered transaction under subpart B of this part;
- (b) Be a participant in a transaction of any other Federal agency that is a covered transaction under that agency's regulation for debarment and suspension; or
- (c) Act as a principal of a person participating in one of those covered transactions.

**§ 76.120 May we grant an exception to let an excluded person participate in a covered transaction?**

- (a) The HHS Debarring/Suspension Official may grant an exception permitting an excluded person to participate in a particular covered transaction. If the HHS Debarring/Suspension Official grants an exception, the exception must be in writing and state the reason(s) for deviating from the governmentwide policy in Executive Order 12549.
- (b) An exception granted by one agency for an excluded person does not extend to the covered transactions of another agency.

**§ 76.125 Does an exclusion under the nonprocurement system affect a person's eligibility for Federal procurement contracts?**

If any Federal agency excludes a person under its nonprocurement common rule on or after August 25, 1995, the excluded person is also ineligible to participate in Federal procurement transactions under the FAR. Therefore, an exclusion under this part has reciprocal effect in Federal procurement transactions.

**§ 76.130 Does exclusion under the Federal procurement system affect a person's eligibility to participate in nonprocurement transactions?**

If any Federal agency excludes a person under the FAR on or after August 25, 1995, the excluded person is also ineligible to participate in nonprocurement covered transactions under this part. Therefore, an exclusion under the FAR has reciprocal effect in Federal nonprocurement transactions.

**§ 76.135 May the HHS exclude a person who is not currently participating in a nonprocurement transaction?**

Given a cause that justifies an exclusion under this part, we may exclude any person who has been involved, is currently involved, or may reasonably be expected to be involved in a covered transaction.

**§ 76.140 How do I know if a person is excluded?**

Check the *Excluded Parties List System (EPLS)* to determine whether a person is excluded. The General Services Administration (GSA) maintains the *EPLS* and makes it available, as detailed in subpart E of this part. When a Federal agency takes an action to exclude a person under the nonprocurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the *EPLS*.

**§ 76.145 Does this part address persons who are disqualified, as well as those who are excluded from nonprocurement transactions?**

Except if provided for in Subpart J of this part, this part—

(a) Addresses disqualified persons only to—

(1) Provide for their inclusion in the *EPLS*; and

(2) State responsibilities of Federal agencies and participants to check for disqualified persons before entering into covered transactions.

(b) Does not specify the—

(1) HHS transactions for which a disqualified person is ineligible. Those transactions vary on a case-by-case basis, because they depend on the language of the specific statute, Executive order, or regulation that caused the disqualification;

(2) Entities to which the disqualification applies; or

(3) Process that the agency uses to disqualify a person. Unlike exclusion, disqualification is frequently not a discretionary action that a Federal agency takes.

**Subpart B—Covered Transactions**

**§ 76.200 What is a covered transaction?**

A covered transaction is a nonprocurement or procurement transaction that is subject to the prohibitions of this part. It may be a transaction at—

(a) The primary tier, between a Federal agency and a person (see appendix to this part); or

(b) A lower tier, between a participant in a covered transaction and another person.

**§ 76.205 Why is it important if a particular transaction is a covered transaction?**

The importance of a covered transaction depends upon who you are.

(a) As a participant in the transaction, you have the responsibilities laid out in Subpart C of this part. Those include responsibilities to the person or Federal agency at the next higher tier from whom you received the transaction, if any. They also include responsibilities if you subsequently enter into other covered transactions with persons at the next lower tier.

(b) As a Federal official who enters into a primary tier transaction, you have the responsibilities laid out in subpart D of this part.

(c) As an excluded person, you may not be a participant or principal in the transaction unless—

(1) The person who entered into the transaction with you allows you to continue your involvement in a transaction that predates your exclusion, as permitted under §76.310 or §76.415; or

(2) A(n) HHS official obtains an exception from the HHS Debarring/Suspension Official to allow you to be involved in the transaction, as permitted under §76.120.

**§ 76.210 Which nonprocurement transactions are covered transactions?**

All nonprocurement transactions, as defined in §76.970, are covered transactions unless listed in §76.215. (See appendix to this part.)

**§ 76.215 Which nonprocurement transactions are not covered transactions?**

The following types of nonprocurement transactions are not covered transactions:

(a) A direct award to—

- (1) A foreign government or foreign governmental entity;
  - (2) A public international organization;
  - (3) An entity owned (in whole or in part) or controlled by a foreign government; or
  - (4) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.
- (b) A benefit to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted). For example, if a person receives social security benefits under the Supplemental Security Income provisions of the Social Security Act, 42 U.S.C. 1301 et seq., those benefits are not covered transactions and, therefore, are not affected if the person is excluded.
- (c) Federal employment.
- (d) A transaction that the HHS needs to respond to a national or agency-recognized emergency or disaster.
- (e) A permit, license, certificate, or similar instrument issued as a means to regulate public health, safety, or the environment, unless the HHS specifically designates it to be a covered transaction.
- (f) An incidental benefit that results from ordinary governmental operations.
- (g) Any other transaction if the application of an exclusion to the transaction is prohibited by law.

**§ 76.220 Are any procurement contracts included as covered transactions?**

- (a) Covered transactions under this part—
- (1) Do not include any procurement contracts awarded directly by a Federal agency; but
  - (2) Do include some procurement contracts awarded by non-Federal participants in nonprocurement covered transactions (see appendix to this part).
- (b) Specifically, a contract for goods or services is a covered transaction if any of the following applies:
- (1) The contract is awarded by a participant in a nonprocurement transaction that is covered under §76.210, and the amount of the contract is expected to equal or exceed \$25,000.
  - (2) The contract requires the consent of a(n) HHS official. In that case, the contract, regardless of the amount, always is a covered transaction, and it does not matter who awarded it. For example, it could be a subcontract awarded by a contractor at a tier below a nonprocurement transaction, as shown in the appendix to this part.
  - (3) The contract is for federally-required audit services.
- (c) The contract is a subcontract at any tier below a procurement transaction that is covered under paragraph (a) of this section, and the value of the contract exceeds or is expected to exceed the "simplified acquisition threshold" defined at 42 U.S.C. 403(11). This extends the coverage of paragraph (a) of this section to all lower tiers of contracts that exceed the simplified acquisition threshold (see optional lower tier coverage shown in the diagram in the appendix to this part).

[68 FR 66544, 66630, 66632, Nov. 26, 2003]

**§ 76.225 How do I know if a transaction in which I may participate is a covered transaction?**

As a participant in a transaction, you will know that it is a covered transaction because the agency regulations governing the transaction, the appropriate agency official, or participant at the next higher tier who enters into the transaction with you, will tell you that you must comply with applicable portions of this part.

**§ 76.230 What is the relationship between covered transactions and exclusions from participation in Federal health care programs under Title XI of the Social Security Act?**

Any individual or entity excluded from participation in Medicare, Medicaid and other Federal health care programs under Title XI of the Social Security Act, 42 U.S.C. 1320a-7, will be subject to the prohibitions against participating in covered transactions, as set forth in this part. In addition, these excluded parties are also prohibited from participating in all Executive Branch procurement programs and activities. (Public Law 103-355,

section 2455) For example, if an individual or entity is excluded by the HHS Office of Inspector General from participation in Medicare, Medicaid and all other Federal health care programs, in accordance with 42 U.S.C. 1320a-7, then that individual or entity is prohibited from participating in all Federal Government procurement and nonprocurement programs (42 CFR part 1001).

[68 FR 66632, Nov. 26, 2003]

#### **Subpart C—Responsibilities of Participants Regarding Transactions**

##### **Doing Business With Other Persons**

##### **§ 76.300 What must I do before I enter into a covered transaction with another person at the next lower tier?**

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking the *EPLS*; or
- (b) Collecting a certification from that person if allowed by this rule; or
- (c) Adding a clause or condition to the covered transaction with that person.

##### **§ 76.305 May I enter into a covered transaction with an excluded or disqualified person?**

- (a) You as a participant may not enter into a covered transaction with an excluded person, unless the HHS grants an exception under §76.120.
- (b) You may not enter into any transaction with a person who is disqualified from that transaction, unless you have obtained an exception under the disqualifying statute, Executive order, or regulation.

##### **§ 76.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?**

- (a) You as a participant may continue covered transactions with an excluded person if the transactions were in existence when the agency excluded the person. However, you are not required to continue the transactions, and you may consider termination. You should make a decision about whether to terminate and the type of termination action, if any, only after a thorough review to ensure that the action is proper and appropriate.
- (b) You may not renew or extend covered transactions (other than no-cost time extensions) with any excluded person, unless the HHS grants an exception under §76.120.

##### **§ 76.315 May I use the services of an excluded person as a principal under a covered transaction?**

- (a) You as a participant may continue to use the services of an excluded person as a principal under a covered transaction if you were using the services of that person in the transaction before the person was excluded. However, you are not required to continue using that person's services as a principal. You should make a decision about whether to discontinue that person's services only after a thorough review to ensure that the action is proper and appropriate.
- (b) You may not begin to use the services of an excluded person as a principal under a covered transaction unless the HHS grants an exception under §76.120.

##### **§ 76.320 Must I verify that principals of my covered transactions are eligible to participate?**

Yes, you as a participant are responsible for determining whether any of your principals of your covered transactions is excluded or disqualified from participating in the transaction. You may decide the method and frequency by which you do so. You may, but you are not required to, check the *EPLS*.

##### **§ 76.325 What happens if I do business with an excluded person in a covered transaction?**

If as a participant you knowingly do business with an excluded person, we may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

##### **§ 76.330 What requirements must I pass down to persons at lower tiers with whom I intend to do business?**

Before entering into a covered transaction with a participant at the next lower tier, you must require that participant to—

(a) Comply with this subpart as a condition of participation in the transaction. You may do so using any method(s), unless §76.440 requires you to use specific methods.

(b) Pass the requirement to comply with this subpart to each person with whom the participant enters into a covered transaction at the next lower tier.

#### **Disclosing Information—Primary Tier Participants**

##### **§ 76.335 What information must I provide before entering into a covered transaction with the HHS?**

Before you enter into a covered transaction at the primary tier, you as the participant must notify the HHS office that is entering into the transaction with you, if you know that you or any of the principals for that covered transaction:

(a) Are presently excluded or disqualified;

(b) Have been convicted within the preceding three years of any of the offenses listed in §76.800(a) or had a civil judgment rendered against you for one of those offenses within that time period;

(c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in §76.800(a); or

(d) Have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default.

##### **§ 76.340 If I disclose unfavorable information required under §76.335, will I be prevented from participating in the transaction?**

As a primary tier participant, your disclosure of unfavorable information about yourself or a principal under §76.335 will not necessarily cause us to deny your participation in the covered transaction. We will consider the information when we determine whether to enter into the covered transaction. We also will consider any additional information or explanation that you elect to submit with the disclosed information.

##### **§ 76.345 What happens if I fail to disclose information required under §76.335?**

If we later determine that you failed to disclose information under §76.335 that you knew at the time you entered into the covered transaction, we may—

(a) Terminate the transaction for material failure to comply with the terms and conditions of the transaction; or

(b) Pursue any other available remedies, including suspension and debarment.

##### **§ 76.350 What must I do if I learn of information required under §76.335 after entering into a covered transaction with the HHS?**

At any time after you enter into a covered transaction, you must give immediate written notice to the HHS office with which you entered into the transaction if you learn either that—

(a) You failed to disclose information earlier, as required by §76.335; or

(b) Due to changed circumstances, you or any of the principals for the transaction now meet any of the criteria in §76.335.

#### **Disclosing Information—Lower Tier Participants**

##### **§ 76.355 What information must I provide to a higher tier participant before entering into a covered transaction with that participant?**

Before you enter into a covered transaction with a person at the next higher tier, you as a lower tier participant must notify that person if you know that you or any of the principals are presently excluded or disqualified.

##### **§ 76.360 What happens if I fail to disclose the information required under §76.355?**

If we later determine that you failed to tell the person at the higher tier that you were excluded or disqualified at the time you entered into the covered transaction with that person, we may pursue any available remedies, including suspension and debarment.

##### **§ 76.365 What must I do if I learn of information required under §76.355 after entering into a covered transaction with a higher tier participant?**

At any time after you enter into a lower tier covered transaction with a person at a higher tier, you must provide immediate written notice to that person if you learn either that—

(a) You failed to disclose information earlier, as required by §76.355; or



(b) Due to changed circumstances, you or any of the principals for the transaction now meet any of the criteria in §76.355.

#### **Subpart D—Responsibilities of HHS Officials Regarding Transactions**

##### **§ 76.400 May I enter into a transaction with an excluded or disqualified person?**

(a) You as an agency official may not enter into a covered transaction with an excluded person unless you obtain an exception under §76.120.

(b) You may not enter into any transaction with a person who is disqualified from that transaction, unless you obtain a waiver or exception under the statute, Executive order, or regulation that is the basis for the person's disqualification.

##### **§ 76.405 May I enter into a covered transaction with a participant if a principal of the transaction is excluded?**

As an agency official, you may not enter into a covered transaction with a participant if you know that a principal of the transaction is excluded, unless you obtain an exception under §76.120.

##### **§ 76.410 May I approve a participant's use of the services of an excluded person?**

After entering into a covered transaction with a participant, you as an agency official may not approve a participant's use of an excluded person as a principal under that transaction, unless you obtain an exception under §76.120.

##### **§ 76.415 What must I do if a Federal agency excludes the participant or a principal after I enter into a covered transaction?**

(a) You as an agency official may continue covered transactions with an excluded person, or under which an excluded person is a principal, if the transactions were in existence when the person was excluded. You are not required to continue the transactions, however, and you may consider termination. You should make a decision about whether to terminate and the type of termination action, if any, only after a thorough review to ensure that the action is proper.

(b) You may not renew or extend covered transactions (other than no-cost time extensions) with any excluded person, or under which an excluded person is a principal, unless you obtain an exception under §76.120.

##### **§ 76.420 May I approve a transaction with an excluded or disqualified person at a lower tier?**

If a transaction at a lower tier is subject to your approval, you as an agency official may not approve—

(a) A covered transaction with a person who is currently excluded, unless you obtain an exception under §76.120; or

(b) A transaction with a person who is disqualified from that transaction, unless you obtain a waiver or exception under the statute, Executive order, or regulation that is the basis for the person's disqualification.

##### **§ 76.425 When do I check to see if a person is excluded or disqualified?**

As an agency official, you must check to see if a person is excluded or disqualified before you—

(a) Enter into a primary tier covered transaction;

(b) Approve a principal in a primary tier covered transaction;

(c) Approve a lower tier participant if agency approval of the lower tier participant is required; or

(d) Approve a principal in connection with a lower tier transaction if agency approval of the principal is required.

##### **§ 76.430 How do I check to see if a person is excluded or disqualified?**

You check to see if a person is excluded or disqualified in two ways:

(a) You as an agency official must check the *EPLS* when you take any action listed in §76.425.

(b) You must review information that a participant gives you, as required by §76.335, about its status or the status of the principals of a transaction.

##### **§ 76.435 What must I require of a primary tier participant?**

You as an agency official must require each participant in a primary tier covered

transaction to—

(a) Comply with subpart C of this part as a condition of participation in the transaction; and

(b) Communicate the requirement to comply with Subpart C of this part to persons at the next lower tier with whom the primary tier participant enters into covered transactions.

**§ 76.440 What method do I use to communicate those requirements to participants?**

To communicate the requirements to participants, you must include a term or condition in the transaction requiring the participant's compliance with subpart C of this part and requiring them to include a similar term or condition in lower tier covered transactions.

[68 FR 66632, Nov. 26, 2003]

**§ 76.445 What action may I take if a primary tier participant knowingly does business with an excluded or disqualified person?**

If a participant knowingly does business with an excluded or disqualified person, you as an agency official may refer the matter for suspension and debarment consideration. You may also disallow costs, annul or terminate the transaction, issue a stop work order, or take any other appropriate remedy.

**§ 76.450 What action may I take if a primary tier participant fails to disclose the information required under §76.335?**

If you as an agency official determine that a participant failed to disclose information, as required by §76.335, at the time it entered into a covered transaction with you, you may—

(a) Terminate the transaction for material failure to comply with the terms and conditions of the transaction; or

(b) Pursue any other available remedies, including suspension and debarment.

**§ 76.455 What may I do if a lower tier participant fails to disclose the information required under §76.355 to the next higher tier?**

If you as an agency official determine that a lower tier participant failed to disclose information, as required by §76.355, at the time it entered into a covered transaction with a participant at the next higher tier, you may pursue any remedies available to you, including the initiation of a suspension or debarment action.

**§ 76.460 What are the obligations of Medicare carriers and intermediaries?**

Because Medicare carriers, intermediaries and other Medicare contractors undertake responsibilities on behalf of the Medicare program (Title XVIII of the Social Security Act), these entities assume the same obligations and responsibilities as Medicare agency officials with respect to actions under 45 CFR part 76. This would include these entities checking the EPLS and taking necessary steps to effectuate this part.

[68 FR 66632, Nov. 26, 2003]

**Subpart E—Excluded Parties List System**

**§ 76.500 What is the purpose of the Excluded Parties List System (EPLS)?**

The *EPLS* is a widely available source of the most current information about persons who are excluded or disqualified from covered transactions.

**§ 76.505 Who uses the EPLS?**

(a) Federal agency officials use the *EPLS* to determine whether to enter into a transaction with a person, as required under §76.430.

(b) Participants also may, but are not required to, use the *EPLS* to determine if—

(1) Principals of their transactions are excluded or disqualified, as required under §76.320; or

(2) Persons with whom they are entering into covered transactions at the next lower tier are excluded or disqualified.

(c) The *EPLS* is available to the general public.

**§ 76.510 Who maintains the EPLS?**

In accordance with the OMB guidelines, the General Services Administration (GSA) maintains the *EPLS*. When a Federal agency takes an action to exclude a person under the nonprocurement or procurement debarment and suspension system, the agency enters

the information about the excluded person into the *EPLS*.

**§ 76.515 What specific information is in the EPLS?**

(a) At a minimum, the *EPLS* indicates—

(1) The full name (where available) and address of each excluded or disqualified person, in alphabetical order, with cross references if more than one name is involved in a single action;

(2) The type of action;

(3) The cause for the action;

(4) The scope of the action;

(5) Any termination date for the action;

(6) The agency and name and telephone number of the agency point of contact for the action; and

(7) The Dun and Bradstreet Number (DUNS), or other similar code approved by the GSA, of the excluded or disqualified person, if available.

(b)(1) The database for the *EPLS* includes a field for the Taxpayer Identification Number (TIN) (the social security number (SSN) for an individual) of an excluded or disqualified person.

(2) Agencies disclose the SSN of an individual to verify the identity of an individual, only if permitted under the Privacy Act of 1974 and, if appropriate, the Computer Matching and Privacy Protection Act of 1988, as codified in 5 U.S.C. 552(a).

**§ 76.520 Who places the information into the EPLS?**

Federal officials who take actions to exclude persons under this part or officials who are responsible for identifying disqualified persons must enter the following information about those persons into the *EPLS*:

(a) Information required by §76.515(a);

(b) The Taxpayer Identification Number (TIN) of the excluded or disqualified person, including the social security number (SSN) for an individual, if the number is available and may be disclosed under law;

(c) Information about an excluded or disqualified person, generally within five working days, after—

(1) Taking an exclusion action;

(2) Modifying or rescinding an exclusion action;

(3) Finding that a person is disqualified; or

(4) Finding that there has been a change in the status of a person who is listed as disqualified.

**§ 76.525 Whom do I ask if I have questions about a person in the EPLS?**

If you have questions about a person in the *EPLS*, ask the point of contact for the Federal agency that placed the person's name into the *EPLS*. You may find the agency point of contact from the *EPLS*.

**§ 76.530 Where can I find the EPLS?**

(a) You may access the *EPLS* through the Internet, currently at <http://epls.arnet.gov>.

(b) As of November 26, 2003, you may also subscribe to a printed version. However, we anticipate discontinuing the printed version. Until it is discontinued, you may obtain the printed version by purchasing a yearly subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by calling the Government Printing Office Inquiry and Order Desk at (202) 783-3238.

**Subpart F—General Principles Relating to Suspension and Debarment Actions**

**§ 76.600 How do suspension and debarment actions start?**

When we receive information from any source concerning a cause for suspension or debarment, we will promptly report and investigate it. We refer the question of whether to suspend or debar you to our suspending or debarring official for consideration, if appropriate.

**§ 76.605 How does suspension differ from debarment?**

Suspension differs from debarment in that—

A suspending official . . .	A debaring official . . .
(a) Imposes suspension as a temporary status of ineligibility for procurement and nonprocurement transactions, pending completion of an investigation or legal proceedings.	Imposes debarment for a specified period as a final determination that a person is not presently responsible.
(b) Must_.....	Must conclude, based on a preponderance of the evidence, that the person has engaged in conduct that warrants debarment.
(1) Have adequate evidence that there may be a cause for debarment of a person; and.	
(2) Conclude that immediate action is necessary to protect the Federal interest.	
(c) Usually imposes the suspension first, and then promptly notifies the suspended person, giving the person an opportunity to contest the suspension and have it lifted.	Imposes debarment after giving the respondent notice of the action and an opportunity to contest the proposed debarment.

**Subpart I—Definitions**

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**§ 76.900 Adequate evidence.**

[↑ top](#)

*Adequate evidence* means information sufficient to support the reasonable belief that a particular act or omission has occurred.

**§ 76.905 Affiliate.**

[↑ top](#)

Persons are *affiliates* of each other if, directly or indirectly, either one controls or has the power to control the other or a third person controls or has the power to control both. The ways we use to determine control include, but are not limited to—

- (a) Interlocking management or ownership;
- (b) Identity of interests among family members;
- (c) Shared facilities and equipment;
- (d) Common use of employees; or
- (e) A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

**§ 76.910 Agency.**

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*Agency* means any United States executive department, military department, defense agency, or any other agency of the executive branch. Other agencies of the Federal government are not considered “agencies” for the purposes of this part unless they issue regulations adopting the governmentwide Debarment and Suspension system under Executive orders 12549 and 12689.

**§ 76.915 Agent or representative.**

[↑ top](#)

*Agent or representative* means any person who acts on behalf of, or who is authorized to commit, a participant in a covered transaction.

**§ 76.920 Civil judgment.**

[↑ top](#)

*Civil judgment* means the disposition of a civil action by any court of competent jurisdiction, whether by verdict, decision, settlement, stipulation, other disposition which creates a civil

liability for the complained of wrongful acts, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 (31 U.S.C. 3801–3812).

**§ 76.925 Conviction.**

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*Conviction* means—

(a) A judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, including a plea of nolo contendere; or

(b) Any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution. A disposition without the participation of the court is the functional equivalent of a judgment only if it includes an admission of guilt.

**§ 76.930 Debarment.**

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*Debarment* means an action taken by a debarring official under subpart H of this part to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred.

**§ 76.935 Debarring official.**

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(a) *Debarring official* means an agency official who is authorized to impose debarment. A debarring official is either—

(1) The agency head; or

(2) An official designated by the agency head.

(b) [Reserved]

**§ 76.940 Disqualified.**

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*Disqualified* means that a person is prohibited from participating in specified Federal procurement or nonprocurement transactions as required under a statute, Executive order (other than Executive Orders 12549 and 12689) or other authority. Examples of disqualifications include persons prohibited under—

(a) The Davis-Bacon Act (40 U.S.C. 276(a));

(b) The equal employment opportunity acts and Executive orders; or

(c) The Clean Air Act (42 U.S.C. 7606), Clean Water Act (33 U.S.C. 1368) and Executive Order 11738 (3 CFR, 1973 Comp., p. 799).

(d) The program exclusion authorities under Title XI of the Social Security Act (42 U.S.C. 1320a–7) and enforced by the HHS Office of Inspector General.

[68 FR 66544, 66630, 66632, Nov. 26, 2003]

**§ 76.945 Excluded or exclusion.**

*Excluded or exclusion* means—

(a) That a person or commodity is prohibited from being a participant in covered transactions, whether the person has been suspended; debarred; proposed for debarment under 48 CFR part 9, subpart 9.4; voluntarily excluded; or

(b) The act of excluding a person.

**§ 76.950 Excluded Parties List System**

*Excluded Parties List System (EPLS)* means the list maintained and disseminated by the General Services Administration (GSA) containing the names and other information about persons who are ineligible. The *EPLS* system includes the printed version entitled, “List of Parties Excluded or Disqualified from Federal Procurement and Nonprocurement Programs,” so long as published.

**§ 76.955 Indictment.**

*Indictment* means an indictment for a criminal offense. A presentment, information, or other filing by a competent authority charging a criminal offense shall be given the same effect as an indictment.

**§ 76.960 Ineligible or ineligibility.**

*Ineligible or ineligibility* means that a person or commodity is prohibited from covered transactions because of an exclusion or disqualification.

**§ 76.965 Legal proceedings.**

*Legal proceedings* means any criminal proceeding or any civil judicial proceeding, including a proceeding under the Program Fraud Civil Remedies Act (31 U.S.C. 3801–3812), to which the Federal Government or a State or local government or quasi-governmental authority is a party. The term also includes appeals from those proceedings.

**§ 76.970 Nonprocurement transaction.**

(a) *Nonprocurement transaction* means any transaction, regardless of type (except procurement contracts), including, but not limited to the following:

- (1) Grants.
- (2) Cooperative agreements.
- (3) Scholarships.
- (4) Fellowships.
- (5) Contracts of assistance.
- (6) Loans.
- (7) Loan guarantees.
- (8) Subsidies.
- (9) Insurances.
- (10) Payments for specified uses.
- (11) Donation agreements.

(b) A nonprocurement transaction at any tier does not require the transfer of Federal funds.

**§ 76.975 Notice.**

*Notice* means a written communication served in person, sent by certified mail or its equivalent, or sent electronically by e-mail or facsimile. (See §76. 615.)

**§ 76.980 Participant.**

*Participant* means any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant.

**§ 76.985 Person.**

*Person* means any individual, corporation, partnership, association, unit of government, or legal entity, however organized.

**§ 76.990 Preponderance of the evidence.**

*Preponderance of the evidence* means proof by information that, compared with information opposing it, leads to the conclusion that the fact at issue is more probably true than not.

**§ 76.995 Principal.**

*Principal* means—

- (a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- (b) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who—

- (1) Is in a position to handle Federal funds;
- (2) Is in a position to influence or control the use of those funds; or,
- (3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(c) Other examples of individuals who are principals in HHS covered transactions include:

- (1) Principal investigators;
- (2) Providers of Federally-required audit services; and
- (3) Researchers.

[68 FR 66544, 66630, 66632, Nov. 26, 2003]

**§ 76.1000 Respondent.**

*Respondent* means a person against whom an agency has initiated a debarment or suspension action.

**§ 76.1005 State.**

(a) *State* means—

- (1) Any of the states of the United States;
- (2) The District of Columbia;
- (3) The Commonwealth of Puerto Rico;

- (4) Any territory or possession of the United States; or
  - (5) Any agency or instrumentality of a state.
- (b) For purposes of this part, *State* does not include institutions of higher education, hospitals, or units of local government.

**§ 76.1010 Suspending official.**

(a) *Suspending official* means an agency official who is authorized to impose suspension. The suspending official is either:

- (1) The agency head; or
- (2) An official designated by the agency head.

(b) [Reserved]

**§ 76.1015 Suspension.**

*Suspension* is an action taken by a suspending official under subpart G of this part that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended.

**§ 76.1020 Voluntary exclusion or voluntarily excluded.**

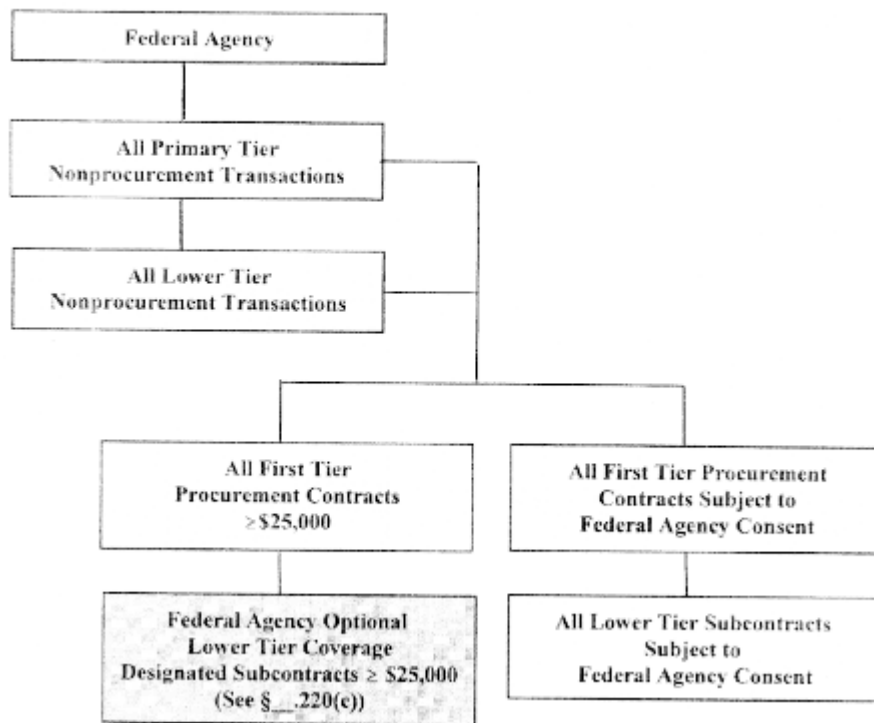
(a) *Voluntary exclusion* means a person's agreement to be excluded under the terms of a settlement between the person and one or more agencies. Voluntary exclusion must have governmentwide effect.

(b) *Voluntarily excluded* means the status of a person who has agreed to a voluntary exclusion.

Subpart J [Res

**Appendix to Part 76—Covered Transactions**

COVERED TRANSACTIONS



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## **XI. Statutes, Executive Orders and References**

### **A. Overview**

A number of federal nondiscrimination laws require that federally assisted programs be administered in a manner that does not discriminate or have the effect of discriminating on the basis of race, color, national origin, disability, sex, age, religion or political belief. DCOA applies these provisions to all program grants funded through DC appropriations as well. DCOA requires grantees to certify their compliance with these and other statutory and regulatory requirements as part of the standard assurances in the grant application. The brief descriptions of these nondiscrimination laws are taken from the Department of Health and Human Services' Civil Rights Laws and Welfare Reform Overview.

### **B. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. ("Title VI")**

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin. Policies and practices that have such an effect must be eliminated unless a recipient can show that they were necessary to achieve a legitimate nondiscriminatory objective. Even if there is such a reason, the practice cannot continue if there are alternatives that would achieve the same objectives but that would exclude fewer minorities. Persons with limited English proficiency must be afforded a meaningful opportunity to participate in programs that receive Federal funds. Policies and practices may not deny or have the effect of denying persons with limited English proficiency equal access to Federally-funded programs for which such persons qualify.

### **C. The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq.**

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. A provider generally may not exclude, deny, or provide different or lesser services to applicants or beneficiaries, on the basis of age.

### **D. Civil Rights Laws Applicable to Persons with Disabilities**

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504") prohibits discrimination on the basis of disability by recipients of Federal financial assistance. The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. ("ADA"), prohibits discrimination on the basis of disability by both public and private entities, whether or not they receive Federal financial assistance. Providers covered by Section 504 and/or the ADA may not deny benefits or services to qualified individuals with disabilities or provide lesser benefits than they provide to others. In general, an individual with a disability is "qualified" if that person meets the essential eligibility requirements for receipt of services or participation in the program or activity with or without reasonable modification to rules, policies or practices. The purpose of these laws is to ensure that covered programs are as accessible to persons with disabilities as they are to nondisabled individuals.



Persons with disabilities may be eligible under some state programs for exemptions from work requirements and/or time limits. However, program providers may not refuse to allow a person with a disability to participate in training programs or be employed because the person has a disability, and they must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to participate. This applies to persons with mental or physical disabilities. Eligibility for participation in any benefit, service or program must be based on an individual assessment of each person's ability to meet the eligibility requirements rather than on stereotypes or assumptions about the effects of a type of disability. Program providers are required to make reasonable modifications to policies, practices and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result. If a reasonable modification to the program requirements would enable a person to meet the eligibility requirements without fundamentally altering the program, that modification must be offered.

Program providers must ensure that programs and services are provided in the least restrictive environment, unless separate or different measures are necessary to ensure equal opportunity for individuals with disabilities. Programs that provide special benefits to people with disabilities are permitted, but people with disabilities cannot be compelled to participate in those programs. Even if separate programs are provided for persons with disabilities, the regular program may still be required to provide reasonable modifications.

Program providers must also ensure effective communication with individuals who have hearing, speech or visual impairments. Providers must provide such persons with auxiliary help if necessary to ensure effective communication, but are not required to provide assistance that would cause a fundamental alteration in the program or that would result in undue financial or administrative burdens.

Finally, providers may not exclude individuals with disabilities because their buildings are inaccessible. A provider is not required to make structural changes in existing facilities where other methods are effective in achieving equal access. In choosing among other methods, priority must be given to those that offer programs in the most integrated setting. However, providers are not required to take any action that would result in substantial modifications in the nature of the program or in undue financial or administrative burden. New construction and alterations to existing facilities must be made accessible and usable by persons with disabilities except where structurally impracticable.

## **E. Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et. seq. (Title IX)**

Title IX prohibits discrimination on the basis of sex in educational programs and activities that receive or benefit from Federal financial assistance. Generally, a provider may not exclude, deny or provide different or lesser services to applicants or beneficiaries on the basis of sex.

## **F. Other Requirements and References**

Other applicable laws and requirements referred to in this manual are listed below:

1. Debarment and Suspensions (Full documents can be accessed through google.com)
  - a. Executive Order #12549, 3 CFR 1986 Comp. p. 189

- b. Department of Health and Human Services regulations, 45 CFR Part 76
  - c. To locate debarred and suspended entities, check [www.epls.arnet.gov](http://www.epls.arnet.gov)
- 2. Drug-Free Workplace Act of 1988, 41 U.S.C. ch. 10, §702
  - a. Department of Labor information on the Act - [www.dol.gov/dol/topic/safety-health/drugfreeworkplace.htm](http://www.dol.gov/dol/topic/safety-health/drugfreeworkplace.htm)
- 3. Lobbying Restrictions
  - a. 31 U.S.C. §1352
  - b. Department of Health and Human Services regulations, 45 CFR Part 93
- 4. OMB Regulations can be found under OMB Circulars on [www.omb.gov](http://www.omb.gov)
  - a. Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, OMB Circular A-110, 2 CFR Part 215
  - b. Cost Principles for Educational Institutions, OMB Circular A-21, 2 CFR Part 220
  - c. Cost Principles for Non-Profit Organizations, OMB Circular A-122, 2 CFR Part 230
  - d. Audits of States, Local Governments and Non-Profit Organizations, OMB Circular A-133
- 5. DC Freedom of Information Act – D.C. Code §§ 2-531-540 (DC laws can be found on the website of the DC Council: [www.dccouncil.washington.dc.us](http://www.dccouncil.washington.dc.us))
- 6. The Living Wage Act of 2006, D.C. Code §§2-220.01-.11.
- 7. Health Insurance Portability and Accountability Act of 1996, P.L. 104-191.
- 8. Performance Measures, Outcome Objectives
  - a. For useful resources on performance measures and outcome objectives, see generally, [nationalservicesresources.org](http://nationalservicesresources.org), sponsored by the Corporation for National Service, which has a wealth of information on program development, management, and evaluation.

~~b.a.~~

## Davis-Bacon Act

[Public -- No. 403-74th Congress] [S.3303]

### **AN ACT**

To amend the Act approved March 3, 1931, relating to the rate of wages for laborers and mechanics employed by contractors and subcontractors on public buildings.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public building of the United States and the District of Columbia by contractors or subcontractors, and for other purposes," approved March 3, 1931, is amended to read as follows:

"That the advertised specifications for every contract in excess of \$2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages

received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

"Sec.2. Every contract within the scope of this Act shall contain the further provision that in the event it is found by the contracting officer that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Government may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

"Sec. 3. (a) The Comptroller General of the United States is authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to this Act; and the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the Government giving the names of persons or firms whom he has found to have disregarded their obligations to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms.

"(b) If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics with respect to whom there has been a failure to pay the wages required pursuant to this Act, such laborers and mechanics shall have the right of action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

"Sec. 4. This Act shall not be construed to supersede or impair any authority otherwise granted by Federal law to provide for the establishment of specific wage rates.

"Sec. 5. This Act shall take effect thirty days after its passage, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding at the time of the passage of this Act.

"Sec. 6. In the event of a national emergency the President is authorized to suspend the provisions of this Act.

"Sec. 7. The funds appropriated and made available by the Emergency Relief Appropriation Act of 1935 (Public Resolution Numbered 11, 74th Congress), are hereby made available for the fiscal year ending June 30, 1936, to the Department of Labor for expenses of the administration of this Act."

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Approved, August 30, 1935.

**AMENDMENT**

# Executive Order 11246, As Amended

[---DISCLAIMER---](#)

## **Executive Order 11246 - Equal Employment Opportunity**

SOURCE: The provisions of Executive Order 11246 of Sept. 24, 1965, appear at 30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p.339, unless otherwise noted.

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

### **Part I - Nondiscrimination in Government Employment**

[Part I superseded by EO 11478 of Aug. 8, 1969, 34 FR 12985, 3 CFR, 1966-1970 Comp., p. 803]

### **Part II - Nondiscrimination in Employment by Government Contractors and Subcontractors**

#### **Subpart A - Duties of the Secretary of Labor**

**SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.**

[Sec. 201 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

#### **Subpart B - Contractors' Agreements**

**SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:**

**During the performance of this contract, the contractor agrees as follows:**

**(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.**

**(2) The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.**

**(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.**

**(4) The contractor will comply with afl provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.**

**(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.**

**(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.**

**(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor win take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States." [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]**

**SEC. 203. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and**

shall be in such form, as the Secretary of Labor may prescribe.

**(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.**

**(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.**

**(d) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.**

**[Sec. 203 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]**

**SEC. 204 (a) The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order.**

**(b) The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier.**

**(c) Section 202 of this Order shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the**

carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in this **Order**.

(d) The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract: provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this **Order**: and provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this **Order**."

[Sec. 204 amended by EO 13279 of Dec. 16, 2002, 67 FR 77141, 3 CFR, 2002 Comp., p. 77141 - 77144]

### **Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies**

**SEC. 205.** The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

[Sec. 205 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 206.** The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

(b) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

[Sec. 206 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 207.** The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

[Sec. 207 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 208.** The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance,



enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

#### **Subpart D - Sanctions and Penalties**

**SEC. 209.** In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

[Sec. 209 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 210.** Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

[Sec. 210 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 211.** If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

[Sec. 211 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 212.** When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

[Sec. 212 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

#### **Subpart E - Certificates of Merit**

**SEC. 213.** The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

**SEC. 214.** Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

**SEC. 215.** The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

#### **Part III - Nondiscrimination Provisions in Federally Assisted Construction Contracts**

**SEC. 301.** Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract,

loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

[Sec. 301 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 302.** "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

**SEC. 303.** The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

(b) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for

appropriate law enforcement or other proceedings.

(c) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

[Sec. 303 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 304.** Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

#### **Part IV - Miscellaneous**

**SEC. 401.** The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

[Sec. 401 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 402.** The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

**SEC. 403.** Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

[Sec. 403 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p, 264]

**SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.**

**SEC. 405. This Order shall become effective thirty days after the date of this Order.**

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## **XII. Exhibits**

- A. Comprehensive Uniform Reporting Tool (CURT)**
- B. Monthly Financial Report - M-1**
- C. Quarterly Financial Report - Q**
- D. Year-to-Date Financial Report – Y**
- E. Pilot Financial Reports – P**
- F. DCOA Service Standards**
- G. Maximum Reimbursement Rates (FY 2007)**
- H. Performance Goals and Outcome Measures (FY 2007)**
- I. Selected Policy Memoranda**
- J. DCOA Audit Guide**
- K. Sample Timesheet**
- L. Sample Payment Request Form**
- M. DCOA Intake Form**
- N. Nutrition Screening Intake Form**
- O. Budget Schedule Instructions**
- P. Uniform Administrative Requirements for Grants & Agreements, 2 CFR Part 215 (OMB Circular A-110)**
- Q. Cost Principles for Non-Profit Organizations, 2 CFR Part 230 (OMB Circular A-122)**
- R. Audits of States, Local Governments and Non-Profit Organizations, OMB Circular A-133**
- S. U.S. Department of Health and Human Services Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Tribal and Local Governments, 45 CFR Part 92**

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Drug-Free Workplace Act of  
1988

**Author:** U.S. Government

**Summary:** Provides compliance requirements of the Drug-Free Workplace Act of 1988 for federal contractors and grantees.

Topic(s):	Laws and Regulations	Sub-topic(s):	Federal Laws and Regulations
<a href="#">Abstract</a>		<a href="#">Full Text</a>	
<b>Publisher:</b> U.S. Government Printing Office (GPO)		Copyrighted? No	
Format: Other		Size/Length: n/a	
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Date Published: November 18, 1988		SAID Item No.: 583	

[Publisher Information](#)

[Author Information](#)

[Abstract](#)

Public Law 100-690

The Drug-Free Workplace Act of 1988

The Drug-Free Workplace Act of 1988 requires some Federal contractors and all Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency.

Although, all covered contractors and grantees must maintain a drug-free workplace, the specific components necessary to meet the requirements of the Act vary based on whether the contractor or grantee is an individual or an organization. The requirements for organizations are more extensive, because organizations have to take comprehensive, programmatic steps to achieve a workplace free of drugs.

Organizations, with contracts from any U.S. Federal agency, must comply with the provisions of the Act if the contract is:

- (A) in the amount of \$100,000 or more [The Federal Acquisition Streamlining Act of 1994 (FASA) raised the threshold of contracts covered by the Drug-Free Workplace Act of 1988 from \$25,000 to those exceeding \$100,000.];
- (B) not for the acquisition of commercial goods (i.e., it is a procurement contract or purchase order); and
- (C) performed in part or in whole in the United States.

All contracts and grants awarded to individuals are covered by the Act, regardless of dollar value. Also, grants awarded to organizations are covered by the Act.

Covered contracts and grants received by organizations, must meet the requirements of the Act by doing the following:

- (A) publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace. The statement should also notify employees of any punitive actions that will be taken.
- (B) establish a drug-free awareness program to inform employees about
  - (i) the dangers of drug abuse in the workplace;
  - (ii) the policy of maintaining a drug-free workplace;
  - (iii) any available drug counseling, rehabilitation, and employee assistance programs; and
  - (iv) and the penalties that may be imposed upon employees for drug abuse violations.
- (C) make it a requirement that each employee be given a copy of the workplace substance abuse policy.

Any individual who receives a contract or grant from the Federal government, regardless of dollar value, must agree not to engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the performance of this contract/grant.

If a contractor is found not to have a drug-free workplace, each contract awarded by any federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both. The contractor may also be ineligible for award of any contract by any federal agency, and for participation in any future procurement by any federal agency, for a period not to exceed 5 years.

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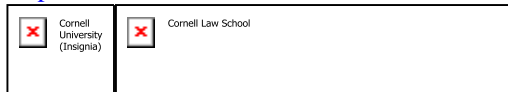
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[TITLE 41](#) > [CHAPTER 10](#) > § 702

## § 702. Drug-free workplace requirements for Federal grant recipients

*Release date: 2005-10-24*

### (a) Drug-free workplace requirement

#### (1) Persons other than individuals

No person, other than an individual, shall receive a grant from any Federal agency unless such person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the grantee's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by subparagraph (A);

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(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment in such grant, the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the granting agency within 10 days after receiving notice of a conviction under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section [703](#) of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

## **(2) Individuals**

No Federal agency shall make a grant to any individual unless such individual agrees as a condition of such grant that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with such grant.

### **(b) Suspension, termination, or debarment of grantee**

#### **(1) Grounds for suspension, termination, or debarment**

Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to suspension or debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee violates the requirements of subparagraph (A), (B), (C), (D), (E), (F), or (G) of subsection (a)(1) of this section; or

(B) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a)(1) of this section.

#### **(2) Conduct of suspension, termination, and debarment proceedings**

A suspension of payments, termination, or suspension or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

#### **(3) Effect of debarment**

Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years.

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## **North Carolina Division of Aging and Adult Services**

### **HOME AND COMMUNITY CARE BLOCK GRANT**

## **PROCEDURES MANUAL FOR COMMUNITY SERVICE PROVIDERS**

Effective Date: July 1, 1992  
Revision Date: February 17, 1997

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### **About the Home and Community Care Block Grant Manual**

This document consolidates, under a single cover, all the general policy requirements governing the Home and Community Care Block Grant. A copy of the Service Standard Manual Volume(s) for the service(s) your agency is responsible for providing is available through your [Area Agency on Aging](#) if you do not already have a copy.

The majority of the material contained in the Home and Community Care Block Grant Procedures Manual reflects existing policy (i.e. Service Cost-Sharing, confidentiality, reporting unit and non-unit services via the Aging Resources Management System (ARMS), reimbursement procedures, service authorization, and audits). A section on appeals - section 7 (which originally appeared in the AAA Policy Manual) is new, as well as all information, which appears in

bold.

Please contact your [Area Agency on Aging](#) if you have questions regarding either the Home and Community Care Block Grant Procedures Manual or the Service Standards Manual(s).

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## Introduction

North Carolina General Statute 143B-181.1(a)(11) establishes a Home and Community Care Block Grant for Older Adults to be administered by the North Carolina Division of Aging. This legislation is the result of a recommendation made by the Department of Human Resources (DHR) Advisory Committee on Home and Community Care, a broad based state level advisory committee established in 1989 by North Carolina General Statute 143B-181.9A. This committee was charged with, among other things, developing a "common funding stream" for services to older North Carolinians.

The Home and Community Care Block Grant, effective July 1, 1992, is comprised of funding for in-home and community based services currently available through the Division of Aging as well as a portion of funding targeted for in-home and community based services previously administered by the North Carolina Division of Social Services. Older Americans Act funds constitutes approximately 45% of Home and Community Care Block Grant funding and are intended to develop and enhance comprehensive and coordinated community based systems of services, opportunities and protections for older adults. Future funds appropriated by the General Assembly for this purpose will also be included in the Home and Community Care Block Grant. Area Agencies on Aging will fund county programs on aging through grant agreements with Boards of County Commissioners and community service providers.

The block grant gives County Commissioners maximum discretion in deciding how aging funds will be administered and budgeted in the county. By endorsing a local Funding Plan, Boards of County Commissioners will define the services to be provided, determine funding levels for services, and identify the community service providers to be involved with providing Home and Community Care Block Grant services. In addition to giving counties increased decision-making authority for planning and delivering aging services, the block grant is also intended to achieve the following goals:

- promote the visibility and importance of aging

- programs locally,
- establish a single set of policies and procedures for in-home and community based services provided with block grant funds, and
  - provide for an equitable distribution of funds to each county consistent with the requirements of the Older Americans Act.

This manual outlines the policies and procedures to be followed by community service providers providing the Home and Community Care Block Grant services specified in the county's Funding Plan. Questions pertaining to the policies and procedures outlined in this manual should be directed to your Area Agency on Aging.

The North Carolina Division of Aging appreciates your commitment to providing quality in-home and community based services in support of older adults in your community.

July 2002 NSF 02-151

**NATIONAL SCIENCE FOUNDATION  
Office of Budget, Finance & Award Management  
4201 Wilson Boulevard  
Arlington, VA 22230**

Dear Colleagues:

We have published a revised version of the NSF Grant Policy Manual (GPM) effective August 1, 2002. This document supersedes all prior versions of the GPM. This revision implements important changes to NSF's policies, as well as updates procedures for conformance with the Foundation's conversion to electronic processes. A summary of significant changes has been developed to assist the user in navigating through these changes.

Given the continually expanding use of the NSF website to provide and obtain information regarding NSF programs, funding opportunities, and proposal and award policies and procedures, the GPM will no longer be a "printed" document or be available through the Government Printing Office subscription service. NSF has successfully tested use of electronic dissemination with a number of our major announcements and solicitations, as the well as the NSF Grant Proposal Guide and Guide to Programs, over the past few years. Therefore, the GPM will be issued electronically and accessible on the NSF website.

Organizations or individuals unable to access the GPM electronically may order paper copies (maximum of 5 per request) by either of the following means:

- Phoning the NSF Publications Clearinghouse at (301) 947-2722; or
- Sending a request to [pubs@nsf.gov](mailto:pubs@nsf.gov) or the NSF Publications Clearinghouse, P.O. Box 218, Jessup, MD 20794-0218.

Please address any questions or comments about the GPM to the Policy Office, Division of Grants and Agreements at (703) 292-8243 or by e-mail to [policy@nsf.gov](mailto:policy@nsf.gov).

Thomas N. Cooley  
Chief Financial Officer &

## **FOREWORD**

This *Grant Policy Manual* (GPM) is a compendium of basic NSF policies and procedures for use by the grantee community and NSF staff. Its coverage includes the NSF award process, from issuance and administration of an award through closeout and is effective August 1, 2002. Guidance regarding other grant requirements or considerations that either are not universally applicable or which do not follow the award cycle is also provided.

General information about NSF programs may be found in the NSF *Guide to Programs*. Additional information about special requirements of individual NSF programs may be obtained from the appropriate Foundation program offices. Information about most program deadlines and target dates for proposals appears in the NSF E-Bulletin, an electronic publication available at <http://www.nsf.gov>. Program deadline and target date information also appears in individual program announcements and solicitations and on relevant NSF Divisional websites. A listing of all upcoming deadlines, sorted by date and by program area is available on the NSF website.

The *Grant Proposal Guide* (GPG) provides guidance for the preparation and submission of proposals to NSF. Some NSF programs have program solicitations that modify the general provisions of this Guide, and, in such cases, the guidelines provided in the solicitation must be followed. Contact with NSF program personnel prior to proposal preparation is encouraged.

Informal information about NSF activities can be obtained on the Grants Bulletin Board. To make arrangements to access the bulletin board, send your electronic mail address along with your complete name, address and telephone number to [grants@nsf.gov](mailto:grants@nsf.gov).

The National Science Foundation has Telephonic Device for the Deaf (TDD) and Federal Information Relay Service (FIRS) capabilities that enable individuals with hearing impairments to communicate with the Foundation about NSF programs, employment or general information. TDD may be accessed at (703) 292-5090, FIRS at (800) 877-8339. The National Science Foundation Information Center may be reached at (703) 292-5111.

All NSF publications should be clear and understandable. If you have suggestions on how NSF can improve this or other NSF publications, please email [plainlanguage@nsf.gov](mailto:plainlanguage@nsf.gov).

July 2002 NSF 02-151

## **SUMMARY OF SIGNIFICANT CHANGES**

### **Overall Document**

Editorial changes have been made throughout the Grant Policy Manual (GPM) either to clarify or enhance the intended meaning of a sentence or section.

Previously issued policies, practices and procedures have been incorporated, especially changes brought about by electronic processing of proposals and NSF's electronic signature process.

### **Foreword**

The ability to access NSF policy documents electronically has been incorporated, and the phone numbers for contacting NSF via the Telephonic Device for the Deaf (TDD) and Federal Information Relay Service (FIRS) have been updated.

### **Acronyms**

The Acronym listing has been updated to reflect current names for documents or organizations. Acronyms that no longer appear in the GPM have been removed from the listing.

### **Chapter I Basic Information**

Descriptions of the NSF organizations or offices most relevant to grantees (for example, the National Science Board (NSB), Program offices, Division of Grants and Agreements (DGA), Division of Contracts, Policy and Oversight (CPO)) have been updated to reflect their current mission and function. A hypertext link to the most recent listing of NSF offices and directorates on the NSF website has been added and the paper organizational chart previously included as Exhibit I-1 has been deleted. Exhibit I-2 (now Exhibit I-1) has been revised to include up-to-date information on the statutes, Executive Orders and other directives referred to in the GPM. Most of these documents can be obtained electronically via the Internet. (GPM 110 “NSF Organization”)

### **Chapter II NSF Awards**

A description of the Foundation’s Major Research Equipment and Facilities (MREFC) account and the associated responsibilities have been added. (GPM 221, “Basic Requirements”)

NSF transmits grants to proposers via e-mail and grantees can access their award letters via the NSF FastLane system. (GPM 230 “Grant Instrument”)

No-cost extensions, Annual and Final Project reports and supplemental funding requests must be submitted electronically via FastLane. (GPM 250 “NSF Grant Periods” and GPM 260 “Additional Funding Support”)

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For supplemental funding requests, a signed paper budget is no longer required. Authorized Organizational Representatives now sign supplemental funding requests electronically. (GPM 264 “Supplemental Support”)

The previous section on Effective Date (Section 253.1) has been deleted because it no longer reflects current practice.

### **Chapter III Grant Administration**

All grantee notifications and requests must now be submitted electronically to NSF via the FastLane system. This requirement is now incorporated into each of the subparts contained in this section of the GPM. Exhibit III-1 has been updated to include the most current listing of notifications and requests and includes a column that identifies where questions regarding each type of request should be directed. (GPM 310 “Changes in Project Direction or Management”)

Provides a definition for “substantially less time to the project” as defined in the NSF Grant Conditions. (GC-1) (GPM 312.5 “Change in Person-Months Devoted to the Project”)

Principal Investigator (PI) Transfers must now be submitted electronically via the Notification and Request module in FastLane. Updated instructions for completion of this process have been incorporated. After the transfer, NSF will not intervene in any disputes between the two organizations regarding the

transferred amount. (GPM 312.8 “Disposition of a Grant when a PI/PD transfers from One Organization to Another Organization”)

Submission of signed paper budget to NSF by the Authorized Organizational Representative (AOR) of a subawardee organization is no longer required. (GPM 313 “Contracting or Transferring the Project Effort (Subawards)”)

Cost sharing coverage is now consistent with the NSB-approved cost sharing coverage issued in May, 1999 as well as with changes made to NSF’s Grant General Conditions in this area. Recipients are reminded that careful consideration must be given before committing to voluntary cost sharing on unsolicited proposals. Language also has been added regarding recent audit findings relating to cost sharing in awards. (GPM 330, “Cost Sharing and Matching”)

Technical project reports are required for all NSF assistance awards. The information contained in these reports is used in Government Performance and Results Act (GPRA) reports to Congress, by NSF Program Officers and staff and may be released to the public under the Freedom of Information Act (FOIA). (GPM 340 “Technical Reporting Requirements”)

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Annual and Final Project Reports must now be submitted electronically via use of the format contained in the Project Reporting System in Fastlane. (GPM 341 “Annual Project Reports” and GPM 342 “Final Project Reports”)

Failure to provide final technical reports will delay the processing of pending proposals for both the PI and all identified co-PIs on a given award. (GPM 344 “Compliance with Technical Reporting Requirements”)

States, local governments or non-profit organizations must arrange for the conduct of audits as required by Office of Management and Budget (OMB) Circular A-133. Copies of the audit report should be provided to the cognizant Federal audit agency. (GPM 350 “Records Retention and Audit”)

Exhibit III-2 “NSF Grant Transfer Request” has been deleted from the GPM because the process has been converted to an electronic module available via the NSF FastLane system.

#### **Chapter IV Financial Requirements and Payments**

Definitions for ASAP, the Automated Standard Application for Payments and FastLane Financial Administration Functions, have been added to this chapter. (GPM 420 “Definitions”)

Grantees who do not meet the conditions to be able to receive advances from NSF will be notified in the grant letter that they must submit a Standard Form (SF) 270 for reimbursement. Information on how to submit the SF 270 to NSF has been included in this section. (GPM 434 “Request for Reimbursements”)

The Automated Clearinghouse (ACH) Vendor/Miscellaneous Payment Enrollment form is now available in electronic format. Once enrolled in the system, grantees may request funds from NSF either by using ASAP, the FastLane Cash Request function or an SF 270. Instead of manual review, electronic checks are performed in the system to ensure that all of the information provided is correct. (GPM 436 “ACH Vendor Express”)

Instructions on how and where to electronically refund excess funds to NSF have been added to this section. (GPM 442 “Erroneous Payments”)



The Federal Cash Transactions Report (FCTR) is now available on FastLane. Grantees must now review, update, certify and submit the FCTR to NSF electronically via FastLane. (GPM 451 “Quarterly Disbursement Reporting - Federal Cash Transactions Report (FCTR)”)

The reasons for closeout being deferred during the final disbursement reporting have been updated to reflect current procedure. (GPM 452 “Final Disbursement Reporting”)

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Section 453, “Compliance with Financial Reporting Requirements”, has been removed.

#### **Chapter V Grantee Standards**

The definitions contained in the previous GPM section 501.2 have been removed.

The list of information a prospective new awardee has to submit to NSF has been deleted. This information is now contained in the NSF Prospective New Awardee Guide which is available electronically on the Division of Contracts, Policy and Oversight (CPO) website. (GPM 501. “Prospective Grantee Organization and Management Data”)

The previous GPM section 544 has been revised to implement the new principles relating to the use of NSF-supported research instrumentation and facilities that were adopted by the National Science Board (NSB). (GPM 544 “Principles Relating to Use of NSF-Supported Research Instrumentation and Facilities”)

#### **Chapter VI Allowability of Costs**

The Basic Considerations section has been expanded to state that costs claimed must be allowable, allocable, and reasonable. Questionable cases should be discussed with NSF and documented thoroughly by the grantee organization. (GPM 600 “Basic Considerations”)

The format of the “Applicability to Grantees” section has been changed from text to tables to make the information easier to understand. Websites for the OMB Circulars and the Federal Acquisition Regulations (FAR) are provided. (GPM 601.1 “Applicability to Grantees”)

Requests for pre-award costs must be submitted electronically via the FastLane Notification and Request module. (GPM 602.2 “Pre-award Costs”)

Costs that are not specifically budgeted for originally may still be allowable under the cost principles and may be charged to the NSF grant. (GPM 603.2 “NSF Prior Approval Policy”)

GPM section 604, “Advance Understandings”, has been deleted.

A reference to the GPM section on use of non-US flag carriers while on foreign travel has been added to the “Travel Costs” section. (GPM 614 “Travel Costs”)

The previous GPM section 615.1 and 615.2 on computer facilities have been consolidated and the FAR reference replaced with the applicable OMB Circular A-110 reference. (GPM 615 “Computer Costs”)

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A clarification has been made to the Participant Support Costs section to show that participant support costs must be accounted for separately by grantees. Also the exemption for Veterans Administration, retirement or disability recipients has been removed because it has been phased out. (GPM 618.1 “General”)

The dollar threshold for rearrangements and alterations that do not constitute

construction has been raised to \$25,000. (GPM 621 “Rearrangements and Alterations”)

The initial paragraph under “Meetings and Conferences” has been rewritten to match the tense and tone of the preceding sections and to incorporate the note at the end of the previous GPM section into the first paragraph, for greater emphasis. (GPM 625 “Meetings and Conferences”)

The “Indirect Costs” section has been rearranged to move forward the information on “Indirect Costs in Proposals for NSF support”. Those organizations which do not have a current approved indirect cost rate should prepare one based on data from their most recently ended fiscal year. The NSF website address for guidelines on how to prepare this information has been provided. (GPM 632 “Indirect Costs in Proposals for NSF Support”)

NSF procedures on handling organizations that do not have a Federally-approved indirect cost rate have been expanded, with definitions of the various types of rates that could be approved and under what circumstances they are used. The off-campus activities section (previously GPM 633.2) and the entire “Indirect Costs in NSF Cost Reimbursement Grants” (previously GPM 634) have been incorporated into the Basic Policy section. . Approval Rates (other than Maximum Provisional)" (previously GPM 635.1) and "Maximum Provisional Rate" (previously GPM 635.2) have been incorporated in the Basic Policy section. (GPM 633.1 “Basic Policy”)

Fees may not exceed the amount specified in the NSF award letter. (GPM 640 “Fee Payments under NSF Grants”)

#### **Chapter VII Other Grant Requirements**

NSF’s implementing regulations regarding Title IX have been added to the GPM, and they are also cited in the grant conditions. (GPM 704 “Title IX – Sex Discrimination”)

A URL for the Common Rule for the protection of human subjects has been added as well as a link to NSF’s citation in the Code of Federal Regulations (CFR) and guidance about the regulations. Updated organizational affiliations for DHHS also have been inserted. (GPM 711 “Human Subjects”)

A URL for the Recombinant DNA guidelines, amended in May of 1999, has been added to this section. The address to which to send inquiries on the NSF policy July 2002 NSF 02-151

on recombinant DNA research has been updated. (GPM 712 “Research involving Recombinant DNA Molecules”)

The definition of vertebrate animals has been extended to include rats, birds and mice. A statement has been added to clarify that Institutional Animal Care and Use Committees must be established through a multi-project assurance with NIH or through an NSF-approved single-project assurance. Updated coverage on laboratory animals, to include new coverage on awards to U.S. grantees for projects involving the care or use of vertebrate animals at a foreign institution or foreign field site, has been added. The citations for the applicable guidelines have been updated and a URL for the Public Health Service (PHS) policy on the humane care and use of laboratory animals also has been added to the Vertebrate Animal section. (GPM 713 “Animal Welfare Requirements”)

The “Patents and Inventions” section has been amended in sections 731.1.b.3 and

731.4.f.5 to state that only the page of any US patent application that contains the Federal support clause must be submitted to NSF. Grantees are now encouraged to use the Edison system maintained by the National Institutes of Health to disclose NSF subject inventions. Instructions regarding use of that system are included. (GPM 731 “Patents and Inventions”)

### **Chapter VIII Other Proposal and Award Considerations**

Intergovernmental Review of Federal Programs has been revised to eliminate the paragraph regarding annual publishing of NSF programs in the Federal Register. Such information is available from the Federal Assistance Award Data System (FAADS). (GPM 800, “Intergovernmental Review of Federal Programs”)

Section 812.1, “Routine Information Releases”, has been removed.

The “Open Government Legislation” section has been updated to clarify the intended meaning and provide more details on what information must be included in a FOIA request. A website for further information is provided. (GPM 812.2 “Open Government Legislation”)

The wording in the “Release of Project Reports” section has been changed slightly to enhance the intended meaning. In addition, information on the National Technical Information Service (NTIS) has been deleted now that NTIS is no longer in existence. (GPM 812.3 “Release of Project Reports”)

The “Environmental Impact” section has been changed to show that Federal agencies must consider such impacts before Federal action is taken. Depending on the type of project, an environmental assessment or impact statement may be necessary. (GPM 830 “Environmental Impact”)

The national security Executive Order and CFR numerical references have been updated. (GPM 850 “National Security”)

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### **Chapter IX Reconsideration/Suspension and Termination/Disputes/Research Misconduct**

The categories of proposal types that are exempted from the NSF Reconsideration Policy have been expanded for consistency with current NSF policy and practice. (GPM 900 “Reconsideration of Proposals Declined or Returned by the Foundation”)

During reconsideration by an Assistant Director or the Deputy Director of NSF, if additional reviews are sought, they are subject to standard merit review procedures. (GPM 900 “Reconsideration of Proposals Declined or Returned by the Foundation”)

The previous section entitled “Misconduct in Science” has been renamed “Research Misconduct”. The “other serious deviation from accepted practices” and retaliation language have been removed from the definition of misconduct. An investigation consists of a formal development of a factual record, in addition to examination and evaluation of that record. The section has been clarified to show that the NSF Deputy Director adjudicates research misconduct proceedings and the NSF Director decides appeals. (GPM 931 “NSF Policies and Responsibilities”)

The role of grantees regarding research misconduct has been expanded to provide adequate safeguards for subjects of allegations as well as informants. Grantees should notify NSF if there is indication of possible violations of civil or

criminal law, if public health or safety are at risk or if the research activities should be suspended. (GPM 932 “Role of Grantees”)

**Exhibits Deleted from the Grant Policy Manual**

Exhibit I-1 – NSF Organization Chart

Exhibit III-2 – NSF Grant Transfer Request (NSF Form 1263)

Exhibit IV-1 – Request for Advance or Reimbursement Instructions (SF 270)

Exhibit IV-3 – Instructions for Federal Cash Transactions Report (FCTR)

Exhibit IV-4 – E-mail FCTR Instructions

Exhibit V-1 – Important Notice 91 – Principles Related to the Use and Operation of NSF-Supported Research Instrumentation and Facilities

Exhibit V-2 – Preparation of Transfer Order

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**ACRONYMS**

ABR Accomplishment-Based

Renewal

ACH Automated Clearing House

(U.S. Treasury)

AD Assistant Director

ADPE Automatic Data Processing

Equipment

AUO Area Utilization Officer (GSA)

CFR Code of Federal Regulations

CMIA Cash Management

Improvement Act

C&O Division of Contracts and

Oversight

DAS Division of Administrative

Services

DFM Division of Financial

Management

DGA Division of Grants and

Agreements

DHHS Department of Health and

Human Services

DOC Department of Commerce

EFT Electronic Funds Transfer

E.O. Executive Order

FAADS Federal Assistance Award Data  
System

FAR Federal Acquisition Regulations

FCCOM Facilities Capital Cost of Money  
FCTR Federal Cash Transactions  
Report  
FDP Federal Demonstration  
Partnership - Grant General  
Conditions  
FEMA Federal Emergency  
Management Agency  
FOIA Freedom of Information Act  
GBB Grants Bulletin Board  
GC-1 Grant General Conditions  
GOE Government Owned Equipment  
GPG Grant Proposal Guide  
GPM Grant Policy Manual  
GPO Government Printing Office  
GSA General Services  
Administration  
IACUC Institutional Animal Care and  
Use Committee  
IBC Institutional Biosafety  
Committee  
ILS Institutional Ledger Section  
IRB Institutional Review Board  
IRS Internal Revenue Service  
IR&D Independent Research and  
Development  
NEPA National Environmental Policy  
Act  
NIH National Institutes of Health  
NSB National Science Board  
NSF National Science Foundation  
OEO Office of Equal Opportunity  
Programs  
OGC Office of the General Counsel  
OIG Office of Inspector General  
OMB Office of Management and  
Budget  
ONR Office of Naval Research  
PD Project Director  
PI Principal Investigator  
SBA Small Business Administration  
SBIR Small Business Innovation  
Research Program  
SF Standard Form  
SGER Small Grants for Exploratory  
Research  
USC United States Code

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## **CHAPTER I**

### **BASIC INFORMATION**

This chapter provides basic information about the National Science Foundation, its organization, grant policies and this Manual. It consists of the following topics:

**100 THE NATIONAL SCIENCE FOUNDATION**

**110 NSF ORGANIZATION**

**120 THE NSF GRANT POLICY MANUAL**

**130 PROPOSAL SUBMISSION AND MERIT REVIEW**

**100 THE NATIONAL SCIENCE FOUNDATION**

a. The National Science Foundation (NSF) is an independent Federal agency created by the National Science Foundation Act of 1950, as amended (42 USC 1861-75). The Act states the purpose of the NSF is "to promote the progress of science; [and] to advance the national health, prosperity, and welfare by supporting research and education in all fields of science and engineering."

b. The Foundation carries out its statutory responsibilities for the support of research, education and related activities, through a number of programs. The *NSF Guide to Programs* and other announcements and solicitations contain information about NSF programs, their objectives and timing for the submission of proposals. (See *NSF Grant Proposal Guide* for information on proposal preparation guidelines.)

c. NSF has no programs involving the construction of public works in metropolitan areas, no development assistance programs, no programs requiring State plans as a condition of assistance, none involving coordination of planning in multi-jurisdictional areas and no programs of grants to State and local governments as defined in Section 6501(4) of Title 31 of the United States Code (USC).

**110 NSF ORGANIZATION**

The NSF organizations/offices described below are normally of most direct interest to

grantees. Consult the NSF website at <http://www.nsf.gov/home/nsforg/orglist.htm> for the most current listing of NSF offices/directorates.

### **111 National Science Board**

The National Science Board establishes the policies of the National Science Foundation within the framework of applicable national policies set forth by the President and the Congress. The Board is composed of 24 members, representing a cross section of American leadership in science and engineering research and education; appointed by the President to six-year terms, with one third appointed every two years; and selected solely on the basis of established records of distinguished service. The NSF Director is a member ex officio of the Board. In addition to establishing the policies of the Foundation, the Board along with the Director, recommends and encourages the pursuit

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of national policies for the promotion of research and education in science and engineering.

### **112 Program Division/Office**

Program Divisions/Offices are responsible for the scientific, technical and programmatic review and evaluation of proposals and for recommending that proposals be declined or awarded. The scientific, engineering and/or educational aspects of an award will be monitored by the NSF Program Officer identified in the award letter.

### **113 Division of Grants & Agreements**

The Division of Grants and Agreements (DGA) is responsible for the business, financial and administrative review of all recommended grants, cooperative agreements and other assistance awards and assuring that they are consistent with applicable policies, regulations, directives and fund certifications. DGA, through the Policy Office, is responsible for NSF pre- and post-award policy development, coordination and issuance and for development of, and providing guidance on, policies and procedures for NSF's electronic proposal and award systems. NSF Grants Officers are the only NSF officials with delegated authority to issue grants, cooperative agreements, and other assistance awards and to obligate NSF funds for expenditures under such arrangements. DGA is also responsible for issuing all amendments and certain approvals under these awards, for monitoring awardees' compliance with terms and conditions, and for the administration and closeout of these awards.

DGA Grants Officers provide pre- and post-award technical assistance on the aforementioned policies, regulations, and directives, both to NSF program officials and awardees. Such assistance is provided through a variety of venues, including on-site visits to awardee institutions, outreach forums and by serving on Project Advisory Teams.

### **114 Division of Contracts and Oversight**

The Division of Contracts and Oversight (C&O) is responsible for providing acquisition support, cost analysis and audit resolution for the Foundation. The Contracts Branch is responsible for the planning, solicitation, negotiation, award and administration of NSF contracts including establishment of government approved administrative systems for large contracts. The Oversight Branch performs pre-award cost analyses including financial system reviews, resolves audit findings pertaining to the allowability, allocability and appropriateness of costs claimed under all NSF awards (including grants, cooperative agreements and contracts), and negotiates indirect cost rates for NSF cognizant organizations.

The Division is also responsible for participating in outreach activities pertaining to policy, cost, and financial issues, for a wide variety of professional organizations.

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#### **115 Division of Financial Management**

The Institutional Ledger Section (ILS) of the Division of Financial Management (DFM) is available to assist the grantee financial and business official in matters of payment and financial reporting discussed in Chapter IV of this Manual.

#### **116 Office of the General Counsel**

The Office of the General Counsel (OGC) is the legal advisor and advocate for the Foundation, providing legal advice and assistance on all aspects of the Foundation's programs, policies, and operations, as well as areas affecting science and technology more broadly. Advice is provided in a wide variety of areas, such as: contracts and grants; intellectual property; conflicts of interest; employee and labor relations; privacy (including Freedom of Information Act (FOIA), the Privacy Act and the Sunshine Act); civil rights; health, safety and environment; public regulation of research; Federal fiscal and administrative law and procedure; international law and agreements; and national security restrictions of scientific research (including export controls).

#### **117 Office of Equal Opportunity Programs**

The Office of Equal Opportunity Programs (OEOP) is responsible for responding to all civil rights matters pertaining to NSF programs or activities receiving Federal financial assistance. (See GPM 700 for additional information.)

#### **118 Office of Inspector General**

The Office of Inspector General (OIG) is an independent oversight office that reports directly to the National Science Board and the Congress. It is responsible for conducting audits, reviews, and investigations of NSF programs and organizations that receive NSF funding. OIG also evaluates allegations of research misconduct, such as plagiarism or the falsification or fabrication of data, involving researchers who request or receive NSF funding (see GPM 931, "NSF Policies and Responsibilities"). The OIG staff includes scientists, attorneys, certified public accountants, investigators, evaluators, and information technology specialists. OIG audits focus on NSF's internal agency programs, as well as grants, contracts, and cooperative agreements funded by NSF. Their purpose is to ensure that the financial, administrative, and program activities of NSF and its awardee organizations are conducted efficiently and effectively. OIG investigations focus on program integrity and possible financial or nonfinancial wrongdoing by organizations and individuals who submit proposals to, receive awards from, conduct business with, or work for NSF. Grant recipients and administrators should contact OIG (1-800-428-2189) to report any instances of possible misconduct, fraud, waste, or abuse.

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### **120 THE NSF GRANT POLICY MANUAL**

#### **121 Purpose and Applicability**

a. Purpose. This NSF *Grant Policy Manual* (GPM) sets forth NSF policies regarding the award and administration of grants and implements Office of Management and Budget (OMB) Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, and 45 CFR §602 (the Common Rule implementing

OMB Circular A-102), *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*.<sup>1</sup> This Manual also implements other OMB Circulars, Public Laws, Executive Orders (E.O.) and other directives<sup>2</sup> listed in Exhibit I-1 insofar as they apply to grants, and is issued pursuant to the authority of Section 11(a) of the NSF Act (42 USC §1870).

b. Applicability. This Manual is applicable to NSF grants and cooperative agreements, unless noted otherwise in the award instrument. This Manual does not apply to NSF contracts.

### **122 General Organization and Citation**

The GPM is organized into chapters that correspond, in general, to the process from issuance and administration of a grant through closeout. Other requirements or considerations that either are not universally applicable or which do not necessarily follow the award cycle are contained in Chapters VII-IX. Chapters are subdivided into sections that cover single subjects within the scope of the chapter. Specific sections may be cited by the section number, e.g., GPM 122, "General Organization and Citation."

### **123 Changes**

The GPM is periodically revised to update existing information, reflect changes in NSF policies and procedures, and incorporate additions or changes in applicable Federal statutes or regulations. The NSF website will always display the most current version of the GPM. Notification of periodic updates or revisions to the GPM will be sent electronically to users via the Custom News Service. Questions or comments concerning GPM chapters and subchapters should be directed to the Policy Office, which can be reached by e-mail at [policy@nsf.gov](mailto:policy@nsf.gov).

## **130 PROPOSAL SUBMISSION AND MERIT REVIEW**

General guidance for the preparation, (content, format, budget, etc.), submission, review and processing of proposals is contained in the *Grant Proposal Guide* (GPG). Some NSF programs issue or utilize more specific program solicitations that may modify

<sup>1</sup> For purposes of this Manual, references to OMB Circular A-110 also include comparable portions of 45 CFR §602, where appropriate.

<sup>2</sup> Consult Exhibit I-1 for information on obtaining these types of documents.

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the guidance contained in the GPG. The latest version of the GPG is available electronically on NSF's website at <http://www.nsf.gov/pubsys/ods/getpub.cfm?gpg>.

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### **Exhibit I-1**

## **STATUTES, EXECUTIVE ORDERS AND OTHER DIRECTIVES**

Following are lists of the various statutes, executive orders and other directives referred to or implemented by the GPM section indicated.

### **1. Statutes (Names in quotes are unofficial)**

*Title United States Code GPM*

Age Discrimination Act 42 USC §§6101 et seq. 705

Animal Welfare Act 7 USC §§2131-59 713

Bayh-Dole Act 35 USC §§200-212 730

Cash Management Improvement Act 31 USC §6503 443

Civil Rights Act of 1964, Title IX 42 USC §§2000d et seq. 702

Cost-type Research and Development 41 USC §254(a) 630

Contracts with Educational Institutions



Davis-Bacon Act 40 USC §§276a et seq. 721  
Demonstration Cities and Metropolitan 42 USC §3334 800  
Development Act of 1966, Sec. 204  
Education Amendments of 1972, Title IX 20 USC §§1681-86 704  
Federal Grant and Cooperative 31 USC §§6301-08 210  
Agreement Act of 1977  
Freedom of Information Act 5 USC §552 812.3  
Government in the Sunshine Act 5 USC §552b 812.3  
Intergovernmental Cooperation Act of 31 USC §6502 800  
1968  
Internal Revenue Code of 1954 26 USC 501(c) 730  
International Air Transportation Fair 49 USC §1517 760  
Competitive Practices Act of 1974  
Marine Mammal Protection Act of 1972 16 USC §§1361-1421h 714  
Metric Conversion Act of 1975, as amended 15 USC §205a-k 863  
National Environmental Policy Act 42 USC §4332 830  
of 1969, Sec. 102  
National Flood Insurance Act of 1968 42 USC §4012a 723  
42 USC §4106  
National Historic Preservation Act 16 USC §470 840  
National Science Foundation Act 42 USC §§1861-75 100, 120, 333,  
722, 731  
of 1950, as amended  
Paperwork Reduction Act of 1980 44 USC §§3501-11 811.1  
Rehabilitation Act of 1973, Sec. 504 29 USC §794 703  
Resource Conservation and Recovery Act 42 USC §6962 830  
Single Audit Act 31 USC §§7501-07 350

## **2. Executive Orders**

### *Number Short Title GPM*

11246 Equal Employment Opportunity, as amended 701, 706  
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12250 Leadership and Coordination of Nondiscrimination Laws 702  
11988 Floodplain Management 723  
11593 Protection and Enhancement of the Cultural 840  
Environment  
12958 Classified National Security Information 850  
12372 Intergovernmental Review of Federal Programs 800  
12549 Debarment and Suspension 912  
12699 Seismic Safety of Federal and Federally-assisted 724  
or Regulated New Building Construction  
12770 Metric Usage in Federal Government Programs 863

## **3. NSF Regulations (45 CFR, Chapter VI)**

### *Part Number Subject GPM*

602 Uniform Administrative Requirements Entire Manual  
for Grants and Cooperative Agreements  
to State and Local Governments  
605, 611, Nondiscrimination in Federally Assisted Programs 700  
617, 618  
612, 613, Freedom of Information, Privacy, and 812.3  
and 614 Government in the Sunshine Acts  
620 Debarment and Suspension and Drug-Free Workplace 912, 930

640 National Environmental Policy Act 830  
650 Patents 731  
660 Intergovernmental Review of NSF Programs 800  
689 Research Misconduct 930  
690 Protection of Human Subjects 711

#### **4. Other Federal Regulations**

*Title Code of Federal GPM*

*Regulations*

Contract Cost Principles and Procedures 48 CFR §31 600  
(Federal Acquisition Regulations)  
Controlling Paperwork Burdens on the Public 5 CFR §1320 811  
Council on Environmental Quality 40 CFR §§1500-1508 830  
Disposition (Government-owned Federal 41 CFR §201.23 546.6  
Information Processing Equipment)  
Equal Employment Opportunity 41 CFR §60 706  
Metric Usage in Federal Government Programs 3 CFR,1991 comp 863  
Principles for Determining Costs Applicable to 45 CFR, Part 74, 601  
Research and Development Under Grants Appendix E  
and Contracts with Hospitals  
Withdrawal of Cash from the Treasury for 31 CFR, 205 430  
Advances Under Federal Grant and Other  
Programs  
Protection of Historic and Cultural Properties 36 CFR §800 840  
Rights to Inventions Made by Nonprofit 37 CFR §§401 et seq. 731  
Organizations and Small Business Firms  
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Under Government Grants, Contracts,  
and Cooperative Agreements  
Rules and Procedures for Funds Transfers 31 CFR §205 Chapter 4  
Small Business Size Regulations 13 CFR §121 501  
Utilization of Personal Property 41 CFR §101.43 543

#### **5. Office of Management and Budget Circulars**

*Number Short Title GPM*

A-21 Cost Principles for Educational Institutions 601  
A-87 Cost Principles for State and Local Governments 601  
A-110 Uniform Administrative Requirements for Grants and Entire Manual  
Other Agreements to Non-Profit Organizations  
A-122 Cost Principles for Non-Profit Organizations 601  
A-133 Audits of States, Local Governments and Non-Profit 350  
Organizations

#### **6. How to Obtain**

Volumes of the *United States Code* and the *Code of Federal Regulations* can be purchased from the Government Printing Office by contacting Superintendent of Documents, Attn: New Orders, Box 371954, Pittsburgh, PA 15250-7954. Telephone orders can be made with a credit card by dialing: (202) 512-1800 (voice), (202) 512-2250 (fax), or (202) 512-2265 (TDD). In addition, the Government Printing Office distributes these documents to U.S. Government Depository Libraries in each state. These documents are also often available in the reference sections of major libraries.

Copies of pending and enacted federal legislation can be requested by bill or law number by calling either the Senate Document Room at (202) 224-7701 or the House Document Room at (202) 225-3456. For further information about ordering other congressional documents,

contact the Government Printing Office on (202) 512-2465.

Copies of *Executive Orders* and *Office of Management and Budget Circulars* can be obtained by contacting: The Executive Office of the President (EOP), Publications Distribution Services, 725 17th Street, NW, Room 2200, Washington, DC 20503 or by telephone at (202) 395-7332. In addition, electronic copies of almost all of these documents are available on the World Wide Web. A convenient starting point for locating them is the General Services Administration's Fedlaw site at <http://fedlaw.gsa.gov/>.

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## **CHAPTER II**

### **NSF AWARDS**

This chapter discusses the award process and specifically highlights the following topics:

#### **200 BACKGROUND**

#### **210 DEFINITIONS**

#### **220 NSF-GRANTEE RELATIONSHIPS**

#### **230 GRANT INSTRUMENT**

#### **240 NSF GRANT CONDITIONS**

#### **250 NSF GRANT PERIODS**

#### **260 ADDITIONAL FUNDING SUPPORT**

#### **200 BACKGROUND**

The types of activities funded by NSF and the purposes of NSF funding vary. Consequently, the degree of NSF responsibility for and the management control of such activities also varies. NSF traditionally uses grants for fundamental research and other support activities. The key factor in determining the appropriate award terms and conditions is the type of project that is to be funded, not the type of performing organization which will be the recipient of the award or the NSF program recommending the award.

#### **210 DEFINITIONS**

a. An AUTHORIZED ORGANIZATIONAL REPRESENTATIVE is the administrative official who on behalf of the proposing organization is empowered to make certifications and assurances and can commit the organization to the conduct of a project that NSF is being asked to support as well as adhere to various NSF policies and grant requirements.

b. ASSISTANCE AWARDS are awards that entail the transfer of money, property, services or other things of value from the Federal government to a State or local government or other recipient to accomplish a public purpose of support or stimulation. In the case of NSF, assistance awards involve the support or stimulation of scientific and engineering research, science and engineering education or other related activities. NSF is authorized to use grants or cooperative agreements for this purpose.

c. A GRANT\* is a type of assistance award and a legal instrument which permits an executive agency of the Federal government to transfer money, property, services or other things of value to a grantee when no substantial involvement is anticipated between the agency and the recipient during the performance of the contemplated activity. Grants are the primary mechanism of NSF support. NSF awards the following types of grants:

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1. A STANDARD GRANT is a type of grant in which NSF agrees to provide a

specific level of support for a specified period of time with no statement of NSF intent to provide additional future support without submission of another proposal.

2. A CONTINUING GRANT, is a type of grant in which NSF agrees to provide a specific level of support for an initial specified period of time, usually a year, with a statement of intent to provide additional support of the project for additional periods, provided funds are available and the results achieved warrant further support.

3. A COST REIMBURSEMENT GRANT is a type of grant under which NSF agrees to reimburse the grantee for work performed and/or costs incurred by the grantee up to the total amount specified in the grant. Such costs must be allowable in accordance with the applicable cost principles (e.g., OMB Circular A-21, *Cost Principles for Educational Institutions* or A-122, *Cost Principles for Non-Profit Organizations*).

Accountability is based primarily on technical progress, financial accounting and fiscal reporting. Except under certain programs and under special circumstances, NSF grants and cooperative agreements are normally cost reimbursement type awards.

4. A FIXED AMOUNT AWARD is a type of grant used in certain programs and situations under which NSF agrees to provide a specific level of support without regard to actual costs incurred under the project. The award amount is negotiated using the applicable cost principles or other pricing information as a guide. This type of grant reduces some of the administrative burden and record-keeping requirements for both the grantee and NSF. Except under unusual circumstances, such as termination, there is no governmental review of the actual costs subsequently incurred by the grantee in performance of the project. There typically is a requirement for the grantee to certify that the approximate number of person-months or other activity called for in the grant was performed. Payments are based on meeting specific requirements of the grant and accountability is based primarily on technical performance and results.

d. A COOPERATIVE AGREEMENT\* is a type of assistance award which may be used when the project being supported requires substantial agency involvement during the project performance period. Substantial agency involvement may be necessary when an activity: is technically or managerially complex; requires extensive or close coordination with other Federally supported work; or helps assure suitability or acceptability of certain aspects of the supported activity. Examples of projects which might be suitable for cooperative agreements are systemic reform efforts, research centers, policy studies, large curriculum projects, multi-user facilities, projects which involve complex subcontracting, construction or operations of major in-house university facilities and major instrumentation development.

e. A GRANTEE\* is the organization or other 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. NSF grants are normally made to organizations rather than to individual Principal Investigator/Project Director(s) . Categories of eligible proposers may be found in GPG Chapter I.

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f. PRINCIPAL INVESTIGATOR/PROJECT DIRECTOR (PI/PD) is the individual designated by the grantee, and approved by NSF, who will be responsible for the scientific or technical direction of the project. The term "Principal Investigator" generally is used in research projects, while the term "Project Director" generally is used in science and engineering education and other projects.

\* For purposes of this Manual, except where explicitly noted, the term "grant" is

interchangeable with the term “cooperative agreement”, and the term “grantee” is interchangeable with the “awardee” of a cooperative agreement.

## **220 NSF-GRANTEE RELATIONSHIPS**

### **221 Basic Requirements**

a. Grants will be used by NSF when the accomplishment of the project objectives requires minimal NSF involvement during performance of the activities. Grants establish a relationship between NSF and the grantee in which:

1. NSF agrees to provide up to a specified amount of financial support for the project to be performed under the conditions and requirements of the grant. NSF will monitor grant progress and assure compliance with applicable standards.
2. The grantee agrees to the performance of the project, to the prudent management of the funds provided and to carry out the supported activities in accordance with the provisions of the grant. (See GPM 230, “Grant Instrument”, for the documents that comprise an NSF grant.)

b. Cooperative agreements will be used by NSF when the accomplishment of the project objectives requires substantial NSF technical or management involvement during performance of the activities.

1. Cooperative agreements will specify the extent to which NSF will be required to advise, review, approve or otherwise be involved with project activities, as well as require more clearly defined deliverables.
2. Although active NSF involvement may be necessary under cooperative agreements, awardees still have primary management responsibility for conduct of their projects. To the extent that NSF does not reserve responsibility for coordinating or integrating the project activities with other related activities or does not assume a degree of shared responsibility for certain aspects of the project, all such responsibilities remain with the awardee. As appropriate, NSF may provide advice, guidance or assistance of a technical, management, or coordinating nature and require NSF approval of specific decisions, milestones, procedures or subawards. While NSF will monitor cooperative agreements, it will not assume overall control of a project or unilaterally change or direct the project activities. All cooperative agreements will state the nature and extent of expected NSF involvement to ensure that the responsibilities of each party are fully understood.

3. Some cooperative agreements are funded through the Foundation’s Major Research Equipment and Facilities Construction (MREFC) account. The MREFC

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appropriation provides a separate budget account for major research equipment and facilities. Once an award for an MREFC project is established with MREFC funds, no other funding will be commingled with these funds. Operating funds for MREFC activities and supplements will be funded under a separate award to support the MREFC activities. The awardee is required to segregate MREFC from Operations accounts to avoid the commingling of MRE funds with other appropriations under NSF assistance awards. In special cases, as in the awards for the NSF-supported Federally Funded Research and Development Centers (FFRDCs), a Basic Ordering Agreement (BOA) will be used as an umbrella award, establishing the overall basic provisions of the agreements. Separate Task Orders with specific terms and conditions will be issued for MREFC and Operations activities.

### **222 Acceptance of Assistance Agreements**

- a. Grant Acceptance. Grantees are free to accept or reject the grant. Normally, a request to drawdown NSF funds constitutes acceptance, however, in limited circumstances, NSF may require formal acceptance of a grant.
- b. Cooperative Agreement Acceptance. All new cooperative agreements must be signed by an Authorized Organizational Representative at the recipient organization before the agreement becomes binding.

### **230 GRANT INSTRUMENT**

- a. Composition of an NSF grant includes:

1. the grant letter, including any special conditions applicable to the award and any numbered amendments thereto;
2. the budget, which indicates the amounts, by categories of expense, on which NSF has based its support;
3. the proposal referenced in the grant letter;
4. the applicable NSF conditions referenced in the grant letter (see GPM 240, "NSF Grant Conditions," for listing); and
5. any NSF program announcement/solicitation or other documents or special requirements incorporated by reference in the grant letter.

- b. Grant Transmission. NSF transmits grants to organizations via e-mail. In addition to the e-mail notification, grantees can access NSF award letters in FastLane. Sponsored projects offices are able to view, print and/or download NSF award letters for their organizations.

### **240 NSF GRANT CONDITIONS**

- a. NSF Grant Conditions. Each NSF grant letter specifically identifies certain conditions that are applicable to, and become part of, that award. When these conditions reference a particular GPM section, that section becomes part of the grant requirements through incorporation by reference.

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- b. Basic Conditions. The following types of basic conditions may be made a part of an NSF grant, as appropriate.

1. General Conditions.

(a) Grant General Terms and Conditions (GC-1) are used in most NSF grant awards;

(b) Federal Demonstration Partnership General Terms and Conditions (FDP) and NSF Agency Specific Requirements are used in most grants to participants in the FDP; and

(c) Small Business Innovation Research (SBIR) Phase II Grant General Conditions are used in Phase II grants under the SBIR program.

2. Standard Conditions. These types of conditions may either supplement or modify the applicable General Conditions described above.

(a) Administration of NSF Conference or Group Travel Award Grant Special Conditions (FL 26) are used for conference or travel grants.

(b) Construction Conditions are used for grants which include rearrangements/alterations over \$25, 000 (construction).

(c) Fixed Amount Award General Conditions (FAA) are used in NSF fixed amount grants. (Note: these conditions may establish different financial and other requirements that are not generally used in cost reimbursement type grants.)

(d) Cooperative Agreement Conditions<sub>3</sub> (CA-1) are used under NSF

cooperative agreements.

c. Availability. The latest version of each set of these general and standard conditions, as well as prior archived versions, is available electronically on NSF's website at [http://www.nsf.gov/home/grants/grants\\_gac.htm](http://www.nsf.gov/home/grants/grants_gac.htm).

## **250 NSF GRANT PERIODS**

### **251 Definitions**

a. EFFECTIVE DATE is the date specified in the grant letter on or after which, except for fixed amount awards, expenditures may be charged to the grant. With the exception of PI transfers, the effective date used by NSF is normally either the 1st or the 15th day of the month. If no effective date is specified, then the date of the grant letter is the effective date. (See, however, GPM 602.2, "Pre-Award Costs.")

b. EXPIRATION DATE is the date specified in the grant letter after which expenditures may not be charged against the grant except to satisfy obligations to pay allowable project costs committed on or before that date. The expiration date is normally the last day of a month.

<sup>3</sup> See also the section above on cooperative agreements that involve MREFC and operations activities.  
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c. GRANT PERIOD is the period of time between the effective date and the expiration date of an NSF grant shown as the duration.

### **252 Significance of Grant Period**

a. Except in fixed amount awards, an NSF grant gives authority to the grantee to commit and expend funds for allowable costs (see Chapter VI) in support of the project up to the grant amount specified in the grant letter at any time during the grant period.

b. Except as provided in GPM 602.2, "Pre-Award Costs", GPM 602.3, "Post-Expiration Costs", or GPM 617, "Publication, Documentation and Dissemination", expenditures may not be charged prior to the effective date or subsequent to the expiration date under an NSF cost reimbursement grant.

## **253 Changes in Grant Periods**

### **253.1 Expiration Date**

The expiration date may be changed as a result of approval of a request for continued support of a continuing grant, for a no-cost grant extension, or, in some cases, by renewed support of a standard grant, or by approval of a request for supplemental support. If approved, the NSF Grants Officer will issue an amendment to the grant.

### **253.2 No-Cost Extension**

a. Grantee-Approved Extension. Grantees may authorize a one-time extension of the expiration date of the grant of up to 12 months if additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available. This one-time extension may not be exercised merely for the purpose of using the unliquidated balances. Grantees are not authorized to extend an award that contains a zero balance. The grantee shall notify NSF, providing supporting reasons for the extension and the revised expiration date, at least ten days prior to the expiration date specified in the grant to ensure accuracy of NSF's grant data. All grantee-approved extension notifications must be submitted via the FastLane system. For grantee-approved extensions, no amendment will be issued.

b. NSF-Approved Extension.

1. If additional time beyond the extension provided by the grantee is

required and exceptional circumstances warrant, a formal request must be submitted to NSF. The request must be submitted to NSF at least 45 days prior to the expiration date of the grant. The request must explain the need for the extension and include an estimate of the unobligated funds remaining and a plan for their use. As indicated above, that unobligated funds may remain at the expiration of the grant is not in itself sufficient justification for an extension. The plan must adhere to the previously  
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approved objectives of the project. All requests for NSF-approved extensions must be submitted via the FastLane system. Grantees are not authorized to extend an award that contains a zero balance.

2. Any NSF-approved no-cost extension will be issued by an NSF Grants Officer in the form of an amendment to the grant specifying a new expiration date. Grantees are cautioned not to make new commitments or incur new expenditures after the expiration date in anticipation of a no-cost extension.

### **253.3 Two-Year Extensions for Special Creativity**

A Program Officer may recommend the extension of funding for certain research grants beyond the initial period for which the grant was awarded for a period of up to two years. The objective of such extensions is to offer the most creative investigators an extended opportunity to attack adventurous, "high-risk" opportunities in the same general research area, but not necessarily covered by the original/current proposal. Awards eligible for such an extension are generally three-year continuing grants. Special Creativity Extensions are generally initiated by the NSF Program Officer based on progress during the first two years of a three-year grant; PIs will be informed of such action a year in advance of the expiration of the grant.

## **260 ADDITIONAL FUNDING SUPPORT**

### **261 Types of Additional Funding Support**

Additional funding of a project beyond the original grant period will be in the form of renewed support, continued support or supplemental support.

### **262 Renewed Support (Standard Grants)**

a. Renewed support is defined as additional funding for a support period subsequent to that provided by a standard grant. Renewals to standard grants, if any, will be in the form of a new grant with a new grant number. Costs incurred under the old grant cannot be transferred to the new grant. Residual funds remaining in the old grant cannot be transferred to the new grant.

b. A proposal for renewed support of a project is evaluated in competition with all other pending proposals. Instructions for preparation of renewal proposals are contained in the GPG, Chapters II and V.

### **263 Continued Support (Continuing Grants)**

a. Funding increments for projects being supported under continuing grants, as defined in GPM 210, "Definitions", receive high priority within NSF and normally are not considered in competition with proposals for new grants or for renewed support of standard grants.

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b. Unless otherwise provided for in the original grant letter, each increment of a continuing grant will be funded at the level indicated in that letter without a formal request, provided the required annual project report has been received and subject to NSF's judgment of satisfactory progress and availability of funds. NSF makes every



attempt to honor continuing grant commitments. In order to adjust to changes in the general level of funds for a particular field of science or engineering or to major new opportunities in that field, however, NSF may reduce continuing grant increments below the levels indicated in original grant letters. This requires full written justification by program staff and management review and approval. In the absence of major unanticipated fiscal year constraints, reductions are rare.

c. In order to obtain a committed funding increment and ensure continuity of funding, an annual project report must be submitted electronically via the NSF FastLane System by the PI at least three months before the end of the period currently being funded. (See GPM 340, "Technical Reporting Requirements" for additional information on submission of project reports.)

#### **264 Supplemental Support**

a. In unusual circumstances, small amounts of supplemental funding and up to six months of additional support may be requested to assure adequate completion of the original scope of work. Such requests for supplemental funding support should be submitted to the cognizant NSF Program Officer at least two months prior to the need for the additional funds and must be adequately justified. Program Officers may make decisions regarding whether or not to recommend a small supplement without merit review of the supplemental request. Requests for larger supplements may require external merit review.

b. A request for supplemental support must be submitted electronically via FastLane and must include:

1. A summary of the proposed work;
2. A justification of the need for the supplemental funds; and
3. A budget, highlighting the use by budget category of the additional funding as distinguished from the original funding provided in those categories of cost. While a paper signed budget is no longer required to be submitted to NSF, AORs are required to electronically sign the supplemental funding request via the Authorized Organizational Representative Functions in FastLane.

c. NSF will not approve requests for supplemental support for such purposes as defraying the costs of increases in salaries, wages or staff benefits or for additional indirect cost reimbursement, whether caused by a change in the indirect cost rate or by changes in direct cost expenditures which affect the indirect cost base. (See GPM 602.1, "Maximum Obligation," and GPM 635, "Rebudgeting of Indirect Cost Funds Provided Under NSF Grants.")

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d. If approved, the NSF Grants Officer will amend the grant to provide additional funding for the current support period. The amendment letter will specify both the amount of supplemental funding and the cumulative amount awarded through the expiration date, which normally will remain unchanged.

e. Special NSF programs such as *Research Experiences for Undergraduates* may provide their funding through supplements to other NSF grants. In such instances, the guidance in this section may not be applicable.

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### **CHAPTER III**

#### **GRANT ADMINISTRATION**

This chapter implements various requirements contained in OMB Circular A-110 and is

applicable to all NSF grants and to all types of performing organizations. It contains the following topics:

**300 MONITORING PROJECT PERFORMANCE**

**310 CHANGES IN PROJECT DIRECTION OR MANAGEMENT**

**320 CHANGES IN THE GRANT BUDGET**

**330 COST SHARING AND MATCHING**

**340 TECHNICAL REPORTING REQUIREMENTS**

**350 RECORDS RETENTION AND AUDIT**

**300 MONITORING PROJECT PERFORMANCE**

**301 Grantee Responsibilities**

a. A grantee has full responsibility for the conduct of the project or activity supported under an NSF grant and for the results achieved. The grantee should monitor the performance of the project to assure adherence to performance goals, time schedules or other requirements as appropriate to the project or the terms of the grant. In order to carry out these responsibilities, each grantee organization shall agree to comply with the applicable Federal requirements for grants and to the prudent management of all expenditures and actions affecting the grant. Documentation for each expenditure or action affecting the grant shall reflect appropriate organizational reviews or approvals, which should be made in advance of the action. Organizational reviews are intended to help assure that expenditures are allowable, necessary and reasonable for the conduct of the project, and that the proposed action:

1. is consistent with grant terms and conditions;
2. is consistent with NSF and grantee policies;
3. represents effective utilization of resources; and
4. does not constitute a change in objective or scope.

b. Notwithstanding these responsibilities, NSF continues to encourage communication between NSF Program Officers and PI/PDs on the progress of projects supported by NSF as well as on project changes.

c. NSF, through authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments, grantee management control systems and administration and management of the grant and to provide technical assistance as may be required. If any site visit is made by the Foundation on the premises of the grantee or a subawardee under a grant, the grantee shall provide and shall require its subawardees to provide all reasonable facilities and assistance for the safety and convenience of the NSF representatives.

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**302 Grantee Notifications to NSF and Requests for NSF Approval**

a. Exhibit III-1 provides a listing of grantee notifications to and requests for approval from NSF. While the listing is not intended to be all-inclusive, it does highlight the most frequent areas where specific notifications and requests for approval are called for.

b. All notifications and requests contained in Exhibit III-1, and described below, must be submitted electronically via the NSF FastLane system.

**310 CHANGES IN PROJECT DIRECTION OR MANAGEMENT**

**311 Changes in Objectives, Scope or Methodology**

**311.1 Changes in Objectives or Scope**

Neither the phenomena under study nor the objectives of the project stated in the

proposal or agreed modifications thereto should be changed without prior NSF approval. Such changes should be proposed to the cognizant NSF Program Officer by the PI/PD. If approved by NSF, the Grants Officer will amend the grant.

### **311.2 Changes in Methodology**

NSF believes that the PI/PD, operating within the established policies of the grantee organization, should feel free to pursue interesting and important leads that may arise during the conduct of a research (or other grant-supported) project or to adopt an alternative approach which appears to be a more promising means of achieving the objectives of the project. Significant changes in methods or procedures should be reported to appropriate grantee official(s) and the cognizant NSF Program Officer.

### **311.3 Significant Changes, Delays or Events of Unusual Interest**

a. In the event there are problems, delays or adverse conditions that will materially affect the ability to attain the objectives of the project or to meet such time schedules as may have been proposed, appropriate grantee officials should notify the NSF Program Officer.

b. NSF should be informed of any events of unusual interest that occur during the course of the project. Reports, communications or photographs may be directed to the NSF Program Officer.

## **312 Changes in PI/PD or Person-Months Devoted to the Project**

### **312.1 Background**

The NSF decision to support or not to support a proposed project is based to a considerable extent upon its evaluation of the proposed PI/PD's knowledge of the field  
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of study and his/her capabilities to conduct the project in an efficient and productive manner. This is reflected in the NSF criteria for the selection of projects for funding (see GPG Chapter III). The named PI/PD should be continuously responsible for the conduct of the project and be closely involved with the effort.

### **312.2 Basic Requirements**

If the PI/PD plans to, or becomes aware that he/she will: (a) devote substantially less effort to the project than anticipated in the approved proposal; (b) sever his/her connection with the grantee organization; or (c) otherwise relinquish active direction of the project, he/she shall advise the appropriate official at the grantee organization, who shall initiate action appropriate to the situation under the guidelines that follow.

### **312.3 Short-Term Absence of PI/PD**

If the PI/PD will be absent from the project for short periods of up to three months, he/she shall notify appropriate officials of the grantee organization. The grantee shall then notify the NSF Program Officer of arrangements for conduct of the project during the PI/PD's temporary absence.

### **312.4 Long-Term Absence of PI/PD**

a. In the event the PI/PD will be away from the project for a period greater than three months (e.g. sabbatical leave) but intends to return, arrangements for oversight of the project shall be sent electronically to NSF for approval. This information must be provided at least 30 days before departure or as soon as practicable after the prospective absence is known. The NSF Program Officer will provide written approval to the grantee if the arrangements are satisfactory, but no formal amendment to the grant will be made.

b. If the arrangements are not satisfactory to NSF, the grant may be terminated as

prescribed in GPM 910, "Suspension and Termination Procedures." If the PI/PD's temporary activities might constitute a conflict of interest (e.g., working for a Federal agency), a substitute PI/PD shall be appointed as described in GPM 312.7, "Substitute PI/PD."

### **312.5 Change in Person-Months Devoted to the Project**

If the PI/PD will devote substantially less time to the project than anticipated in the proposal, (defined in the NSF Grant Conditions (GC-1) as a reduction of 25% or more in time) he/she should consult with appropriate officials of the grantee organization and with the NSF Program Officer. If either determines that the reduction of effort will substantially impair the successful execution of the project, the Program Officer will consult the NSF Grants Officer. The NSF Grants Officer may:

a. request the grantee to nominate a replacement PI/PD acceptable to the NSF Program Officer;

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b. initiate the termination procedures described in GPM 910, "Suspension and Termination Procedures"; or

c. negotiate an appropriate modification to the grant.

### **312.6 Withdrawal of PI/PD**

In the event the PI/PD severs his/her connection with the grantee organization or otherwise relinquishes active direction of the project, the grantee, or equivalent, must notify the NSF Program Officer, and either:

a. initiate transfer of the grant as described in GPM 312.8, "Disposition of a Grant When a PI/PD Transfers from One Organization to Another Organization";

b. nominate a substitute as described in GPM 312.7, "Substitute PI/PD" or

c. initiate grant closeout procedures through submission of final reports (GPM 342, "Final Project Report," and GPM 452, "Final Disbursement Reporting").

### **312.7 Substitute PI/PD**

In the event the grantee desires to continue the project with a substitute PI/PD, the appropriate officials at the grantee organization must advise the NSF Program Officer of the substitute PI/PD's name, qualifications, and current and pending support for research from all sources. If approved by NSF, the Grants Officer will amend the grant. If not approved, NSF may take steps, pursuant to GPM 910, "Suspension and Termination Procedures," to suspend or terminate the grant.

### **312.8 Disposition of a Grant When a PI/PD Transfers from One Organization to Another Organization**

a. Policy. When a PI/PD plans to leave an organization during the course of a grant, the organization has the prerogative to nominate a substitute PI/PD or request that the grant be terminated and closed out. In those cases where the PI/PD's original and new organizations agree, NSF will facilitate a transfer of the grant and the assignment of remaining unobligated funds to the PI/PD's new organization. This should normally be done with a tripartite agreement (involving NSF, the PI/PD's original organization and new organization), or by a subaward arrangement (in certain circumstances) between the PI/PD's original and new organizations, subject to NSF's consent. (See GPM 313 "Contracting or Transferring the Project Effort (Subawards).")

b. Procedures. When a PI/PD plans to leave an organization during the course of a grant, the PI/PD or the Sponsored Projects Office, or equivalent, shall notify the NSF Program Office. If the project is to continue with the original organization, the NSF

Program Officer should advise the grantee to nominate a substitute PI/PD (see GPM 312.7, "Substitute PI/PD"). If the project is to be continued at the PI/PD's new organization, and if NSF and both organizations agree, formal notification of the impending transfer can be electronically initiated by either the PI/PD or the PI/PD's organization.

The request shall include:

1. a brief summary of progress to date;
2. a description of work yet to be accomplished;
3. a completed on-line transfer request, including total estimated disbursements to date (transfer amount will be automatically calculated, based on the amount entered in total estimated disbursements). The original organization is responsible for including in the total estimated disbursements, any anticipated costs yet to be incurred against the original grant.
4. a detailed line item budget for the transfer amount and any outstanding continuing grant increments.

The original organization concurs with the transfer of the award by electronically forwarding the request to the new organization.

The new organization completes the request by providing a detailed budget for the transfer amount agreed to by both organizations. The new organization must electronically sign the request when submitted to NSF. Submission of the request constitutes agreement by the new organization to assume responsibility for completion of the project effort and to administer the grant (as originally awarded) from the transfer date to completion in accordance with any special terms and conditions and the applicable general terms and conditions that normally govern NSF grants made to the new organization. FastLane will assign at submission a proposal number. This proposal number will become the new grant number when the transfer is approved by an NSF Grants Officer.

c. Fund Transfer. Upon receipt of the above material, NSF will review the request and, if approved, deduct the specified transfer amount from the original grant and reestablish

it under a new grant number at the new organization. Award notification by the NSF Grants Officer will constitute NSF approval of the grant transfer. The award notification also will specify the applicable basic terms and conditions that govern the grant (i.e., NSF GC-1, FDP, or other Terms and Conditions.)

d. Upon transfer of the grant to the new organization, any monetary discrepancies must be resolved between the original and the new grantee. NSF will not intervene in any disputes between the two organizations regarding the transferred amount.

e. Equipment Transfers. Equipment purchased with NSF funds for use in a specific project should remain available for use for the duration of the project. PI/PDs who are in the midst of projects that included funding for equipment and who will continue the project at a new organization with NSF support should be able to arrange with their original organization to have the equipment transferred with them. Shipping costs for such equipment may be charged to the original or transferred grant as an allowable cost.

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Budgets should not include funds to "buy" equipment that had been previously obtained

with Federal funds.

f. Possible Alternatives to the Transfer Process. When the amount of time and funds remaining in a project are modest, and if both the original and new organizations are in agreement, the original organization may issue a subaward to the new organization for completion of the project. This and other possible alternatives should be discussed with the NSF Grants Officer.

### **313 Contracting or Transferring the Project Effort (Subawards)**

a. Excluding the procurement of items such as commercially available supplies, materials, equipment or general support services allowable under the grant, no significant part of the research or substantive effort under an NSF grant may be contracted or otherwise transferred to another organization without prior NSF authorization. The intent to enter into such arrangements should be disclosed in the proposal submission.

b. If it becomes necessary to contract or otherwise transfer a significant part of the research or substantive effort after a grant has been made, the grantee shall submit, at a minimum:

1. a clear description of the work to be performed;
2. the basis for selection of the subawardee (except for collaborative/joint arrangements<sup>4</sup>); and
3. a separate budget for each subaward.

The request must be submitted electronically, and NSF authorization will be indicated by an amendment to the grant signed by the Grants Officer. The NSF grant conditions will identify which articles flow-down to subawardees. (See also GPM 731.3.g, “Standard Patent Rights Clause,” regarding patent “flow-down” provisions.)

c. Procurements under NSF grants are also subject to GPM 530, “Procurement Standards,” and OMB Circular A-110 Sections .41 through .48.

## **320 CHANGES IN THE GRANT BUDGET**

### **321 OMB Directives**

Section .25 of OMB Circular A-110 contains optional requirements regarding budgetary revisions. NSF elects NOT to impose the following requirements on its grantees:

a. prior approval requirements for appropriate transfer between direct and indirect cost categories of the grant budget; and

<sup>4</sup> Collaborative/joint arrangements may include closely related and coordinated activities at another organization; a joint activity by several organizations or consortia; and group proposals from multiple organizations. Submission of a paper budget signed by the Authorized Organizational Representative of the subawardee organization is not required. July 2002 NSF 02-151

b. restrictions in transfers of funds among direct cost categories for grants in which the Federal share exceeds \$100,000.

### **322 Grant Changes and Approvals**

a. If required in furtherance of the project, the grantee is authorized to transfer funds from one budget category to another for allowable expenditures. Exhibit III-1, however, highlights certain budget changes that may require prior NSF approval.

b. When a change requires NSF approval, the request must be submitted electronically via use of the Notification and Request module in FastLane. The request should clearly state which budget items, if any, are to be changed and by what amounts, and should explain the reasons for any changes.

c. Whenever the amount of Federal funds authorized by an NSF grant is expected to exceed the requirements of the project, as outlined in the approved proposal, by more

than \$5,000 or 5 percent of the grant amount, whichever is greater, the grantee will promptly notify the NSF Program Officer.

### **330 COST SHARING AND MATCHING**

#### **331 Basis for NSF Requirements**

##### **331.1 Statutory Requirement**

The appropriations providing funds to NSF and other independent agencies contain the following language:

“None of the funds provided in this Act may be used for payment, through grants and contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: Provided, that the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.”

##### **331.2 OMB Directive**

Section .23 of OMB Circular A-110 prescribes criteria and procedures for the allowability of cash and in-kind contributions in satisfying cost sharing and matching requirements. Cost sharing is defined as “all contributions, including cash and third party in-kind which meet seven criteria: verifiable, not included as contributions for any other federally-assisted project or program, necessary and reasonable for accomplishment of objectives, allowable, not paid by the Federal Government under another award (except where authorized by statute), provided for in the approved budget when required by the Federal awarding agency, and conform to other Circular provisions.” For the purposes of the GPM, “cost sharing” and “matching” are synonymous.

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The full text of NSF’s current cost sharing policy as approved by the NSB on May 7, 1999 (NSB 99-92), as well as Frequently Asked Questions (FAQs) on cost sharing, are available

electronically on the NSF website at <http://www.nsf.gov/bfa/cpo/policy/start.htm>.

#### **332 Significance of Cost Sharing Promises in Proposals**

NSF-required cost sharing is considered an eligibility rather than a review criterion. Any cost sharing offered by an organization in excess of the required amount is not a factor in the review of a proposal.

#### **333 NSF Cost Sharing Requirements**

##### **333.1 Unsolicited Research Projects**

a. In accordance with Congressional requirements (GPM 331.1, “Statutory Requirement”), NSF requires that each grantee share (1%) in the costs of research projects resulting from unsolicited proposals. (An unsolicited proposal is one not specifically solicited by an NSF program solicitation, and includes all proposals submitted solely in response to the GPG.) NSF grants which provide funds solely for the following purposes are **not** considered to be support of “research” for statutory cost sharing purposes:

1. international travel;
2. construction, improvement or operation of facilities;
3. acquisition of research equipment;
4. ship operations;
5. education and training;
6. publication, distribution and translation of research data and information;

7. symposia, conferences and workshops; and  
8. special studies authorized or required by Subsections 3a(5) through 3a(7) of the NSF Act, as amended.

b. As a matter of policy, NSF does not reimburse grantees for the indirect costs associated with grants solely for the support of doctoral dissertation research and considers that as satisfaction of the cost sharing requirement. (See GPM 633.2, “Exceptions to Basic Policy.”)

Careful consideration must be given before committing to voluntary cost sharing on unsolicited proposals and to including such unsolicited cost share on Line M of NSF proposal budgets.

### **333.2 Solicited Research Projects**

Organizations responding to particular NSF program solicitations may be required to contribute specific percentages or amounts to the cost of performing the research. Consistent with NSF’s cost sharing policy, this requirement is an eligibility rather than a July 2002 NSF 02-151

review criterion. NSF cost sharing requirements beyond the statutory requirement (1%) will be clearly stated in the solicitation. Language will be specific so as to provide eligible organizations a clear understanding of the parameters of the expected cost sharing.

### **333.3 Cost Sharing Amount**

a. NSF expects that grantees will share in the costs at a level which reflects their interest in the research, the potential benefits they may derive, and their ability to cost share, unless a specific cost share dollar amount or percentage is required by the terms of a solicitation. Proposed cost sharing must be cited on Line M of the NSF proposal budget. Organizations have a great deal of flexibility with regard to their approach to cost sharing under NSF-supported projects, and thus shall assume and exercise responsibility in determining appropriate levels of cost sharing.

b. Grantees shall share in the cost of projects requiring cost sharing as indicated in GPM 333.4, “Cost Sharing Method,” except in certain instances where specific cost sharing amounts, percentages or other requirements may be included in or incorporated by reference in specific NSF grants. In such cases the provisions of the grant govern the amount, level or nature of cost sharing. A failure to provide the level of cost sharing reflected in the approved award budget may result in disallowance of award costs, refund of award funds to NSF, possible termination of the award; and may constitute a violation of the terms of the award so serious as to provide grounds for debarment or suspension.

c. Grantees should be aware that cost sharing commitments are subject to audit. Audit findings involving cost sharing have pertained to: a) grantee accounting systems not capturing cost sharing identified with a particular project; b) failure to keep adequate source documentation for claimed cost sharing; c) unclear valuation of in-kind donated contributions; d) lack of support for cost sharing contributions by subrecipients; and e) failure to complete annual certifications for awards with cost sharing requirements of \$500,000 or more. Additional guidance on cost sharing may be obtained at <http://www.nsf.gov/bfa/cpo/oversite/costrev.htm>

### **333.4 Cost Sharing Method**

a. Except for grants that require specific cost sharing amounts or percentages (see



GPM 333.3, “Cost Sharing Amount”), grantees can comply with the basic cost sharing requirement and meet the minimum amount by either of two alternative methods:

1. cost sharing a minimum of one percent on each and every project; or
2. cost sharing a minimum of one percent on the aggregate total costs of all projects requiring cost sharing. This latter approach allows organizations greater flexibility by being able to share a greater percentage on some projects and not share at all on others.

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b. Decisions on which method to use may be made by the grantee and there is no requirement that NSF either be advised or approve of the method chosen. NSF does not use “organizational cost sharing agreements,” such as those used by some granting agencies, to provide for aggregated cost sharing.

c. Regardless of the method chosen and unless otherwise specified in the NSF program solicitation, the amount or percentage of cost sharing need not be detailed in specific project proposals or proposal budgets, except if cost sharing is expected to be undertaken by claiming less than the approved indirect cost rate, which should be clearly stated in the proposal budget. (See GPM 333.5, “Method of Providing Contributions.”)

d. Cost sharing responsibilities are assumed by the grantee upon acceptance of the grant. This accountability extends to subawardee cost share commitments made under the award.

### **333.5 Method of Providing Contributions**

a. Unless the grant states otherwise, contributions may be made from any non-Federal source, including non-Federal grants or contracts. Contributions from non-Federal sources may be counted as cost sharing toward Federal projects only once. Thus, contributions counted as cost sharing toward projects of another Federal agency may not be counted as cost sharing toward projects supported by NSF. If such contributions however, are related to projects supported by more than one Federal agency, the recipient may elect to make a proration among the agencies involved.

b. The contributions may be in the form of either direct or indirect costs.

c. Only items that would be allowable under the applicable cost principles, if charged to the project, may be included as the grantee’s contribution.

d. Organizations will not be required to obtain prior NSF approval of the manner in which contributions are to be provided. The contributions may be in any allowable budget category or combination of categories. However, when direct cost items are contributed to the project, any indirect costs related to that item may not be charged to the project. Those indirect costs may, of course, be counted as part of the contribution. This restriction also applies to fringe benefits (when treated as direct costs) applicable to direct salaries contributed by the recipient.

e. If a grantee wishes to provide cost sharing in the indirect cost category, it should merely reduce its claim for indirect costs to which it would be otherwise entitled, indicating the difference as cost sharing.

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### **333.6 Cost Sharing Records and Reports**

a. Grantee Records.

1. Grantees shall maintain records of all research project costs that are claimed by the grantee as being its contribution to cost participation, as well as records

of costs to be paid by the government. Such records are subject to audit.

2. If the grantee's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

3. Grantees using the aggregate cost sharing method may find it useful, on a fiscal year basis, to prepare a summary of the total project costs for the year of all NSF-funded

projects requiring cost sharing (excluding those grants which require specific cost sharing amounts or percentages; see GPM 333.3, "Cost Sharing Amount"), the total amount of cost sharing on those projects for the year, and the aggregate level of cost sharing expressed as a percentage of contributed costs to total project costs. Such information will facilitate organizational and Federal audit review and analysis of compliance with the cost sharing requirements on the aggregate basis.

b. Grantee Reports. Unless otherwise required by the grant or requested by NSF, the actual cost participation by the grantee need not be reported to NSF. However, in cases where the cost-sharing amount reflected on Line M of the cumulative award budget is \$500,000 or more, the amount of cost sharing must be documented (on an annual and final basis), certified by the Authorized Organizational Representative, and reported to the NSF Program Officer.

c. If, following receipt of an award, a grantee determines that cost sharing in the full amount proposed cannot be achieved, the grantee must contact the cognizant NSF program official and NSF's Division of Grants and Agreements immediately to discuss possible renegotiation of cost share terms. Any NSF-approved adjustments to cost share commitments are made based on the grantee's rationale behind the requested adjustment; and are made on a case-by-case basis.

#### **334 NSF Matching Requirement**

Some NSF programs have a requirement for grantees to match the Federal support in whole or in part, as outlined in the specific program solicitation. Records and reporting requirements for matching funds are the same as those outlined above. (See GPM 333.6, "Cost Sharing Records and Reports," for cost sharing amounts.)

#### **340 TECHNICAL REPORTING REQUIREMENTS**

NSF requires technical project reports for all assistance awards. Information from these reports is used in annual reports to Congress to demonstrate the Foundation's performance as mandated by the Government Performance and Results Act (GPRA) of 1993. These reports also provide NSF Program Officers and administrative offices with information on the progress of supported projects and the way these funds are used.

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Information in these reports may be made available to the general public through the Freedom of Information Act (FOIA).

#### **341 Annual Project Reports**

a. PI/PDs should submit annual project reports as indicated below. Such reports must be submitted electronically via the NSF FastLane system and in accordance with such procedures as the grantee organization may prescribe.

b. Unless otherwise specified in the grant, annual project reports shall be submitted at least three months prior to the end of the current budget period. In the case of continuing grants, failure to submit timely reports may delay processing of funding increments. See also GPM 263, "Continued Support (Continuing Grants)."

### **342 Final Project Report**

Within 90 days following expiration of the grant, a final project report must be submitted electronically via the NSF FastLane system. In addition, the grantee also shall provide to the cognizant NSF program officer, within 90 days following the expiration of the grant, any unique reports or other end items specified in the award letter (e.g., special cost sharing reports), including any report requirements set forth in any NSF brochure, guide, solicitation, etc., referenced in the award as being directly related to either the award or the administration of the award.

### **343 Final Technical Information Items**

As soon as they are available after completion of the project, the following technical items shall be submitted for NSF program management use:

- a. abstracts of theses;
  - b. publication citations and reprints of articles;
  - c. data on scientific collaborations;
  - d. information on inventions;
  - e. technical description of the project and results;
  - f. other materials either required in the grant or considered to be useful to NSF;
- and
- g. Universal Resource Locator numbers of electronic publications generated by the project.

### **344 Compliance with Technical Reporting Requirements**

NSF Program Officers are responsible for ensuring that Final Project Reports on prior, expired grants have been submitted by PI/PDs before new grants are made to those PI/PDs. This report should include the history and accomplishments achieved as a result of the completed award. **Failure to provide final technical reports on a timely basis will delay NSF review and processing of pending proposals for all identified PIs and co-PIs on a given award.**

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### **345 Grant Closeout**

Grant closeout is the process by which NSF determines that all applicable administrative actions and all required work of the grant have been completed. Grants will be closed upon receipt of the final disbursement information in the Federal Cash Transaction Report (FCTR) and Final Project Report, and after determination that any other administrative requirements in the grant have been met. In the event a final audit has not been performed prior to the closeout of the grant, NSF reserves the right to recover appropriate amounts after fully considering the recommendations on disallowed costs resulting from the final audit.

### **350 RECORDS RETENTION AND AUDIT**

a. Financial records, supporting documents, statistical records and other records pertinent to a grant will be retained by the grantee for a period of three years from submission of the Final Project Report described in GPM 342, "Final Project Report," except that:

1. records related to audits, appeals, litigation or the settlement of claims arising out of the performance of the project will be retained until such audits, appeals, litigation or claims have been disposed of; and
2. records related to projects subject to special program income provisions (GPM 753, "NSF Policy") will be retained for three years beyond the end of the award

period.

b. Unless court action or audit proceedings have been initiated, the grantee may substitute microfilm copies of original records.

c. The NSF Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records, the grantee organization (and of the performing organization, if different) to make audits, examinations, excerpts and transcripts. Further, in accordance with Section .48(d) of OMB Circular A-110, any negotiated contract in excess of the small purchase threshold made by the grantee shall include a provision to the effect that the grantee, NSF, the Comptroller General or any of their duly authorized representatives, shall have access to pertinent records for similar purposes.

d. In order to avoid duplicate recordkeeping, NSF may make special arrangements with grantees to retain any records which are needed for joint use. NSF may request transfer to its custody of records not needed by the grantee when it determines that the records possess long-term retention value. When the records are transferred to or maintained by NSF, the three-year retention requirement is not applicable to the grantee. In the rare event that these provisions are exercised, NSF will negotiate a mutually agreeable arrangement with the grantee regarding reimbursement of costs.

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e. It is the responsibility of grantees that are States, Local Governments or Non-Profit Organizations to arrange for the conduct of audits as required by OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" (including colleges and universities.) They shall provide copies of the reports of these audits to the cognizant Federal audit agency. Any Federal audit deemed necessary by NSF shall build upon the results of such audit(s).

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#### **Exhibit III-1**

### ***GRANTEE NOTIFICATIONS TO AND REQUESTS FOR APPROVAL\* FROM THE NATIONAL SCIENCE FOUNDATION***

**All notifications and requests for approval from the National Science Foundation must be submitted electronically via the NSF**

**FastLane System at <http://www.fastlane.nsf.gov>. Questions related to the electronic processing of these notifications and requests**

**should be forwarded to the FastLane Help Desk by phone at: 1-800-673-6188 or by e-mail to: [fastlane@nsf.gov](mailto:fastlane@nsf.gov).**

#### **Type of Grantee Notification GPM Citation**

Grantee Approved No-Cost Extension 253.2

Significant Changes in Methods/Procedures 311.2

Significant Changes/Delays or Events of Unusual Interest 311.3

Short-Term Absence of the PI/PD 312.3

Amount of Federal funds is expected to exceed the grant 322

by more than \$5,000 or 5%

Conflicts of Interest that cannot be satisfactorily managed, 510

reduced or eliminated

#### **Type of Grantee Request GPM GC-1 Questions should be directed to:**

NSF Approved No-Cost Extension 253.2b Article 4 Grants Office

Request for Supplemental Support 264 Program Office\*\*

Change in Objective or Scope 311.1 Article 8 Program Office\*\*

Long-Term Absence of the PI/PD 312.4 Article 8 Program Office\*\*

Change in Person-Months Devoted to Project 312.5 Article 8 Grants Office, if necessary

Withdrawal of PI/PD 312.6 Article 8 Program Office  
Substitute PI/PD 312.7 Article 8 Program Office  
PI/PD Transfer from One Organization to Another 312.8 Article 8 Grants Office  
Contracting or Transferring the Project Effort (Subawards) 313 Article 8 Grants Office  
Pre-award Costs in Excess of 90 Days 602.2 Article 3 Grants Office  
Reallocation of Funds Budgeted for Participant or 618 Article 2 Program Office  
Trainee Support Costs  
Rearrangements/Alterations in excess of \$25,000 621 Article 11 Grants Office  
Adjustments to cost sharing commitments reflected on 330 Article 22 Grants Office  
Line M of the approved NSF budget

**Notes:**

\* This listing of Notifications and Requests for Approval is not intended to be all-inclusive.

\*\* Final action by Grants Officer, when warranted

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## **CHAPTER IV**

### **FINANCIAL REQUIREMENTS AND PAYMENTS**

This chapter covers general grant payment methods and policies and provides instructions for obtaining payments. Topics covered are:

#### **400 BACKGROUND**

#### **410 STANDARDS FOR FINANCIAL MANAGEMENT**

#### **420 DEFINITIONS**

#### **430 PAYMENT REQUIREMENTS**

#### **440 CASH REFUNDS AND CREDITS TO NSF**

#### **450 GRANT FINANCIAL REPORTING REQUIREMENTS**

#### **400 BACKGROUND**

The acceptance of a grant from NSF creates a legal duty on the part of the grantee organization to use the funds or property made available in accordance with the conditions of the grant. Payments may be made in advance of work performed or as a reimbursement for work performed and/or costs incurred by the grantee. However, payments may not be made in advance of a grant being signed by a grants official for the project period. NSF has a reversionary interest in the unused balance of advance payments in any funds improperly applied (whether or not received as an advance payment); and in property acquired through the grant, to which NSF specifically either retains title or reserves the right to require title transfer.

The provisions of this chapter cover all NSF awards (grants and cooperative agreements). Graduate fellowship agreements with domestic colleges and universities are included but individual fellowships and contracts are excluded. All categories of grantees (academic, non-academic, profit and non-profit) are covered by this chapter. The procedures in this chapter apply primarily to the comptroller's office or business office.

#### **410 STANDARDS FOR FINANCIAL MANAGEMENT**

NSF grantees are required to have financial management systems that meet the requirements of Section .21 of OMB Circular A-110.

#### **420 DEFINITIONS**

The following definitions are either not included elsewhere in the manual or are repeated in this section because of their special applicability to this chapter.

a. AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) is an electronic payments system operated by the Federal Reserve Bank of Richmond that can

be utilized by Federal grantees to draw cash from multiple agencies in one transaction.

b. BUSINESS OFFICER is the financial official of the grantee organization who has primary responsibility for the accountability for and reporting on NSF grant funds.

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c. CASH ON HAND includes NSF funds on deposit, imprest funds and undeposited Treasury checks.

d. DISBURSEMENTS/OUTLAYS/EXPENDITURES are charges made to the project during a given period for:

1. goods and other tangible property received;
2. services performed by employees, subawardees, contractors and other payees; and
3. amounts becoming owed for which no current services or performance is required.

e. FASTLANE FINANCIAL ADMINISTRATION FUNCTIONS (Cash Request and Submit Federal Cash Transaction Report (FCTR)) are electronic systems for transmitting information to the NSF Division of Financial Management (DFM). They are electronic versions of the SF 270 (Cash Request) and the SF 272 (FCTR).

f. A GRANTEE is the organization or other 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. NSF grants are normally made to organizations rather than to individual PI/PD(s).

g. NSF OBLIGATIONS are funds authorized by an NSF Grants Officer, in writing, for payment to a grantee.

h. GRANTEE OBLIGATIONS are the amounts of orders placed, subawards issued, contracts awarded, services received and similar transactions during a given period that will require payment by the grant during the same or a future period.

i. PAYMENTS are funds transferred from NSF to the grantee by direct deposit (Automated Clearing House (ACH) Vendor Express) and on some rare occasions by check.

j. UNLIQUIDATED OBLIGATIONS, for financial reports prepared on a cash basis, represent the amount of obligations incurred by the grantees that have not been paid. For reports prepared on an accrued expenditure basis, unliquidated obligations represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

k. UNOBLIGATED BALANCE is the portion of the funds authorized by the grant that has not been obligated by the grantee. It is determined by deducting outlays and unliquidated obligations from the cumulative funds authorized.

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## **430 PAYMENT REQUIREMENTS**

### **431 General**

Federal grant and other programs involving advances to various organizations outside the Federal government constitute a significant portion of the Federal budget. Advances of cash from the U.S. Treasury to such organizations for the purpose of financing current operations under Federal programs have a substantial impact on Treasury financing costs and the level of the public debt. The purpose of this section is to prescribe the timing of such advances and the procedures to be observed to assure that cash withdrawals from the Treasury occur only when essential to meet the needs of a

grantee for its actual disbursements.

#### **432 Payment Policies**

a. Timing of Payments. Advances to a grantee shall be limited to the minimum amount needed and shall be timed to be in accordance with the actual, immediate cash requirements of the grantee in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to actual disbursements for direct program costs and the proportionate share of any allowable indirect costs.

b. Payments to Subawardees. Cash advances made by primary grantees (those which receive advances directly from NSF) to others (subawardees) shall conform to the same standards of timing and amount as apply to advances by NSF to primary grantees, including the furnishing of reports of cash disbursements and balances.

c. Withholding payments. NSF reserves the right, upon written notice, to withhold future payments after a specified date if the recipient:

1. fails to comply with the conditions of an NSF grant, including the reporting requirements; or
2. is indebted to the U.S. Government.

d. Safeguarding Funds. In no case will NSF-furnished funds be commingled with the personal funds of, or be used for personal purposes by, any officer, employee, or agent of the grantee; nor will any of these funds be deposited in personal bank accounts for disbursement by personal check.

#### **433 Request for Advance**

a. Grantees may receive payments from NSF in advance of cost incurred provided that the following conditions exist:

1. funds for the project period have been obligated by a Grants Officer in the form of a signed grant;

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2. the grantee has established or demonstrated to NSF the willingness and ability to establish written procedures that will minimize the time elapsing between the transfer of funds from the U.S. Treasury and their disbursement by the grantee; and

3. the grantee's financial management system meets the standards for fund control and accountability prescribed in Section .21 of OMB Circular A- 110.

b. The grantee's designated official (Accounting Officer, Business Officer, Treasurer, etc.) must submit their cash requests for payment by using either the ASAP or FastLane Cash Request systems. Grantees submit requests on a periodic basis (monthly, biweekly or other regular cycle) depending on their normal disbursement patterns. Such requests should be limited to the minimum amounts needed and be timed to meet the anticipated cash requirements for allowable charges to active NSF projects.

c. Grantees shall maintain advances of NSF funds in interest bearing accounts as specified in GPM 443, "Interest Earned on Advance Payments."

#### **434 Request for Reimbursements**

When a grantee does not meet the conditions specified in GPM 433, "Request for Advance," or when otherwise considered appropriate by NSF, the grantee shall be required to finance its operations with its own working capital, and payments shall be made to reimburse the grantee for actual cash disbursements based on requests for reimbursement submitted to NSF. The NSF grant will specify if the grantee is required

to use the SF 270, Request for Advance or Reimbursement. The amount requested as reimbursement will be reported on line 11i of the SF 270. The SF 270 is mailed to:

National Science Foundation  
Division of Grants & Agreements  
Room 480

4201 Wilson Blvd  
Arlington, VA 22230

The SF 270 also may be faxed to 703.292.9142.

#### **435 Working Capital Advance**

In those cases where the reimbursement method described in GPM 434, "Request for Reimbursements," is not feasible, arrangements may be made whereby NSF projects are financed on a working capital advance basis. On this basis, funds may be advanced to the grantee to cover estimated disbursement needs for a given initial period. Thereafter, the grantee would be reimbursed for the amount of its actual cash disbursements. The amount of the initial advance shall be geared to the reimbursement cycle so that after the initial period, the advance approximately equals the average amount of the grantee's unreimbursed program disbursements. Under this method of payment, the NSF grant will specify if the grantee is required to use the SF 270. Section 12 of the SF270 will be July 2002 NSF 02-151

used for the initial advance; thereafter, reimbursements will be requested on the SF 270, line 11i.

#### **436 ACH Vendor Express**

a. The electronic funds transfer (EFT) system allows the Government to transfer funds electronically to a grantee's financial institution (bank) along with explanatory information about the payment. A grantee and its financial institution will determine how the grantee will be advised of the deposit and the explanatory information.

b. Enrollment. When awarded a grant, new grantees will receive a copy of the SF 3881, ACH Vendor/Miscellaneous Payment Enrollment Form (see Exhibit IV- 1). This form is required to implement the Vendor Express System and to notify NSF of any change or correction to the financial institution information. All grantees are required to file this form unless exempted by NSF.

c. Requests for Payments. After enrollment in the Vendor Express System, funds may be requested from NSF, as needed, in any one of the following three formats:

1. ASAP;
2. FastLane Cash Request; or
3. SF 270, Request for Advance or Reimbursement. (This format is only to be used when required by NSF.)

#### **437 Use of Women-Owned and Minority-Owned Banks**

Recipients of NSF grants are encouraged by the Federal government to use banks which are owned (at least 50 percent) by women or minority groups such as Asian, Black, Hispanic, Native Americans and Pacific Islanders. This action is consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises.

#### **440 CASH REFUNDS AND CREDITS TO NSF**

#### **441 Final Unobligated Balance**

NSF has a reversionary interest in the unobligated balance of a grant upon expiration or completion of the grant. Based on final disbursements reported on the FCTR, the final



unobligated balance will be computed by NSF and reported in the “Unobligated Balance” column of the FCTR. (See GPM 452, “Final Disbursement Reporting.”) The entry reduces the grantee’s “Balance Authorized” as computed on line 15 of the FCTR. (Detailed instructions for submission of the FCTR are available on the FastLane website at <https://www.fastlane.nsf.gov/jsp/homepage/bussoadmin.jsp>.)

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#### **442 Erroneous Payments**

Advances or reimbursements made in error must be refunded to the National Science Foundation if the erroneous payment creates an excess cash on hand condition or a negative “Balance Authorized” as computed on lines 6 and 15 of the FCTR. Excess funds should be promptly refunded electronically or by check. Contact the NSF Division of Financial Management at (703) 292-8280 for instruction for electronically refunding monies to NSF. Checks shall be mailed to NSF, Attn. Cashier, 4201 Wilson Boulevard, Arlington, VA 22230.

The only exception to the requirement for prompt refunding is when the funds involved will be disbursed within 30 calendar days. This exception for prompt refunding should not be construed as approval by NSF for a grantee to maintain excessive funds on hand.

#### **443 Interest Earned on Advance Payments**

Grantees shall maintain advances of NSF funds in interest bearing accounts, unless any of the following apply:

- a. the grantee receives less than \$120,000 in Federal grants per year;
- b. the best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on Federal cash balances; or
- c. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

Interest earned on NSF advances deposited in interest bearing accounts shall be remitted annually to the Department of Health and Human Services (DHHS), Payment Management System, P.O. Box 6021, Rockville, MD 20852 (telephone number: (301) 443-9247). Grantees are authorized to retain up to \$250 per year for administrative expenses. Interest on advances earned shall be reported on line 9 of the FCTR.

The requirement to annually remit interest does not apply to grantees subject to the Cash Management Improvement Act (CMIA) and its implementing regulations (i.e., State agencies and instrumentalities). State universities and hospitals shall comply with the CMIA, as it pertains to interest. In accordance with Section .22 of OMB Circular A-110, if a grantee subject to CMIA uses its own funds to pay pre-award costs without prior written approval from NSF, it waives its right to recover the interest under CMIA.

#### **444 Program Income**

If, in accordance with the grant, program income is designated for credit to grant costs, it will be recovered by NSF by crediting costs otherwise chargeable against the grant on the FCTR. (See GPM 750, “Program Income.”) In these cases, income in excess of the grant will be remitted to NSF electronically or by check payable to the National Science Foundation.

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#### **445 Other Cost Credits**

Purchase discounts, rebates, allowances, credits resulting from overhead rate adjustments and other credits relating to any allowable cost received by or accruing to the grantee shall be credited against NSF grant costs if the grant has not been financially

closed out. A grant is financially closed out when the final net disbursements have been reported on the FCTR. Credits of \$300 or more shall be credited against NSF grant costs even if the grant has been closed out. See also GPM 617, "Publication, Documentation and Dissemination."

#### **450 GRANT FINANCIAL REPORTING REQUIREMENTS**

##### **451 Quarterly Disbursement Reporting - Federal Cash Transactions**

###### **Report (FCTR)**

Shortly (usually within twelve days) after the end of each calendar quarter, NSF will create and make the FCTR available to grantees on FastLane. E-mail notices are sent to each grantee announcing the reports availability and its due date. Grantees are required to update, certify and submit the FCTR to NSF by the due date even if funds have not been drawn during the reporting period. Grantees certify to its truthfulness as stated in the Certification, Save and Submission page of the FCTR. The report elements are in compliance with the uniform Federal standards applicable to financial reporting by grantees.

Failure to submit the FCTR to NSF in a timely manner can result in one or more of the following actions:

- a. suspension of all future payments;
- b. closeout of expired awards based on previously reported disbursements;
- c. suspension of unexpired awards; and
- d. suspension of review and processing of new proposals.

Additional information on electronic submission of FCTRs and passwords for the FastLane Financial Administration functions may be obtained by calling the cognizant accountant at (703) 292-8280.

##### **452 Final Disbursement Reporting**

NSF does not require grantees to submit individual SF 269, Financial Status Reports, for purposes of final grant accountability. NSF procedures have been designed to extract the final financial data from the entries in the FCTR. This reporting is accomplished as follows:

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- a. For any grant listed on the FCTR that expired prior to the beginning of the quarter covered by the FCTR, the grantee will enter the final disbursement amount in the "Net Disbursement Reporting Quarter" column.
- b. If there are valid unpaid obligations outstanding at the time final disbursements are due, the obligations must be charged against the NSF cash advance and reported in the "Net Disbursement Reporting Quarter" column as if they had actually been paid. If subsequent disbursements differ by \$300 or more from the amount previously reported, the grantee must report the amount as an "Adjustments to Financially Closed Awards" and specify the reason for the adjustment under the remarks section of the FCTR. The Cost Analysis/Audit Resolution Branch, CPO may request additional documentation. Adjustments will not be approved for amounts less than \$300.
- c. If by law, regulation, and/or accounting system limitations, valid unpaid obligations cannot be charged against the NSF advance and reported as disbursed in accordance with b. above, closeout by NSF will be deferred provided that:
  1. the grantee identifies grants with "unpaid obligations" in the Remarks section of the FCTR;
  2. the grantee submits the FCTR before the quarterly financial closeout

procedure is run; and

3. the appropriation that funds the grant has not lapsed as noted under Public Law 101-510.

d. The final disbursement amount may not exceed the amount of the award.

e. When the final disbursements have been recorded by NSF, the award will be financially closed and no additional disbursements shall be shown by the grantee in subsequent reports. When all final reporting requirements have been met, the award will be deleted from the FCTR. When this is done, the award will be shown in the next "Schedule of Awards Purged and Subsequent Adjustments During the Quarter," Part IV of the FCTR.

## **ACH VENDOR/MISCELLANEOUS PAYMENT ENROLLMENT FORM**

### **PRIVACY ACT STATEMENT**

#### **AGENCY INFORMATION**

FEDERAL PROGRAM AGENCY: **National Science Foundation**

AGENCY IDENTIFIER: AGENCY LOCATION CODE (ALC): ACH FORMAT:

ADDRESS: **4201 Wilson Boulevard, Room 575**

**Arlington, Virginia 22230** TELEPHONE NUMBER: **703-292-4458**

CONTACT PERSON NAME: **Richard A. Noll** FAX NUMBER: **703-292-9005**

ADDITIONAL INFORMATION:

#### **PAYEE /COMPANY INFORMATION**

NAME: INSTITUTION NUMBER: SOCIAL SECURITY NUMBER:

ADDRESS:

E-MAIL ADDRESS:

CONTACT PERSON NAME: TELEPHONE NUMBER:

#### **FINANCIAL INSTITUTION INFORMATION**

NAME:

ADDRESS:

ACH COORDINATOR NAME: TELEPHONE NUMBER:

NINE DIGIT ROUTING TRANSIT NUMBER:

DEPOSITOR ACCOUNT TITLE:

DEPOSITOR ACCOUNT NUMBER: LOCKBOX NUMBER:

TYPE OF ACCOUNT: (CHECKING, SAVINGS, LOCKBOX)

SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL: (COULD BE THE SAME AS ACH COORDINATOR) TELEPHONE NUMBER:

**CCD+ 53-0206152**

**49-00-0001**

This form is used for Automated Clearing House (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this form for completion.

The following information is provided to comply with the Privacy Act of 1974 (PL> 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 322 and 31 CFR 210. This information will be used by the Treasury Department to transmit payment data by electronic means to the vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

**PLEASE TYPE OR PRINT SF 3881**

### **Exhibit IV-1**

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## **CHAPTER V**

### **GRANTEE STANDARDS**

This chapter discusses various grantee management standards with which recipients are expected to comply. It consists of the following topics:

**500 BACKGROUND**

**510 CONFLICT OF INTEREST POLICIES**

## **520 FINANCIAL MANAGEMENT SYSTEMS STANDARDS**

## **530 PROCUREMENT STANDARDS**

## **540 PROPERTY MANAGEMENT STANDARDS**

## **500 BACKGROUND**

a. NSF requires prospective grantees to furnish, upon request by DGA, basic organization and management information to assist the NSF Grants Officer in assessing the prospective grantee's financial and managerial responsibility. GPM 501 describes NSF requirements for the furnishing of organization and management information.

b. NSF encourages the increased involvement of academic researchers and educators with industry and private entrepreneurial ventures, but recognizes that such interactions carry with them an increased risk of conflict of interests. GPM 510 contains NSF's policy on conflict of interest.

c. OMB Circular A-110 prescribes three sets of standards for academic and other non-profit recipients of Federal grants. These govern financial management systems, procurement policies and procedures and property management. GPM sections 520-540 implement the OMB standards, and extend their applicability to all types of recipients of NSF grants, including commercial firms.

### **501 Prospective Grantee Organization and Management Data**

Each proposing organization that has not received an NSF grant within the previous two years should be prepared to submit basic organization and management information and certifications, when requested, to DGA. The information required is contained in the NSF Prospective New Awardee Guide, available electronically on the NSF website at: <http://www.nsf.gov/bfa/cpo/oversite/start.htm>. The information contained in this Guide will assist the organization in preparing documents which the National Science Foundation requires to conduct administrative and financial reviews of the organization. This Guide also serves as a means of highlighting the accountability requirements associated with Federal awards.

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## **510 CONFLICT OF INTEREST POLICIES**

a. NSF requires each grantee institution<sup>5</sup> employing more than fifty persons to maintain an appropriate written and enforced policy on conflict of interest. Guidance for such policies has been issued by university associations and scientific societies.<sup>6</sup>

b. An institutional conflict of interest policy should require that each investigator disclose to a responsible representative of the institution all significant financial interests of the investigator (including those of the investigator's spouse and dependent children) (i) that would reasonably appear to be affected by the research or educational activities funded or proposed for funding by NSF; or (ii) in entities whose financial interests would reasonably appear to be affected by such activities.

The term "investigator" means the principal investigator, co-principal investigators, and any other person at the institution who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding by NSF. The term "significant financial interest" means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interest (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights).

The term does not include:

1. salary, royalties or other remuneration from the applicant institution;

2. any ownership interests in the institution, if the institution is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;
3. income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;
4. income from service on advisory committees or review panels for public or nonprofit entities;
5. an equity interest that, when aggregated for the investigator and the investigator's spouse and dependent children, meets both of the following tests: does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or

<sup>5</sup> For consistency with the DHHS conflict of interest policy, in lieu of "organization", NSF is using the term "institution" which includes all categories of proposers.

<sup>6</sup> See *On Preventing Conflicts of Interest in Government-Sponsored Research at Universities*, a Joint Statement of the Council of the American Association of University Professors and the American Council on Education (1964); *Managing Externally Funded Programs at Colleges and Universities*, especially "Principle X. Research Ethics and Conflicts", issued by the Council on Government Relations (1989); *Guidelines for Dealing with Faculty Conflicts of Commitment and Conflicts of Interest in Research*, issued by the Association of American Medical Colleges (1990); and *Framework Document for Managing Financial Conflicts of Interest*, issued by the Association of American Universities (1993).

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6. salary, royalties or other payments that, when aggregated for the investigator and the investigator's spouse and dependent children, are not expected to exceed \$10,000 during the twelve month period.

c. An institutional policy must ensure that investigators have provided all required financial disclosures at the time the proposal is submitted to NSF. It must also require that those financial disclosures are updated during the period of the award, either on an annual basis, or as new reportable significant financial interests are obtained.

d. An institutional policy must designate one or more persons to review financial disclosures, determine whether a conflict of interest exists, and determine what conditions or restrictions, if any, should be imposed by the institution to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the reviewer(s) reasonably determines that a significant financial interest could directly and significantly affect the design, conduct, or reporting of NSF-funded research or educational activities.

Examples of conditions or restrictions that might be imposed to manage, reduce or eliminate conflicts of interest include, but are not limited to:

1. public disclosure of significant financial interests;
2. monitoring of research by independent reviewers;
3. modification of the research plan;
4. disqualification from participation in the portion of the NSF-funded research that would be affected by significant financial interests;
5. divestiture of significant financial interests; or
6. severance of relationships that create conflicts.

If the reviewer(s) determines that imposing conditions or restrictions would be either ineffective or inequitable, and that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then the reviewer(s) may allow the

research to go forward without imposing such conditions or restrictions.

e. The institutional policy must include adequate enforcement mechanisms, and provide for sanctions where appropriate.

f. The institutional policy must include arrangements for keeping NSF's Office of the General Counsel appropriately informed if the institution finds that it is unable to satisfactorily manage a conflict of interest.<sup>7</sup>

g. Institutions must maintain records of all financial disclosures and of all actions taken to resolve conflicts of interest for at least three years beyond the termination or  
<sup>7</sup>Grantee notifications of conflict of interest that cannot be managed, reduced, or eliminated must be submitted electronically via the NSF FastLane system.

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completion of the grant to which they relate, or until the resolution of any NSF action involving those records, whichever is longer.

## **520 FINANCIAL MANAGEMENT SYSTEMS STANDARDS**

NSF grantees are required to have financial management systems which meet the requirements of Section .21 of OMB Circular A-110.

## **530 PROCUREMENT STANDARDS**

NSF grantees shall adhere to the requirements of Sections .41 through .48 of OMB Circular A-110 which prescribe standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds.

## **540 PROPERTY MANAGEMENT STANDARDS**

### **541 Background**

a. Sections .31 through .37 of OMB Circular A-110 prescribe standards governing the management and disposition of property furnished by the Federal government or whose cost was charged to a project supported by a Federal grant.

b. In the rare instances where NSF grants might involve the acquisition of real property and unless otherwise specified in the grant document, the real property standards of OMB Circular A-110 are applicable to such NSF grants.

c. NSF implementation of the OMB standards on intellectual property is contained in GPM 730, "Intellectual Property."

d. Title to materials developed and supplies purchased under an NSF grant will vest in the grantee.

e. Section .33(b) of OMB Circular A-110 contains a special category of "exempt property." Under that provision, any Federal agency which has statutory authority (such as NSF) may vest title in an institution of higher education, hospital or other nonprofit

organization without further obligation to the Federal Government and under conditions the agency considers appropriate.

### **542 Title to Equipment**

#### **542.1 Title to Equipment - Non-Profit Organizations**

a. Normal Situations. Unless otherwise specified in the grant, title to equipment purchased or fabricated with NSF grant funds by a college or university or other nonprofit

organization will vest in the grantee organization upon acquisition. Such

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equipment is considered "exempt property" (see GPM 541, "Background") and subject to the conditions of GPM 543, "Conditions for Acquisition and Use of Equipment."

b. Special Situations. In special situations the grant may require that title to equipment purchased, acquired or fabricated by the grantee with NSF funds pass directly to the government from the vendor.

#### **542.2 Title to Equipment - Commercial Organizations**

Unless otherwise specified in the grant, title to equipment purchased or fabricated with NSF grant funds by a small business or other commercial firm will vest in the government. Such equipment will be acquired and used in accordance with GPM 543, "Conditions for Acquisition and Use of Equipment," and managed in accordance with GPM 545, "Property Management Standards When Title Retained by NSF."

#### **543 Conditions for Acquisition and Use of Equipment**

a. Grantee Assurance. The grantee will assure that for each purchase of equipment, it is:

1. necessary for the research or activity supported by the grant;
2. not otherwise reasonably available and accessible;
3. of the type normally charged as a direct cost to sponsored agreements; and
4. acquired in accordance with organizational practice.

b. General Purpose Equipment. Expenditures for general purpose equipment (see GPM 612.2c, "Definitions") are unallowable unless the equipment is primarily or exclusively used in the actual conduct of research.

c. Equipment Usage. The equipment must remain in use for the specific project for which it was obtained in accordance with OMB Circular A-110 Section .34c., unless the provision in Section .34e. applies.

d. Equipment Sharing. The equipment must be shared on other projects or programs in accordance with OMB Circular A-110 Section .34d.

e. Property Management Standards. The grantee shall maintain a property management system which, at a minimum, meets the requirements of OMB Circular A-110 Section .34f.

f. Competition. Grantees shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by statute, for as long as the Federal Government retains an interest in the equipment.

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g. Right to Transfer Title.

1. NSF may identify items of equipment having a unit acquisition cost of \$5,000 or more where NSF reserves the right to transfer the title to the Federal government or to a third party named by the Federal government.
2. In such cases where NSF elects to transfer the title, disposition instructions will be issued no later than 120 calendar days after the expiration date of the NSF-supported project for which it was acquired.

#### **544 Principles Relating to the Use of NSF-Supported Research Instrumentation and Facilities**

The following principles on use of NSF-supported instrumentation and facilities were adopted by the National Science Board:

The National Science Foundation seeks the maximum productive use of the Nation's scientific instrumentation and research expertise. Ensuring that the highest quality instrumentation, facilities, and services are available to scientific users, both academic and industrial, is a key requirement, as are harmonious

relations and cooperation between industry and universities. Private research and testing laboratories, as well as university, government, and industrial laboratories, have a contribution to make.

The National Science Board recognizes that there may be circumstances where NSF grantees use NSF-supported research instrumentation to provide services in commerce for a fee, to an extent that such practice, (1) detracts from the performance of their obligation under the grant, and/or (2) may have a material and deleterious effect on the success of private companies engaged in the provision of equivalent services. It is contrary to the NSF's intent for grantees to use NSF-supported research instrumentation or facilities to provide services for a fee in competition with private companies in a manner that is prohibited by OMB Circular A-110.

Grantees should implement the above principles and related grant conditions in a reasonable manner. Grantees are expected to provide fair and adequate consideration of any complaints about use of instrumentation and facilities.

#### **545 Property Management Standards When Title Retained by NSF**

In the event that title to equipment or property is vested in the Federal Government, such property shall be marked, tagged or segregated in such a manner as to indicate clearly its ownership by the government. Unless otherwise provided in the grant, such government property shall be used only for the performance of the project. The grantee shall submit an annual inventory report by NSF grant number of such property having an original acquisition cost of \$5,000 or more, to the NSF Property Administrator, Division of Administrative Services (DAS). A physical inventory of Government-Owned Equipment (GOE) shall be conducted every two years pursuant to Section .34f of OMB July 2002 NSF 02-151

Circular A-110. Upon expiration of the grant, the grantee shall report the property to the Property Section for further agency utilization. (See GPM 546, "Excess Government Personal Property.")

#### **546 Excess Government Personal Property**

##### **546.1 Policy**

- a. As a means of expanding the ability of grantees to accomplish NSF objectives while conserving supply and equipment funds, NSF will continue to sponsor the transfer of excess government personal property to NSF grantees.
- b. Excess government personal property includes all types of personal equipment and materials (except consumable items such as drugs, paint, etc.), new or used, owned by the Federal Government and no longer needed by the holding agency, but having additional useful life. Under regulations established by the General Services Administration (GSA), the agency charged with operating this program, excess government personal property may be reported to, or requested from, GSA by other Federal agencies, including NSF.
- c. NSF will sponsor the transfer of excess government personal property to eligible organizations under one of the following conditions:
  1. the use of the property significantly furthers an NSF grant-supported activity;
  2. the property is such that it would have been procured under the grant for which property is being requested if additional grant funds had been available;



3. the property is used as part of the grant activity and subsequently for research or science education purposes; or
4. the property is classified by GSA as scientific or engineering research equipment and has a unit acquisition cost of \$1,000 or more. (See GPM 546.6, "Restrictions".)

#### **546.2 Eligibility**

Eligible organizations are NSF grantees that are public or private institutions of higher education or non-profit organizations whose primary purpose is the conduct of research or science education activities. State and municipal governments, public health units, hospitals, profit-making firms and individual PI/PDs are not eligible for excess government personal property under NSF sponsorship.

#### **546.3 Procedures**

a. To receive information concerning the availability of property, an eligible grantee should contact the Property Administrator, DAS. The Foundation will place the grantee on the list of eligible NSF grantees with the GSA and will provide the grantee with the July 2002 NSF 02-151

names, addresses and telephone numbers of GSA Area Utilization Officers (AUO) located near the organization. The grantee should contact an AUO to set up a "needs" list of the research equipment required for the NSF grant. It is important that the NSF grant number and the name of the PI/PD be communicated in all conversations and correspondence regarding excess property acquisitions, transfers and disposals.

b. When GSA information on available excess government personal property is received, the grantee should ascertain whether any items that are necessary to accomplish the supported project are included.

c. Materials and equipment so selected should be inspected whenever possible (see GPM 546.4, "Visiting Holding Agency Facilities"), or the holding Federal agency should be contacted by the grantee to verify the condition of the items, because interpretation of condition codes varies among agencies.

d. If the condition of the item is acceptable, the grantee should freeze (reserve) items by calling the GSA office identified in the catalog. The verbal reservation should then be followed up by a letter. Items are usually allocated on a first come, first served basis. Since GSA may have several freezes on a piece of equipment, first come, first served is interpreted as the first approved written request received by the GSA office. However, preference will be given by GSA to agencies which do not grant title to equipment.

e. The grantee should next prepare and submit to the Property Administrator, DAS, a property request in six copies. A property request consists of SF 122, *Transfer Order Excess Personal Property*, and a separate written justification statement. The justification will explain why the property is needed to reduce the cost or enhance the performance under the specific grant for which the property is requested.

f. The SF 122 should be signed by both the PI/PD and the Authorized Organizational Representative. The following information should also be provided on each SF 122:

1. name of grantee organization;
2. grant number;
3. expiration date;
4. the statement "The above equipment is requested for use by the grantee in

support of research or education as outlined in the grant”; and  
5. the statement “Transfer is in accordance with the provisions of 41 CFR §101.43.” The transfer order should also identify the automatic release date (from the GSA catalog) to preclude loss of property before the transaction is processed.

g. The written justification should detail the scientific need for the equipment as it relates to the particular grant under which the equipment is to be used, and should cite the conditions of this section as being binding upon the grantee, should the property be acquired.

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h. Upon receipt by NSF, the property request will be reviewed. As confirmation of approval, the grantee will receive copies of the SF 122 from NSF and, subsequently, from GSA. If the request is disapproved, it will be returned to the grantee with an appropriate explanation.

i. Upon receipt of the requested property, the grantee should immediately return a copy of the SF 122 to NSF as evidence of delivery. Cancellations by GSA, or nonreceipt within a reasonable period of time, should also be reported to NSF after follow-up inquiries have been made to GSA.

#### **546.4 Visiting Holding Agency Facilities**

a. Under current GSA regulations all non-Federal grantee representatives wishing to visit holding agency facilities to screen or freeze government excess personal property must receive prior certification from GSA. This certification is not required for those grantees who do their selecting from GSA catalogs and who freeze property only via telephone requests.

b. The number of screeners on a grant should be limited to no more than two persons. The primary screener should be the PI/PD. However, if the PI/PD finds it impossible to screen, he/she may designate, in writing, a substitute.

c. Normally, certification will be on a regional basis; however, NSF will, under certain circumstances, sponsor grantee representatives who need to make interregional visits in order to secure equipment not readily available within their region. Each person who plans to visit holding agency facilities must submit to NSF a completed GSA Form 2946, *Authorization Certificate to Select/Freeze Excess Personal Property*. This form may be obtained from the Property Administrator, DAS. The GSA Regional Office in which the grantee or organization is located will authorize all regional certifications and serve as principal coordinator on interregional requests. The authorization will be forwarded to the grantee via NSF.

#### **546.5 Dollar Limitation**

To ensure equitable distribution of excess government personal property, grantees may be authorized to acquire property under each NSF project grant up to a total acquisition cost equal to the dollar value of that particular grant. Any request for excess property which causes the total to exceed the value of the grant will require additional justification beyond that requested in GPM 546.3, “Procedures.” A higher percentage of excess property requested under a particular grant by a grantee must be approved by an administrative level in NSF which is higher than the Program Officer who normally administers the grant. NSF will give full consideration to all factors in determining whether to approve transfers of excess property above the dollar value of a given grant. Grantees are therefore urged to be selective in their requests for excess government

personal property to limit quantities of each item where possible and to avoid stockpiling items for future use.

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#### **546.6 Restrictions**

a. NSF will sponsor the transfer of excess government personal equipment to eligible organizations only under project grants. As defined in the GSA regulations, “project grants” refers to grants made for specific purposes with established termination dates, e.g., grants made to specific organizations to perform specific tasks within set time frames and costs. No excess property may be acquired on behalf of conference grants, publication-support grants or travel grants. In addition, on “summer-type training grants,” no property may be acquired after the training period has terminated. Further, grantees should exercise careful judgment on the appropriateness of requesting excess personal property when only a short period of time exists between the date of the property request and the completion or successful accomplishment of the NSF-supported activity. GSA will consider items of personal property as research equipment for transfer without reimbursement to NSF for use by a grantee when the property requested has a unit acquisition cost of \$1,000 or more and is within Federal Supply Classification Groups:

1. 14 Guided Missiles;
2. 43 Pumps and Compressors;
3. 48 Valves;
4. 58 Communication, Detection and Coherent Radiation Equipment;
5. 59 Electrical and Electronic Equipment Components;
6. 66 Instruments and Laboratory Equipment;
7. 67 Photographic Equipment;
8. 70 General Purpose Automatic Data Processing Equipment, Software, 923 Supplies and Support Equipment; or
9. 74 Office Machines and Visible Record Equipment.

Automatic data processing equipment must be acquired under the provisions in 41 CFR §201.23.

b. GSA will give consideration to the transfer without reimbursement of items of excess property in other Federal supply classification groups and items with a unit acquisition cost of less than \$1,000, when NSF certifies that the item requested is a component part of or related to a piece of research equipment or is an otherwise difficult to acquire item needed for scientific or engineering research. Items of property determined by GSA to be common-use or general purpose property, regardless of classification or unit acquisition cost, shall not be transferred to a grantee for the purpose of cannibalization, unless the granting agency sends with the transfer request a supporting statement which clearly indicates that disassembly of the requested item for secondary use of its component parts, or for repair and maintenance of a similar item, has greater potential benefit than utilization of the item in its existing form and that a clear cost savings to the government will result, subject to final determination by GSA.

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#### **546.7 Costs**

Excess government personal property is usually secured without cost. However, the recipient grantee should specify the method of shipment and must pay all costs of packing, transportation and subsequent installation, rehabilitation and maintenance if

required. Grant funds may be used to pay such costs.

#### **546.8 Title**

Title to excess government personal property obtained by academic and other nonprofit grantees through NSF sponsorship remains with the government until the property is delivered to the grantee organization. Upon delivery, the grantee should forward to NSF a receipted SF 122 which clearly lists the items of property actually obtained by the grantee. Unless NSF informs the grantee to the contrary, when this SF 122 is received at NSF, title to all property acquired will automatically pass to and be vested in the grantee organization, subject to the understanding that the property will be used for research or for science education purposes as long as it has a useful life. At such time as the property is no longer useful for such purposes, it may be disposed of in accordance with organizational practices, but any proceeds therefrom shall be used by the grantee solely for research or science education purposes. Under certain conditions, such as when highly specialized equipment is involved, NSF may retain title to excess property. When such a condition exists, NSF will inform the grantee. Excess government personal property may not be transferred to a foreign country without the express written approval of DGA.

#### **546.9 Accountability and Recordkeeping**

a. While no particular type of classification of accounts or inventory system is required, NSF expects that the responsible officials of the grantee organization will exercise careful stewardship of excess government personal property acquired in support of projects undertaken with NSF's financial assistance. In accordance with GPM 546.5, "Dollar Limitation," relating to the dollar limitation on the amount of excess government personal property provided by NSF, grantees should maintain appropriate inventory procedures that will enable them to identify those requests which require more extensive administrative and scientific justification. In those cases where title to excess government personal property remains with the government, the grantee must maintain suitable records to identify its location, description, utilization and value. The use of excess government personal property under an NSF grant is subject to inspection and audit by representatives of NSF at all reasonable times during the life of the grant under which the property was acquired.

b. Further details may be obtained from the Property Administrator, Division of Administrative Services, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

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## **CHAPTER VI**

### **Allowability of Costs**

This chapter covers the general applicability of Federal cost principles to NSF cost reimbursement grants, including a discussion of selected items of cost and description of NSF prior approval requirements. It consists of the following topics:

#### **600 BASIC CONSIDERATIONS**

##### **610 DIRECT COSTS**

##### **620 OTHER DIRECT COSTS**

##### **630 INDIRECT COSTS**

#### **640 FEE PAYMENTS UNDER NSF GRANTS**

#### **600 BASIC CONSIDERATIONS**

Expenditures under NSF cost reimbursement grants are governed by the Federal cost principles and must conform with NSF policies, grant special provisions and grantee internal policies. Grantees should ensure that costs claimed under NSF grants are allowable, allocable, and reasonable. In the event a grantee anticipates charging an item of direct cost that might subsequently be disputed, an authorized official of the grantee organization should discuss the matter with the cognizant NSF Grants Officer and document the conditions or factors surrounding the item in order to avoid possible subsequent disallowance.

## **601 Federal Cost Principles**

### **601.1 Applicability to Grantees**

The governing Federal cost principles applicable to specific types of grantees are as follows:

#### **Type of**

#### **Organization**

#### **Applicable Federal Cost Principles**

Educational

Institutions

OMB Circular A-21

Non-Profit

Organizations

OMB Circular A-122

State/Local

Governments

OMB Circular A-87

Commercial Firms

Federal Acquisition Regulation (FAR), Part 31

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### **601.2 Applicability to Subrecipients**

Grantees are responsible for assuring that costs of all subawards under NSF grants are subject to those cost principles and procedures appropriate to the subaward type and organization involved. For example, if the subaward is a cost reimbursement type with a commercial concern, FAR Subpart 31.2 would apply.

### **601.3 Conflicting Guidelines**

In the event of any discrepancy between the summary information contained in this chapter and any specific provision of the applicable Federal cost principles, the cost principles in effect as of the effective date of the NSF grant will govern. In the case of a discrepancy between the special provisions of an NSF grant and the standards of the applicable cost principles, the special provisions of the grant will govern.

## **602 Other Considerations**

### **602.1 Maximum Obligation**

The maximum obligation of NSF for support of the project will not exceed the amount specified in the grant, as amended. NSF does not amend grants to provide additional funds for such purposes as reimbursement for unrecovered indirect costs resulting from the establishment of final negotiated rates or for increases in salaries, fringe benefits and other costs.

## **602.2 Pre-Award Costs**

a. Grantees may incur allowable pre-award costs within the 90 day period immediately preceding the effective date of the grant providing:

1. the approval of pre-award spending is made and documented in accordance with the grantee's procedures; and
2. the advanced funding is necessary for the effective and economical conduct of the project.

b. Pre-award expenditures are made at the grantee's risk. Grantee authority to approve pre-award costs does not impose an obligation on NSF: (1) in the absence of appropriations; (2) if an award is not subsequently made; or (3) if an award is made for a lesser amount than the grantee anticipated.

c. Requests for pre-award costs for periods exceeding 90 calendar days must be submitted electronically via use of the Notification and Request module in FastLane. Pre-award expenditures prior to funding of an increment within a continuing grant are not subject to this limitation or approval requirement, but are subject to paragraph b. above.

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## **602.3 Post-Expiration Costs**

NSF funds may not be expended subsequent to the expiration date of the grant except to liquidate valid commitments that were made on or before the expiration date. (See GPM 452, "Final Disbursement Reporting," and GPM 617, "Publication, Documentation and Dissemination".) For example, commitment of project funds is valid when specialized (research) equipment is ordered well in advance of the expiration date but where, due to unusual or unforeseen circumstances, delivery of such equipment is delayed beyond the expiration date. The costs of equipment ordered after the expiration date, however, may not be charged to the project.

## **603 Prior Approval**

### **603.1 OMB Directive**

NSF has waived most cost related and administrative prior approvals required by OMB Circulars A-21 and A-110. Grantees should refer to the general conditions referenced in the grant, and GPM Exhibit III-1 for information on NSF required prior approvals.

### **603.2 NSF Prior Approval Policy**

a. The funding of items identified in budget constitutes NSF's authorization for the grantee to incur these costs, provided there is not a specific limitation in the grant language and the costs are otherwise allowable under the cost principles.

b. Costs not specifically budgeted in an NSF award may be allowable provided that prior approval is not required and costs are incurred consistently with the applicable cost principle.

## **610 DIRECT COSTS**

The following subsections summarize the allowability of frequently encountered direct cost items in the order they appear in the grant budget.

### **611 Salaries, Wages and Fringe Benefits**

#### **611.1 Salaries and Wages**

a. All Grantees. All remuneration paid currently or accrued by the organization for employees working on the NSF-supported project during the grant period is allowable to the extent that:

1. total compensation to individual employees is reasonable for the work

performed and conforms to the established policy of the organization consistently applied to both government and non-government activities; and

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2. the charges for work performed directly under NSF grants and for other work allocable as indirect costs are determined and documented as provided in the applicable Federal cost principles.

b. Colleges and Universities. Section J.8 of OMB Circular A-21 establishes special criteria for work performed on government projects by faculty members during and outside the academic year.

In summary these are:

1. Academic Year Salaries. To be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his/her salary. Except as provided in GPM 616.2, "Intra-University Consulting," charges to Federal grants, irrespective of the basis of computation, will not exceed the proportionate share of the base salary for that period.

2. Periods Outside the Academic Year. During the summer months or other periods not included in the period for which the base salary is paid, salary is to be paid at a monthly rate not in excess of the base salary divided by the number of months in the period for which the base salary is paid. NSF policy on funding of summer salaries (known as NSF's two-ninths rule) remains unchanged: proposal budgets submitted should not request, and NSF-approved budgets will not include, funding for an individual investigator which exceeds two-ninths of the academic year salary. This limit includes summer salary received from all NSF-funded grants.

3. Extra Compensation Above Base Salary. Requests may be included in proposals for salary payments for extra compensation only for science and engineering education projects when the particular program solicitation specifically provides that extra compensation may be requested. This extra compensation above the base salary must be approved by NSF. Generally this is done in situations such as teaching evening or weekend classes, or for administrative work done as overload prior to or following a project. Further, the extra compensation shall be computed at a rate not in excess of the monthly rate of the base academic year salary.

4. Sabbatical Leave. Unless there are special conditions in an applicable NSF program solicitation or in the grant, charges to an NSF grant for services rendered to the project by an individual during his/her sabbatical period are allowable provided that such compensation is:

(a) proportional to the service rendered;

(b) in accordance with established institutional sabbatical policies regardless of source of funds (Section J.40 of OMB Circular A-21); and

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(c) at a rate which, when added to the individual's sabbatical salary rate, does not exceed the individual's base salary rate for the individual's most recent academic year or equivalent prior period.

NSF salary support during sabbatical periods is only intended to make up the difference between sabbatical rate of pay and the individual's base salary rate for periods during

which the individual is performing work on an NSF-sponsored project.

#### **611.2 Fringe Benefits**

Fringe benefits are 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 organizational policies.

#### **612 Equipment**

##### **612.1 Related Equipment Guidelines**

Additional NSF guidelines on equipment are found in GPM 540, "Property Management Standards."

##### **612.2 Definitions**

The following definitions, derived from OMB Circulars A-110 and A-21, apply to all NSF grants (or amendments thereto):

- a. ACQUISITION COST OF EQUIPMENT means the net invoice price of the equipment, including the cost of modifications, attachments, accessories or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, should be included in the unit acquisition cost consistent with the grantee's regular accounting practices.
- b. EQUIPMENT means tangible nonexpendable personal property including exempt property charged directly to the grant having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. However, consistent with grantee policy, lower limits may be established.
- c. GENERAL PURPOSE EQUIPMENT means permanent equipment (as defined in b., above) that is usable for other than research, medical, scientific or technical activities, whether or not special modifications are needed to make it suitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles and computer equipment.
- d. SPECIAL PURPOSE EQUIPMENT means permanent equipment (as defined in b., above) which is usable only for research, medical, scientific or technical activities.

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Examples of special purpose equipment include microscopes, x-ray machines, specialized drilling equipment, spectrometers, and diamond knives.

##### **612.3 Special Purpose Equipment**

Expenditures for special purpose equipment are allowable as direct costs provided the acquisition of items with a unit cost of \$5,000 or more is:

- a. necessary for the research or activity supported by the grant;
- b. not otherwise reasonably available and accessible;
- c. of the type normally charged as a direct cost to sponsored agreements; and
- d. acquired in accordance with organizational practice.

NSF review and approval is required for all equipment purchases by small business or other commercial organizations.

##### **612.4 General Purpose Equipment**

Expenditures for general purpose equipment are normally unallowable unless the equipment is primarily or exclusively used in the actual conduct of research. NSF review and approval is required for all equipment purchases by small business or other commercial organizations.



### **613 Materials and Supplies**

Materials and supplies are defined as tangible personal property other than equipment, costing less than \$5,000, or other lower threshold consistent with grantee policy. Materials and supplies that are necessary to carry out the project are allowable as prescribed in the governing cost principles.

### **614 Travel Costs**

a. Expenses for transportation, lodging, subsistence and related items incurred by project personnel and by outside consultants employed on the project (GPM 616.1, "Outside Consultants") who are on travel status on business related to an NSF-supported project are allowable as prescribed in the governing cost principles. The requirements for prior approval detailed in the governing cost principles are waived.

b. Except as provided in the governing cost principles, the difference between economy airfare and a higher-class airfare is unallowable. A train, bus or other surface carrier may be used in lieu of or as a supplement to air travel at the lowest first-class rate by the transportation facility used. However, if such travel could have been performed by air, the allowance will not normally exceed that for jet economy air fare.

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c. Foreign travel costs of dependents of key project personnel is allowable provided the:

1. individual is a key person who is essential to the research on a full-time basis;
2. individual's residence away from home and in a foreign country is for a continuous period of six months or more and is essential to the effective performance of the project; and
3. dependent's travel allowance is consistent with the policies of the organization administering the grant.

d. For restrictions concerning the use of non-US flag carriers while on foreign travel see GPM 761, "Travel to Foreign Countries."

### **615 Computer Costs**

The costs of services involving the use of highly complex or specialized facilities operated by the organization, such as computing facilities, are allowable provided the charges meet the conditions of the governing cost principles. Awardees should address lease versus purchase factors as required by OMB Circular A-110 Subpart C.44, "Procurement Procedures."

### **616 Consultant Services**

#### **616.1 Outside Consultants**

a. Grantees normally are expected to utilize the services of their own officers or employees to the maximum extent in managing and performing the activities supported by NSF grants. Where it is necessary for a grantee to enter into a subaward for the services of persons who are not its officers or employees, it is expected to do so in accordance with written organizational standards which provide for consideration of the factors outlined in the governing cost principles.

b. If the need for consultant services is anticipated, the proposal narrative should provide appropriate rationale, and the summary proposal budget should estimate the amount of funds that may be required for this purpose. To the extent possible, consultant rates should show separate amounts for actual services and each of the components of the rate (such as fringe benefits, indirect costs, and other expenses).

c. Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the performing organization are allowable when reasonable in relation to the services rendered. However, payment for a consultant's services may not exceed the daily equivalent of the then current maximum rate paid to an Executive Schedule Level  
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IV Federal employee (exclusive of indirect cost, travel, per diem, clerical services, fringe benefits and supplies).

d. In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors, among others, are relevant:

1. the nature and scope of the service rendered in relation to the service required;
2. the necessity of issuing a subaward for the service considering the organization's capability in the particular area;
3. the past pattern of such costs, particularly in the years prior to the award of government contracts and grants;
4. the impact of government contracts and grants on the organization's total activity (e.g., what new problems have arisen);
5. whether the proportion of government work to the organization's total activity is such as to influence the organization 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 contracts and grants;
6. whether the service can be performed more economically by employment rather than by consulting;
7. the qualifications of the individual or concern rendering the service and the normal/customary fees charged and received by the individual for comparable services, especially on non-government contracts and grants; and
8. adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation and termination provisions).

e. In addition, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

f. Costs of legal, accounting and consulting services and related costs incurred in connection with organization and reorganization, defense of antitrust 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 infringement litigation are unallowable unless otherwise provided for in the grant.

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g. Grantees may hire consultants not identified in the grant proposal or award, provided:

1. it is in accordance with written organizational standards;
2. grant funds are reallocated in accordance with the grantee's policies which are consistent with the governing cost principles; and
3. it is within the limits of the grant funding.

## **616.2 Intra-University Consulting**

Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time salary, the principles summarized in GPM 611, "Salaries, Wages and Fringe Benefits," also apply to those who function as consultants or otherwise contribute to a project conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his/her regular appointment, any charges for such work representing extra compensation above the salary are allowable if consistent with established university policy and the applicable cost principles.

## **616.3 Federal Employees**

Employees of the Federal government (other than NSF) may be utilized as lecturers or staff members on a project and may receive compensation and/or expenses if they obtain prior approval from their agencies to participate, and if services to the project are performed outside their regular working hours or while they are on leave status from official duties. Under no circumstances may NSF employees receive compensation from an NSF-supported project.

## **617 Publication, Documentation and Dissemination**

a. Costs of documenting, preparing, publishing, disseminating and sharing research findings and supporting material are allowable charges against the grant.

b. Page charges for scientific and engineering journal publication are allowable where:

1. the research papers report work supported by NSF; and
2. the charges are levied impartially on all research papers published by the journal, whether by non-government or by government authors.

c. GPM 452, "Final Disbursement Reporting," permits a grantee to transfer from the grant account to an institutional account an amount equal to valid unpaid obligations outstanding at the time a grant expires. Grantees should refer to this section July 2002 NSF 02-151

if it has incurred valid commitments for the costs of publication or sharing of research results and it is not possible to effect an actual payment for such charges by the time the final disbursements are due.

## **618 Participant Support Costs**

### **618.1 General**

a. Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia or training projects.

b. Funds provided for participant support may not be used by grantees for other categories of expense without the specific prior written approval of the cognizant NSF Program Officer. Therefore, awardee organizations must account for participant support costs separately.

c. Participant support allowances may not be paid to trainees who are receiving compensation, either directly or indirectly, from other Federal government sources while participating in the project. A non-NSF Federal employee may receive participant support allowances from grant funds provided there is no duplication of funding of items and provided no single item of participant cost is divided between his/her parent

agency and NSF grant funds.

d. Additional guidelines are found at GPM 734, "Dissemination and Sharing of Research Results," and GPM 740, "Publication/Distribution of Grant Materials."

### **618.2 Stipends or Subsistence Allowances**

To help defray the costs of personal maintenance while participating in a conference or training activity, participants may be paid a stipend, per diem or subsistence allowance, based on the type and duration of the activity, as outlined in the pertinent program solicitation and in the grant. Such allowances must be reasonable, in conformance with the usual policy of the grantee organization and limited to the days of attendance at the conference plus the actual travel time required to reach the conference location by the most direct route available. Where meals or lodgings are furnished without charge or at a nominal cost (e.g., as part of the registration fee), the per diem or subsistence allowance will be correspondingly reduced. Although local participants may participate in conference meals and coffee breaks as provided for in GPM 625, "Meetings and Conferences," grant funds may not be used to pay per diem or similar expenses for local participants in the conference.

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### **618.3 Travel Allowances**

a. Travel costs of participants may be allowable as outlined in the pertinent program solicitation and in the grant. If so, the restrictions regarding class of accommodations (see GPM 614, "Travel Costs") and use of U.S.-flag air carriers (see GPM 761, "Travel to Foreign Countries") are applicable.

b. In training activities that involve field trips, costs of transportation of participants are allowable.

## **620 OTHER DIRECT COSTS**

### **621 Rearrangements and Alterations**

a. Except under certain programs, NSF does not normally make grants for construction or facility improvements. However, rearrangement and alteration costs that do not constitute construction (i.e., rearrangements and alterations aggregating less than \$25,000) may be allowable under NSF grants to adapt space or utilities within a completed structure to accomplish the objective of the NSF-supported activity, provided that:

1. the grantee is not an individual or a foreign institution;
2. the building has a usable life consistent with project purposes and is architecturally suitable for conversion;
3. the rearrangement and alteration are 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 rearrangement and alteration to be allowable, the grantee must secure a lease for the length of the project. (See GPM 623, "Rental or Lease of Facilities or Special Purpose Equipment".)

b. Rearrangements and alterations under \$25,000 may be approved by grantees.

For rearrangements and alterations expenditures exceeding \$25,000, the grantee must request prior approval from NSF via use of the Notification and Request module in FastLane. Otherwise, any plans for such rearrangement or alteration should be clearly set forth in the proposal. If approved by NSF, such approval will be indicated in the

grant. Note that Appendix A, Contract Provisions, of OMB Circular A-110 contains various requirements concerning contracts for construction or repair in excess of \$2,000.

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#### **622 News Release Costs**

In amplification of the provisions of the various cost principles regarding public information service costs, the cost of news releases announcing the results of an NSF-supported

project is allowable. In the event the performing organization wishes to join with NSF in a simultaneous news release, arrangements may be made through the NSF's Office of Legislative and Public Affairs, Public Affairs Group, telephone (703) 292-8070 (see GPM 812.1, "Press Releases").

#### **623 Rental or Lease of Facilities or Special Purpose Equipment**

a. Normally the grantee is expected to make appropriate facilities available without direct charge to grant funds. However, on occasion, it is necessary to use facilities not under the control of the grantee. Rental of space off-site may be allowable, for example, for a research project if laboratory facilities or other work areas of a type or coverage not normally available to the grantee are required.

b. Rental of special purpose equipment is allowable. See also GPM 615, "Computer Costs."

#### **624 Relocation Costs**

a. Relocation costs may be charged to an NSF grant as an other direct cost in accordance with the applicable governing cost principles provided that:

1. a proposal for NSF support specifically indicates that the grantee intends to hire a named individual for full-time work on the project;
2. such recruitment action is not disapproved by the grant terms; and
3. the prospective employee or visiting staff member:

(a) is essential to the project on a full-time basis for a continuous period of at least twelve months; and

(b) is regularly located at a place sufficiently removed from the project site that his/her employment necessitates the change.

b. The amount of actual reimbursement should be in accordance with the grantee's established policy or practice which:

1. is in conformance with the applicable governing cost principles;
2. has been approved by the cognizant governing audit agency; and
3. is consistently applied.

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#### **625 Meetings and Conferences**

The points below summarize the allowability of various items of cost associated with conferences, symposia, workshops or other meetings supported by an NSF grant. Any costs charged to an NSF grant also need to be reasonable and directly allocable to the supported activity. Meeting and conference costs identified below, are only allowable if such costs are specifically and clearly identified in the proposed scope of work and budget, as modified and approved by NSF. NSF funds are not otherwise to be spent for meals or coffee breaks for intramural meetings of an organization or any of its components, including, but not limited to, laboratories, departments and centers.

a. Conference Facilities. Rental of facilities and necessary equipment is allowable.

(See GPM 623, "Rental or Lease of Facilities or Special Purpose Equipment".)

- b. Supplies. Purchase of expendable materials and supplies necessary for the meeting is allowable.
  - c. Conference Services. Costs of translation services and of recording and transcribing the proceedings are allowable.
  - d. Publication Costs. Costs of publishing the proceedings are allowable if approved in the grant.
  - e. Salaries. Salaries of professional personnel, editorial and clerical assistants and other staff members are allowable in accordance with GPM 611, "Salaries, Wages and Fringe Benefits," in proportion to the time or effort devoted to the preparation and conduct of the conference and summarizing its results.
  - f. Consultant Services and Speaker Fees. Reasonable fees and travel allowances and per diem (or meals provided in lieu of per diem) are allowable as prescribed in GPM 614, "Travel Costs," and GPM 616, "Consultant Services."
  - g. Meals and Coffee Breaks. When certain meals are an integral and necessary part of a conference (e.g., working meals where business is transacted), grant funds may be used for such meals. Grant funds may also be used for furnishing a reasonable amount of hot beverages or soft drinks to conference participants and attendees during periodic coffee breaks.
  - h. Participant Support Costs. Participant support costs allowable as prescribed in GPM 618, "Participant Support Costs." (See also GPM 633.2, "Exceptions to Basic Policy.")
  - i. Entertainment. Costs of entertainment, amusement, diversion and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation and gratuities) are unallowable. Expenses of awardee employees who are not on travel status, serving as hosts, or otherwise participating at meals that are primarily social occasions are not allowable.
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- Costs of employees on travel status are limited to those allowed under the governing cost principles for travel expenses (see GPM 614, "Travel Costs").
- j. Alcoholic Beverages. No federal funds may be spent on alcoholic beverages.

## **630 INDIRECT COSTS**

### **631 Background**

As authorized by statute (41 USC §254a) and Comptroller General decision (B-157584) and recommended by governing cost principles, NSF has elected to use predetermined fixed overhead rates where appropriate. When NSF elects not to use predetermined fixed rates, the grant will indicate the type of indirect cost rate applicable to the award.

### **632 Indirect Costs in Proposals for NSF Support**

Each proposal for NSF support of a project should include a budget indicating the total dollar amount requested from NSF with subtotals for direct and indirect costs. The amount for indirect costs should be calculated by applying the current Federally negotiated indirect cost rate(s) to the approved base(s). For grantees that do not have a current negotiated rate agreement with a cognizant Federal agency, its business officer should prepare an indirect cost proposal based on expenditures for its most recently ended fiscal year. If the proposal is recommended for funding, the grantee will be required to provide its indirect cost proposal to support the budgeted indirect rate. The contents and financial data included in indirect cost proposals vary according to the

make-up of the proposing organization. Guidelines for preparing an indirect cost proposal are available at <http://www.nsf.gov/bfa/cpo/oversite/indirect.htm>. Grantees submitting a proposal to NSF for the first time are encouraged to request guidance from the Cost Analysis and Audit Resolution Branch.

### **633 NSF Policy**

#### **633.1 Basic Policy**

a. It is NSF policy that grantees are entitled to reimbursement from grant funds for indirect costs except where specifically excluded by GPM 633.2, "Exceptions to Basic Policy," or when the grantee waives entitlement to full reimbursement of indirect costs voluntarily. Also, some types of awarded indirect cost rates limit full recovery (i.e., maximum provisional rates).

b. The awarded indirect cost rate is generally based upon a grantee's current Federally negotiated indirect cost rate agreement. When establishing an indirect rate for an award where the grantee does not have a current negotiated rate agreement, NSF will consider the rate proposed in the budget, the grantee's indirect cost proposal submission, the amount of total funding requested and other pertinent financial factors. Since some types of rates limit indirect cost recoveries and requires adjustments, grantees receiving awards should ensure that they understand the type of indirect cost

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rate applicable to the award. Types of indirect cost rates used on NSF awards are as follows:

1. **Maximum Provisional Rate:** A maximum provisional rate is a temporary rate established for an award to permit funding and reporting of indirect costs pending establishment of a final rate (the rate determined at the end of an accounting period using "actual" direct and indirect cost data). This type of rate limits indirect cost recoveries to the lower of the maximum provisional rate established at the time of award, or the final rate established at the end of an accounting period. Grantees awarded maximum provisional rates are required to submit indirect cost proposals to the NSF Cost Analysis and Audit Resolution Branch within six months after the close of each fiscal year during which the award is active.
2. **Predetermined Fixed Rate:** A predetermined fixed rate is a permanent funding rate established for an award based on an estimate of costs for that period. Grantees may charge NSF projects at the rate(s) stipulated in the award. However, should negotiations between the organization and the cognizant Federal agency result in changes in the approved indirect cost rate not reflected in the NSF award, the grantee may charge NSF projects at the newly negotiated rate in effect at the time direct cost expenditures are made, provided that this method of charging indirect costs is consistently applied and meets generally accepted accounting principles; and provided further that to do so would not:
  - a. reduce or adversely affect the scope of the project;
  - b. result in increased costs over the NSF award amount during the award period;
  - c. decrease the period of support as contemplated in the award; or
  - d. be inconsistent with any special indirect cost provision of the award.
3. **Fixed Rate:** A fixed rate is similar to a predetermined fixed rate in that it is

a permanent rate established for an award based on an estimate of costs for the award period. However, a fixed rate is fixed both for funding and reimbursement. Accordingly, when NSF funds an award using a fixed indirect cost rate, the grantee is required to charge indirect costs at the fixed rate. Changes to fixed rates can only be made by an amendment to the award.

4. Fixed Dollar Amount: A fixed dollar amount limits grantees to the “amount” of indirect costs specified in the approved budget. A fixed indirect dollar amount is not subject to adjustment.

c. NSF will not amend a grant solely to provide additional funds for changes in indirect cost rates.

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d. NSF will generally fund continuing grant increments and supplemental support at the indirect cost rate(s) approved at the time of the initial award. (See GPM 260, “Additional Funding Support.”)

e. When a project involves off-campus (off-site) activities, NSF normally will fund the indirect cost amount on the basis of the off-campus rate. When a project involves both on- and off-campus activities, NSF normally will fund the indirect cost amount on the basis of the on-campus/off-campus policy reflected in the most recent agreement between the organization and the cognizant Federal agency. In the absence of such an agreed policy, NSF normally will compute the indirect cost amount by applying the oncampus

rate to the on-campus base costs and the off-campus rate to the off-campus base costs.

f. Any negotiations with respect to business and financial matters on specific grants, including the amount of indirect cost reimbursement, are conducted by the cognizant Grants Officer in DGA with an authorized official of the grantee’s organization. The NSF Cost Analysis and Audit Resolution Branch provides advisory assistance to the Grants Officer.

g. NSF program staff may not negotiate indirect costs as a discrete item of a proposal budget since only the duly authorized Grants Officer has authority to negotiate indirect costs. NSF program staff are not authorized to suggest or request that PI/PDs seek reductions or waivers of indirect costs except as explicitly specified in applicable NSF program solicitations.

### **633.2 Exceptions to Basic Policy**

a. No Indirect or Limited Reimbursement. Program solicitations may indicate no or limited reimbursement for indirect costs. In addition, NSF generally provides no amounts for indirect costs for the following:

1. grants to individuals;
2. grants solely for the support of travel, equipment, construction of facilities, or doctoral dissertation research (see GPM 333.1, “Unsolicited Research Projects”);
3. grants in which NSF support is exclusively in the form of fellowships, traineeships or other fixed amounts such as cost-of-education allowances;
4. foreign grantees; or
5. participant support costs. However, an allowance for indirect costs associated with participant support costs may be established or negotiated



in advance when circumstances indicate that the grantee could be expected to incur significant expenses in administering participant

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payments (other than salary or other direct expenses being reimbursed under the award).

b. Independent Research and Development (IR&D). NSF does not typically fund IR&D as part of an indirect cost rate under its grants. IR&D, as defined at FAR 31.205-18(a), includes cost of effort that is not sponsored by a grant or required in performance of a contract and that consists of projects falling within the four following areas:

1. basic research;
2. applied research;
3. development; and
4. systems and other concept formulation studies.

NSF's primary purpose is to support and advance independent research within the scientific and engineering community. NSF has well recognized and established procedures for supporting research through competitive grant awards based on merit review of proposed projects. Reimbursement for independent research and development costs through the indirect cost mechanism could circumvent this competitive process. To ensure that all projects receive similar and equal consideration, eligible organizations may compete for direct funding of independent research projects they consider worthy of support by submitting proposals for those projects to NSF. Since proposals for these projects may be submitted for direct funding, costs for independent research and development projects are not typically allowable as indirect costs under NSF grants.

c. Facilities Capital Cost of Money (FCCM). NSF does not typically fund facilities capital cost of money under its grants. FCCM is defined for commercial organizations at FAR 31.205-10 as "an imputed cost determined by applying a cost-of-money rate to facilities capital employed in contract performance."

#### **634 Underrecovery of Indirect Costs**

NSF recognizes that any inability to obtain "full reimbursement" for indirect costs means the grantee must absorb the underrecovery. Any such underrecovery may be allocated as part of the organization's required cost sharing. (See GPM 330, "Cost Sharing and Matching.")

#### **635 Rebudgeting of Indirect Cost Funds Provided Under NSF Grants**

If the actual allowable indirect costs chargeable to a grant is less than those funded by NSF under the grant, the grantee may use the difference to pay additional allowable direct costs under the grant. In addition, grantees may elect to charge less than the full amount of allowable indirect costs to grants in order to pay for additional allowable direct costs.

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#### **636 NSF Cognizant Organizations**

Organizations for which NSF is their cognizant agency for negotiation of indirect cost rates are required to submit indirect cost proposals, reconciled to financial statements, within six months after the close of each accounting year during which NSF has active awards. Indirect cost proposals should be sent to the Cost Analysis and Audit Resolution Branch.

#### **640 Fee Payments Under NSF Grants**

Payment of fees (profit) are allowable only if specifically permitted by a program

solicitation and only to the extent that it does not exceed the amount negotiated by the Grants Officer and specified in the award letter.

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## **CHAPTER VII**

### **OTHER GRANT REQUIREMENTS**

This chapter discusses other grant requirements not addressed in the preceding chapters. Topics covered are:

#### **700 NON-DISCRIMINATION STATUTES**

#### **710 PROTECTION OF LIVING ORGANISMS**

#### **715 GOVERNMENT PERMITS AND ACTIVITIES ABROAD**

#### **720 CONSTRUCTION, REARRANGEMENTS AND ALTERATIONS (INCLUDING: DAVIS-BACON ACT, BONDING AND INSURANCE, FLOOD INSURANCE, AND SEISMIC SAFETY OF BUILDINGS)**

#### **730 INTELLECTUAL PROPERTY (INCLUDING PATENTS AND INVENTIONS, AND COPYRIGHTS)**

#### **740 PUBLICATION/DISTRIBUTION OF GRANT MATERIALS**

#### **750 PROGRAM INCOME**

#### **760 INTERNATIONAL CONSIDERATIONS (INCLUDING TRAVEL GRANTS AND USE OF U.S. FLAG CARRIERS)**

#### **700 NON-DISCRIMINATION STATUTES**

##### **701 General**

a. A number of statutes bar recipients of Federal financial assistance from excluding persons, because of their race, sex, color, age or national origin, from participation in Federally supported activities. These include: Title VI of the Civil Rights Act of 1964 (barring discrimination on grounds of race, color, or national origin); Section 504 of the Rehabilitation Act (barring discrimination against individuals with disabilities); and the Age Discrimination Act. Title IX of the Educational Amendments of 1972 bars sex discrimination in Federally assisted education programs or activities. In addition to statutory prohibitions, E.O. 11246 bars various types of discriminatory employment practices under grants for construction. The following sections discuss the application of each of these Acts and E.O. 11246 to NSF grantees.

b. When a recipient of an NSF grant receives an Equal Opportunity Complaint, the original complaint should be sent to the Director, Office of Equal Opportunity Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

#### **702 Civil Rights Act of 1964**

##### **702.1 Background**

Section 602 of the Civil Rights Act of 1964 (42 USC §2000d et seq.) provides that no person in the U.S. shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 requires that each Government

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agency which is empowered to extend such financial assistance issue rules or regulations implementing Title VI of the Act with respect to such programs or activities administered by the agency.

##### **702.2 NSF Regulations**

NSF regulations implementing Title VI of the Civil Rights Act are found at 45 CFR §611.

These regulations apply to the grantee and to any subrecipients such as subawardees, contractors and subcontractors of a grantee, and successors in interest, (other than subrecipients for commercially available supplies, materials, equipment or general support services). The regulations require that as a condition of approval of an application for assistance, the applicant must execute the Assurance of Compliance form (see Exhibit VII-1), whether or not a similar assurance form has been filed with another Federal agency.

### **702.3 Assurance of Compliance**

Prospective grantees may either reproduce the Assurance of Compliance form or request copies from DGA. The signed original should be mailed to DGA. Once a properly executed form has been filed with NSF, it will cover all future applications to NSF. Acceptance of a subsequent grant constitutes affirmation that the Assurance of Compliance will be fully applicable to the grant.

### **702.4 Civil Rights Assurance-Subrecipients**

Before any organization serves as a subrecipient on an NSF grant (for other than the provision of commercially available supplies, materials, equipment or general support services), it must first file an Assurance of Compliance form with either the grantee or NSF.

### **702.5 Grant Provisions**

Each NSF grant contains as part of the standard grant conditions an article implementing Title VI.

## **703 Rehabilitation Act**

### **703.1 Background**

Section 504 of the Rehabilitation Act of 1973, as amended (29 USC §794) provides that “no otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....”

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### **703.2 NSF Regulations**

NSF regulations implementing Section 504 are found at 45 CFR §605. With a few changes, these regulations follow closely the regulations issued by the DHHS at 45 CFR §84. These regulations also apply to subrecipients such as subawardees, contractors and subcontractors of a grantee, and successors in interest (other than subrecipients for the provision of commercially available supplies, materials, equipment or general support services).

### **703.3 Assurance of Compliance**

In lieu of requiring submission of separate assurances or certifications, each NSF grant contains as part of the standard grant conditions a provision stating that acceptance of the grant constitutes assurance that the grantee will comply with Section 504 and NSF’s implementing regulation.

### **703.4 Section 504 Assurance--Subrecipients**

In lieu of requiring grantees to obtain separate assurances or certifications from subrecipients receiving financial assistance under an NSF grant, grantees will include in all subawards (for other than the provision of commercially available supplies, materials, equipment or general support services), an assurance of compliance comparable to that included in NSF grants.

### **703.5 Grant Conditions**

Each NSF grant contains as part of the standard grant conditions an article implementing Section 504 and the NSF regulations. The assurance requirement of those conditions will be satisfied as indicated in GPM 703.3, "Assurance of Compliance" and 703.4, "Section 504 Assurance - Subrecipients."

### **704 Title IX - Sex Discrimination**

#### **704.1 Background**

Subject to certain exceptions regarding admission policies at certain religious and military organizations, Title IX of the Education Amendments of 1972 (20 USC §§1681-1686) prohibits the exclusion of persons on the basis of sex from any education program or activity receiving Federal financial assistance. All NSF grantees are expected to comply with Title IX.

#### **704.2 NSF Regulations**

NSF regulations implementing Title IX of the Education Amendments of 1972 are found at 45 CFR 618.

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#### **704.3 Grant Conditions**

Each NSF grant contains, as part of the standard grant conditions, an article implementing Title IX.

### **705 Age Discrimination Act**

#### **705.1 Background**

The Age Discrimination Act of 1975, as amended (42 USC §§6101 et seq.), provides that pursuant to regulations issued by DHHS "no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance."

#### **705.2 NSF Regulations**

NSF regulations implementing the Age Discrimination Act are found at 45 CFR §617.

#### **705.3 Grant Conditions**

Each NSF grant contains, as part of the standard grant conditions, an article implementing the Age Discrimination Act.

### **706 Equal Employment Opportunity Under E.O. 11246**

#### **706.1 Background**

E.O. 11246, as amended, requires contractors and subcontractors performing Federally assisted construction projects to provide equal opportunity, without regard to race, color, religion, sex or national origin, to persons employed or seeking employment with them. This E.O. may apply to some NSF grants for construction.

#### **706.2 Grant Conditions**

In instances when E.O. 11246 is applicable, the grant will include an equal opportunity clause in conformance with regulations issued by the Secretary of Labor at 41 CFR §60.

## **710 PROTECTION OF LIVING ORGANISMS**

### **711 Human Subjects**

#### **711.1 Background**

The grantee is responsible for the protection of the rights and welfare of human subjects involved in activities supported by NSF. All research involving human subjects supported or otherwise subject to regulation by any Federal agency is covered by a policy set forth in a Common Rule, "*Protection of Human Subjects*"

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([http://www.access.gpo.gov/nara/cfr/waisidx\\_99/45cfr690\\_99.html](http://www.access.gpo.gov/nara/cfr/waisidx_99/45cfr690_99.html)).

### **711.2 NSF Regulation**

NSF's Common Rule on Protection of Human Subjects is available on the NSF website at <http://www.nsf.gov/bfa/dga/policy/45cfr690.pdf>. Guidance about the regulation is available at <http://www.nsf.gov/bfa/dga/policy/guidance.htm#human>.

### **711.3 Certification of Compliance**

Before a research project involving the use of human subjects can be supported, a proposer must certify that the research has been approved, is exempt, or else is subject to continuing review by the appropriate Institutional Review Board (IRB) in accordance with the regulations in the Common Rule. The IRB must be formally approved as complying with the Common Rule in an "assurance" that is filed with any Federal agency participating in the Common Rule. Such assurances are most commonly filed with the Office of Human Research Protection, (<http://ohrp.osophs.dhhs.gov/>), Department of Health and Human Services (DHHS) or with NSF. Categories of research that are exempt from this requirement are described at 45 CFR §690.101(b). Required contents and procedures for approval of assurances are set forth at 45 CFR §690.103. Prospective grantees should contact the relevant Program Officer for more information.

## **712 Research Involving Recombinant DNA Molecules**

### **712.1 Applicability**

This section applies to all research, for which NSF research grant funds are used, that falls

within the scope of the *Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines)* (<http://www4.od.nih.gov/oba/rac/guidelines/guidelines.html>), as amended in January 2001, hereafter referred to as the "Guidelines".

### **712.2 Policy**

NSF grantees performing research within the U.S. that falls within the scope of the Guidelines shall comply with the Guidelines, including the procedural requirements and any subsequent revisions as they are published in the Federal Register. Grantee responsibilities include:

- a. Each organization involved in the conduct of NSF-supported recombinant DNA research subject to the Guidelines must have a standing Institutional Biosafety Committee (IBC) as specified in Section IV of the Guidelines.
- b. Recombinant DNA research subject to the Guidelines must be registered with the IBC indicating compliance with the containment requirements specified in Part III of the Guidelines. IBCs are required to keep records of recombinant DNA research conducted at their organization in a form that is available to NSF upon request.

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### **712.3 Research Requiring Prior Approval of the Director, NIH**

In certain instances research should not be initiated or registered with IBCs prior to approval and determination of containment level by the Director, NIH. Normally such experiments are reviewed by the Recombinant DNA Advisory Committee before a decision is made by the Director, NIH. Such instances are:

- a. research for which containment levels are not explicitly specified by the Guidelines;
- b. research involving experiments prohibited by the Guidelines, i.e., requests for exceptions to the Guidelines; and

c. requests to perform experiments without regard to the containment specified in the Guidelines, i.e., exemptions from the Guidelines.

#### **712.4 Recombinant DNA Research Outside the U.S.**

Recombinant DNA research within the scope of the Guidelines that is performed outside of the U.S. using funds provided by NSF for transportation, salaries or direct research expenses must comply with the U.S. or host country standards. If the research is to be carried out in a country that has adopted guidelines comparable to those of the U.S., a document with information and endorsements assuring compliance to the host organization standards must be submitted to NSF. NSF funds may not be used to carry out research using recombinant DNA in a country that has not adopted national guidelines unless the research is in full compliance with the Guidelines and the procedures required for NSF-supported research within the U.S.

#### **713 Animal Welfare Requirements**

a. The grantee is responsible for the humane care and treatment of any vertebrate animal used or intended for use in such activities as field or laboratory research, development, training, experiments, biological testing or for related purposes supported by NSF grants.

b. Any grantee performing research on vertebrate animals<sup>8</sup> shall comply with the Animal Welfare Act [7 U.S.C. 2131 et seq.] and the regulations promulgated thereunder by the Secretary of Agriculture [9 CFR 1.1-4.11] pertaining to the humane care, handling, and treatment of vertebrate animals held or used for research, teaching or other activities supported by Federal awards. The awardee is expected to ensure that the guidelines described in the National Academy of Science (NAS) Publication, "*Guide for the Care and Use of Laboratory Animals*" (1996) are followed and to comply with the *Public Health Service Policy and Government Principles Regarding the Care and Use of Animals* (included as Appendix D to the NAS Guide).

<sup>8</sup> In addition to vertebrate animals covered by the Animal Welfare Act, the requirements specified in this coverage also are extended to rats, birds and mice.

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c. NSF proposal preparation requirements for projects involving the use of vertebrate animals are contained in the GPG Chapter II, Section C.II.d.

d. Prior to the issuance of an award for a project involving use of vertebrate animals, the project must be approved by an Institutional Animal Care and Use Committee (IACUC) established through a multi-project assurance with the Office of Laboratory Animal Welfare (OLAW) of the NIH, or else through a single-project assurance approved by the NSF.

e. During the life of the award, additional IACUC approval must be obtained if the protocols for use of vertebrate animals have been changed substantively from those originally proposed and approved, or if the previous approval is more than three years old. In the event the grantee's multi-project Assurance is cancelled or lapses, the grantee must immediately notify the NSF Grants Officer identified in the award.

f. Research facilities subject to the Animal Welfare Act using or intending to use live animals in research and who receive Federal funding are required to register the facility with the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture. A current listing of licensed animal dealers may also be obtained from APHIS. The location of the nearest APHIS Regional Office, as well as information concerning this and other APHIS activities, may be obtained at

<http://www.aphis.usda.gov/>.

g. Awards to U.S. grantees for projects involving the care or use of vertebrate animals at a foreign institution or foreign field site also require approval of research protocols by the U.S. grantee's IACUC. If the project is to be funded through an award to a foreign institution or through an individual fellowship award that will support activities at a foreign institution, NSF will require a statement of compliance that the activities will be conducted in accordance with all applicable laws in the foreign country and that the International Guiding Principles for Biomedical Research Involving Animals (see <http://www.cioms.ch/>) will be followed.

#### **714 Marine Mammal Protection Act**

The protection of marine mammals in research activities supported by NSF grants is the responsibility of the grantee. Proposals submitted to NSF in support of marine research activities must include a statement that the grantee will comply with the Marine Mammal Protection Act of 1972, (16 USC §§1361-1421h).

#### **715 Government Permits and Activities Abroad**

- a. For awards that include activities requiring permits from appropriate Federal, state, or local government authorities, the awardee should obtain any required permits prior to undertaking the proposed activities.
  - b. The awardee should assure that activities carried on outside the U.S. are coordinated as necessary with appropriate U.S. and foreign government authorities and
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that necessary licenses, permits or approvals are obtained prior to undertaking proposed activities. NSF does not assume responsibility for awardee compliance with the laws and regulations of the country in which the work is to be conducted.

#### **720 CONSTRUCTION, REARRANGEMENTS AND ALTERATIONS**

##### **721 Davis-Bacon Act**

The Davis-Bacon Act (40 USC §§276a et seq.) establishes minimum wages to be paid to laborers and mechanics on construction contracts to which the U.S. is a party involving public buildings or public works within the U.S. A number of other statutes have extended this provision to specific Federal grant programs involving construction. However, unless specifically stated in the grant, the Davis-Bacon Act does not normally apply to NSF grants since grantees normally retain title to property acquired under the grant and the construction, if any, is normally on non-Government land.

##### **722 Bonding and Insurance**

The NSF Act (42 USC §1870c) provides NSF with authority to enter into grants, contracts or other agreements without performance or other bonds. Therefore, unless the grant specifically provides otherwise, NSF does not require performance or other bonds or insurance.

##### **723 Flood Insurance**

- a. Two sections of the National Flood Insurance Act of 1968 (42 USC §4012a and §4106) bar Federal agencies from giving financial assistance for acquisition or construction purposes in any area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:
  1. the community in which that area is located participates in the national flood insurance program; and
  2. the building (and any related equipment) is covered by adequate flood insurance.

b. By electronically signing the NSF cover sheet, prospective grantees located in FEMA-designated special flood hazard areas certify that adequate flood insurance has been or will be obtained:

1. for NSF grants for the construction of a building or facility, regardless of the dollar amount of the grant; and
2. for other NSF grants when more than \$10,000 has been budgeted in the proposal for repair, alteration or improvement of a building or facility.

c. Prospective grantees should contact their local government or a federally-insured financial institution to determine what areas are identified as having special flood hazards and the availability of flood insurance in their community.

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### **724 Seismic Safety of Buildings**

E.O. 12699 *Seismic Safety of Federal and Federally-assisted or Regulated New Building Construction* dated January 5, 1990, requires that consideration be given to seismic hazards in the design of buildings. Very seldom are NSF grantees involved with federally-assisted construction and rarely are new buildings involved. NSF ensures compliance with the Order through its grantees and grantee organizations by inclusion of a specific grant condition in any appropriate grant.

## **730 INTELLECTUAL PROPERTY**

### **731 Patents and Inventions**

#### **731.1 Background**

a. The disposition of rights to inventions made by small business firms and nonprofit organizations, including universities and other institutions of higher education, during NSF-assisted research is governed by Chapter 18 of Title 35 of the USC, commonly called the Bayh-Dole Act. In accordance with a Presidential Memorandum entitled *Government Patent Policy* issued on February 18, 1983 and under the authority of Section 12 of the National Science Foundation Act of 1950, as amended (42 USC §1871), NSF applies the policies of that Act to all its grantees. The Department of Commerce (DOC) is the lead agency for implementing the Bayh-Dole Act and has published guidance to Federal agencies in 37 CFR §401. NSF's implementing rules are published in 45 CFR §650.

b. NSF's standard Patent Rights clause, published at 45 CFR §650.4(a) and below at GPM 731.3, "Standard Patent Rights Clause" is identical to that prescribed in the DOC guidance (37 CFR §401.14(a)) except that:

1. NSF has tailored the clause to apply to grants and to identify NSF;
2. pursuant to section 401.5(d) of the DOC guidance (37 CFR §401.5(d)), NSF has added to paragraph b. of the clause a stipulation that NSF reserves the right to direct a grantee to transfer to a foreign government or research performer such rights to any subject invention as are required to comply with any international treaty or agreement identified when the grant is made as being applicable to the assisted research;
3. as permitted by section 401.5(f) of the DOC guidance (37 CFR §401.5(f)), NSF has added a subparagraph to the end of paragraph f. of the clause to require grantees or their representatives to send NSF confirmations of the Government licenses for subject inventions and of the page of any United States patent application that contains the Federal support clause; and
4. since NSF normally uses the same clause for all subcontractors, the first



two subparagraphs of paragraph g. of the clause specified in the DOC guidance have been reduced to one.

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### **731.2 National Science Foundation Patent Policy**

As authorized by the National Science Board (NSB), the Director of the NSF has adopted the following NSF patent policy.

- a. In accordance with the Bayh-Dole Act and the Presidential Memorandum entitled *Government Patent Policy* issued February 18, 1983, NSF will use the Patent Rights clause prescribed by DOC in all its funding agreements for the performance of experimental, developmental or research work, including grants made to foreign entities, unless NSF determines that some other provision would better serve the purposes of that Act or the interests of the U.S. and the general public.
- b. In funding agreements covered by a treaty or agreement that provide that an international organization or foreign government, research institute or inventor will own or share patent rights, NSF will acquire such patent rights as are necessary to comply with the applicable treaty or agreement.
- c. If a grantee elects not to retain rights to an invention, NSF will allow the inventor to retain the principal patent rights unless the grantee, or the inventor's employer, if other than the grantee, shows that it would be harmed by that action.
- d. NSF will normally allow any patent rights not wanted by the grantee or inventor to be dedicated to the public through publication in scientific or engineering journals or as a statutory invention registration. However, if another Federal agency is known to be interested in the relevant technology, NSF may give it an opportunity to review and patent the invention so long as that does not inhibit the dissemination of the research results to the research community.

### **731.3 Standard Patent Rights Clause**

The following Patent Rights clause will be used in every funding agreement awarded by NSF that relates to scientific or engineering research unless a special patent clause has been negotiated (see GPM 733.1, "Special Grant Provisions"). When the clause is used in a funding agreement other than a grant, "grant" and "grantee" may be replaced by "cooperative agreement" and "awardee" or other appropriate terms.

#### **PATENT RIGHTS (APRIL, 1992)**

##### **a. Definitions.**

1. INVENTION means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the USC, to any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 USC §§2321 et seq.).
2. SUBJECT INVENTION means any invention of the grantee conceived or first actually reduced to practice in the performance of work under this grant, provided  
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that in the case of a variety of plant, the date of determination (as defined in section 41(d)) must also occur during the period of grant performance.
3. PRACTICAL APPLICATION means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

4. MADE when used in relation to any invention means the conception or first actual reduction to practice of such invention.

5. NON-PROFIT ORGANIZATION means a domestic university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 USC §501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 USC §501(a)) or any domestic non-profit scientific or educational organization qualified under a State nonprofit organization statute.

b. Allocation of Principal Rights. The grantee may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this Patent Rights clause and 35 USC §203. With respect to any subject invention in which the grantee retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the U.S. the subject invention throughout the world. If the grant indicates it is subject to an identified international agreement or treaty, the National Science Foundation (NSF) also has the right to direct the grantee to convey to any foreign participant such patent rights to subject inventions as are required to comply with that agreement or treaty.

c. Invention Disclosure, Election of Title and Filing of Patent Applications by Grantee.

1. The grantee will disclose each subject invention to NSF within two months after the inventor discloses it in writing to grantee personnel responsible for the administration of patent matters. The disclosure to NSF shall be in the form of a written report and shall identify the grant under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to NSF, the grantee will promptly notify NSF of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the grantee.

2. The grantee will elect in writing whether or not to retain title to any such invention by notifying NSF within two years of disclosure to NSF. However, in any case where publication, on sale, or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the U.S., the period for election of title may be shortened by NSF to a date that is no more than 60 days prior to the end of the statutory period.

3. The grantee will file its initial patent application on an invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the U.S. after a publication, on sale, or public use. The grantee will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application, or six months from the date when permission

is granted by the Commissioner of Patents and Trademarks to file foreign patent applications when such filing has been prohibited by a Secrecy Order.

4. Requests for extension of the time for disclosure to NSF, election, and filing under subparagraphs 1., 2., and 3. may, at the discretion of NSF, be granted.

d. Conditions When the Government May Obtain Title. The grantee will convey to NSF, upon written request, title to any subject invention:

1. if the grantee fails to disclose or elect the subject invention within the times specified in paragraph c. above, or elects not to retain title; provided that NSF may only request title within 60 days after learning of the failure of the grantee to disclose or elect within the specified times;

2. in those countries in which the grantee fails to file patent applications within the times specified in paragraph c. above, but prior to its receipt of the written request of NSF, the grantee shall continue to retain title in that country; or

3. in any country in which the grantee decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a subject invention.

e. Minimum Rights to Grantee.

1. The grantee will retain a non-exclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the grantee fails to disclose the subject invention within the times specified in paragraph c. above. The grantee's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the grantee is a party and includes the right to grant sublicenses of the same scope to the extent the grantee was legally obligated to do so at the time the grant was awarded. The license is transferable only with the approval of NSF except when transferred to the successor of that part of the grantee's business to which the invention pertains.

2. The grantee's domestic license may be revoked or modified by NSF to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR §404. This license will not be revoked in that field of use or the geographical areas in which the grantee has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at discretion of NSF to the extent the grantee, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

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3. Before revocation or modification of the license, NSF will furnish the grantee a written notice of its intention to revoke or modify the license, and the grantee will be allowed thirty days (or such other time as may be authorized by NSF for good cause shown by the grantee) after the notice to show cause why the license should not be revoked or modified. The grantee has the right to appeal, in accordance with applicable regulations in 37 CFR §404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

f. Grantee Action to Protect Government's Interest.

1. The grantee agrees to execute or to have executed and promptly deliver to NSF all instruments necessary to: (i) establish or confirm the rights the Government has throughout the world in those subject inventions for which the grantee retains title;

and (ii) convey title to NSF when requested under paragraph d. above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

2. The grantee agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the grantee each subject invention made under this grant in order that the grantee can comply with the disclosure provisions of paragraph c. above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information requested by paragraph c.1. above. The grantee shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

3. The grantee will notify NSF of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

4. The grantee agrees to include, within the specification of any U.S. patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under (identify the grant) awarded by the National Science Foundation. The Government has certain rights in this invention."

5. The grantee or its representative will complete, execute and forward to NSF a confirmation of a License to the U.S. Government and the page of a United States patent application that contains the Federal support clause within two months of filing any domestic or foreign patent application.

g. Subcontracts.

1. The grantee will include this Patent Rights clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work. The subcontractor will retain all rights provided for the grantee in this Patent Rights clause, and the grantee will not, as part of the

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consideration for awarding the subcontract, obtain rights in the subcontractors' subject inventions.

2. In the case of subcontracts, at any tier, when the prime award by NSF was a contract (but not a grant or cooperative agreement), NSF, subcontractor, and contractor agree that the mutual obligations of the parties created by this Patent Rights clause constitute a contract between the subcontractor and the Foundation with respect to those matters covered by this Patent Rights clause.

h. Reporting on Utilization of Subject Inventions. The grantee agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the grantee or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the grantee and such other data and information as NSF may reasonably specify. The grantee also agrees to provide additional reports in connection with any march-in proceeding undertaken by NSF in accordance with paragraph j. of this Patent Rights

clause. As required by 35 USC §202(c)(5), NSF agrees it will not disclose such information to persons outside the Government without the permission of the grantee.

i. Preference for United States Industry. Notwithstanding any other provision of this Patent Rights clause, the grantee agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the U.S. unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the U.S. However, in individual cases, the requirement for such an agreement may be waived by NSF upon a showing by the grantee or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible.

j. March-in Rights. The grantee agrees that with respect to any subject invention in which it has acquired title, NSF has the right in accordance with procedures at 37 CFR §401.6 and NSF regulations at 45 CFR §650.13 to require the grantee, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances and if the grantee, assignee, or exclusive licensee refuses such a request, NSF has the right to grant such a license itself if NSF determines that:

1. such action is necessary because the grantee or assignee has not taken or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
2. such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the grantee, assignee, or their licensees;
3. such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the grantee, assignee, or licensee; or

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4. such action is necessary because the agreement required by paragraph i. of this Patent Rights clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the U.S. is in breach of such agreement.

k. Special Provisions for Grants with Non-profit Organizations. If the grantee is a non-profit organization, it agrees that:

1. rights to a subject invention in the U.S. may not be assigned without the approval of NSF, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the grantee;
2. the grantee will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when NSF deems it appropriate) when the subject invention is assigned in accordance with 35 USC §202(e) and 37 CFR §401.10;
3. the balance of any royalties or income earned by the grantee with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific or engineering research or education; and

4. it will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give preference to a small business firm if the grantee determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided that the grantee is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the grantee. However, the grantee agrees that the Secretary of Commerce may review the grantee's licensing program and decisions regarding small business applicants, and the grantee will negotiate changes to its licensing policies, procedures or practices with the Secretary when the Secretary's review discloses that the grantee could take reasonable steps to implement more effectively the requirements of this paragraph k.4.

l. Communications. All communications required by this Patent Rights clause should be sent to:

Patent Assistant  
Office of the General Counsel  
National Science Foundation  
4201 Wilson Boulevard  
Arlington, VA 22230

[END OF CLAUSE]

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#### **731.4 Electronic Invention Handling**

Grantees are encouraged to use the Edison Invention Information Management System maintained by the National Institutes of Health to disclose NSF subject inventions. Detailed instructions for use of that system are provided at <http://era.info.nih.gov/Edison/> and should be followed for NSF subject inventions except that:

- a. All written communications required should be addressed to the Patent Assistant, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
- b. NSF does not require either an Annual Utilization Report or a Final Invention Statement and Certification.

#### **732 Copyright**

##### **732.1 Rights to Copyrightable Material**

The following principles governing the treatment of copyrightable material produced under NSF grants were adopted by the NSB.

- a. NSF normally will acquire only such rights to copyrightable material as are needed to achieve its purposes or to comply with the requirements of any applicable government-wide policy or international agreement.
- b. To preserve incentives for private dissemination and development, NSF normally will not restrict, or take any part of income earned from, copyrightable material except as necessary to comply with the requirements of any applicable government-wide policy or international agreement.
- c. In exceptional circumstances, NSF may restrict or eliminate an awardee's control of NSF-supported copyrightable material and of income earned from it, if NSF

determines that this would best serve the purposes of a particular program or grant.

### **732.2 Standard Copyrightable Material Clause**

The following copyrightable material clause will be used in every funding agreement awarded by NSF that relates to scientific or engineering research unless a special copyrightable material clause has been negotiated. (See GPM 733.1, "Special Grant Provisions," and GPM 733.2, "Grants Not Primarily for Research.") When the clause is used in a funding agreement other than a grant, "grant" and "grantee" may be replaced by "cooperative agreement" and "awardee" or other appropriate terms.

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### **COPYRIGHTABLE MATERIAL**

a. SUBJECT WRITING means any material that:

1. is or may be copyrightable under Title 17 of the United States Code; and
2. is produced by the grantee or its employees in the performance of work under this grant.

"Subject writings" include such items as reports, books, journal articles, software, sound recordings, video tapes and video discs.

b. Copyright Ownership, Government License. Except as otherwise specified in the grant or by this paragraph, the grantee may own or permit others to own copyright in all subject writings. The grantee agrees that if it or anyone else does own copyright in a subject writing, the Federal government will have a non-exclusive, nontransferable, irrevocable, royalty-free license to exercise or have exercised for or on behalf of the U.S. throughout the world all the exclusive rights provided by copyright. Such license, however, will not include the right to sell copies or photorecords of the copyrighted works to the public.

c. Grants Affected by International Agreements. If the grant indicates it is subject to an identified international agreement or treaty, NSF can direct the grantee to convey to any foreign participant or otherwise dispose of such rights to subject writings as are required to comply with that agreement or treaty.

d. Grantee Action to Protect Government Interests. The grantee agrees to acquire, through written agreement or an employee relationship, the ability to comply with the requirements of the preceding paragraphs and, in particular, to acquire the ability to convey rights in a subject writing to a foreign participant if directed by NSF under the previous paragraph. The grantee further agrees that any transfer of copyright or any other rights to a subject writing, by it or anyone whom it has allowed to own such rights, will be made subject to the requirements of this article.

[END OF CLAUSE]

## **733 Special Patent and Copyright Situations**

### **733.1 Special Grant Provisions**

At the request of the prospective grantee or on recommendation from NSF staff, a Grants Officer, with the concurrence of the cognizant Program Officer, may negotiate special patent or copyright provisions when he/she determines that exceptional circumstances require restriction or elimination of the right of a prospective grantee to control principal rights to subject inventions or writings in order to better achieve the objectives of the program, the National Science Foundation Act, or (in the case of inventions) Chapter 18 of Title 35 of the USC. Every special copyright or patent provision will allow the grantee, after an invention has been made or copyrightable material created, to request that it be allowed to retain principal rights to that invention

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or material, unless doing so would be inconsistent with an obligation imposed on NSF by statute, international agreement or pact with other participants in, or supporters of, the research.

### **733.2 Grants Not Primarily for Research**

a. Grants not primarily intended to support scientific or engineering research generally do not contain patent or copyrightable material provisions. Examples of such grants are travel, conference and equipment grants.

b. NSF Fellowships and Traineeships. In accordance with Section 212 of Title 35 of the USC, NSF claims no rights to inventions made by fellows or trainees. The following provision will be included in each fellowship or traineeship program solicitation and made part of the grant:

#### **INTELLECTUAL PROPERTY RIGHTS**

The National Science Foundation claims no rights to any inventions or writings that might result from its fellowship or traineeship grants. However, fellows and trainees should be aware that the NSF, another Federal agency, or some private party may acquire such rights through other support for particular research. Also, fellows and trainees should note their obligation to include an Acknowledgment and Disclaimer in any publication.

[END OF PROVISION]

### **733.3 Grants Affected by International Agreements**

a. Many of the bilateral and multilateral treaties and agreements underlying NSF's international cooperative research programs contain provisions on allocation of rights to inventions or writings. These sometimes require an allocation of rights different from that provided by the standard Copyrightable Material or Patent Rights clauses. In those cases, the standard clauses will be modified through the addition of the following to the grant:

“This project is supported under the cooperative program listed below. Your rights in inventions, writings, and data may be affected.”

The applicable agreement or treaty will be identified immediately beneath that sentence.

b. After an invention is disclosed to the Patent Assistant, the grantee of a grant subject to an international agreement will be informed as to what rights, if any, it must transfer to foreign participants. Grantees also may ask the NSF Program Officer for copies of the identified international agreement before or after accepting a grant.

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### **734 Dissemination and Sharing of Research Results**

a. Investigators are expected to promptly prepare and submit for publication, with authorship that accurately reflects the contributions of those involved, all significant findings from work conducted under NSF grants. Grantees are expected to permit and encourage such publication by those actually performing that work, unless a grantee intends to publish or disseminate such findings itself.

b. Investigators are expected to share with other researchers, at no more than incremental cost and within a reasonable time, the primary data, samples, physical collections and other supporting materials created or gathered in the course of work under NSF grants. Grantees are expected to encourage and facilitate such sharing. Privileged or confidential information should be released only in a form that protects the privacy of individuals and subjects involved. General adjustments and, where



essential, exceptions to this sharing expectation may be specified by the funding NSF Program or Division for a particular field or discipline to safeguard the rights of individuals and subjects, the validity of results, or the integrity of collections or to accommodate the legitimate interest of investigators. A grantee or investigator also may request a particular adjustment or exception from the cognizant NSF Program Officer.

c. Investigators and grantees are encouraged to share software and inventions created under the grant or otherwise make them or their products widely available and usable.

d. NSF normally allows grantees to retain principal legal rights to intellectual property developed under NSF grants to provide incentives for development and dissemination of inventions, software and publications that can enhance their usefulness, accessibility and upkeep. Such incentives do not, however, reduce the responsibility that investigators and organizations have as members of the scientific and engineering community, to make results, data and collections available to other researchers.

### **735 Tangible Property**

#### **735.1 Background**

Some NSF grants support collection or creation of tangible property, such as insects, marine life, drilling core samples and genetically-altered micro-organisms. As used in this section “tangible property” means any personal property other than equipment (see GPM 612, “Equipment”), and intellectual property.

#### **735.2 Legal Rights to Tangible Property**

Unless otherwise provided in the grant, all legal rights to tangible property collected or created during NSF-assisted research remain with the grantee or investigators as determined by the policies of the organization. As members of the scientific and

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engineering community, both grantees and investigators are responsible for making such tangible property appropriately available to other researchers.

### **740 PUBLICATION / DISTRIBUTION OF GRANT MATERIALS**

#### **741 NSF Policy**

NSF advocates and encourages open scientific and engineering communication. NSF expects significant findings from research it supports to be promptly submitted for publication, with authorship that accurately reflects the contributions of those involved.

#### **742 Costs**

Cost of documenting, preparing, publishing, disseminating and sharing research findings and supporting material are allowable charges against the grant. (See GPM 617 “Publication, Documentation, and Dissemination”.)

#### **743 Responsibilities**

Unless otherwise provided in the grant, preparation, content, editing, identification of authorship and submission for publication of significant research findings are the responsibility of the investigators, consistent with such policies and procedures as the grantee may prescribe.

#### **744 Grantee Obligations**

a. Unless otherwise provided in the grant, the grantee is required to assure that:

1. an acknowledgment of NSF support appears in every publication (including World Wide Web pages) of any material based on or developed under the grant, in the following terms:

“This material is based on work supported by the National Science Foundation under Grant No. (Grantee should enter NSF grant number).”

2. NSF support is orally acknowledged during all news media interviews, including popular media such as radio, television and news magazines.

3. every publication of material (including World Wide Web pages) based on or developed under the grant, except research articles or papers appearing in scientific, engineering, technical or professional journals, contains the following disclaimer:

“Any opinions, findings and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the National Science Foundation.”

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4. up to two copies of every publication of material based on or developed under the grant, clearly labeled with the award number and other appropriate identifying information, are provided to the cognizant NSF Program Officer promptly after publication.

b. Grantees should also note their obligations in regard to copyrights (see GPM 732, “Copyright”) and their responsibilities as members of the scientific and engineering community to disseminate and share research results (see GPM 734, “Dissemination and Sharing of Research Results”).

## **750 PROGRAM INCOME**

### **751 Background**

The following provisions implement the applicable portions of OMB Circular A-110 on program income as well as the principle on income from copyrightable material adopted by the NSB (GPM 732.1, “Rights to Copyrightable Material”).

### **752 Definition**

PROGRAM INCOME means gross income earned by the grantee that is directly generated by a supported activity or earned as a result of the grant. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under the grant, the sale of commodities or items fabricated under the grant, license fees for, and royalties on, copyrights and interest on loans made with grant funds. Interest earned on advances of Federal funds is not program income. Program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

### **753 NSF Policy**

a. Standard Treatment. Unless otherwise specified in the grant, program income received or accruing to the grantee during the period of the grant is to be retained by the grantee, added to the funds committed to the project by NSF, and thus used to further project objectives. The grantee has no obligation to NSF with respect to: 1) license fees and royalties for copyrighted material, patents, patent applications, trademarks and inventions; or 2) program income received beyond the period of the grant.

b. Special Treatment. In exceptional circumstances, the NSF Grants Officer, in collaboration with Program Officers and other appropriate NSF offices, may approve use of a special grant provision to restrict or eliminate a grantee’s control of income earned through NSF-supported activities if it determines that this would best serve the purposes of a particular program or grant. The special provisions may require the Federal share of program income be kept in a separate account, reported on and/or remitted for such periods as may be reasonable under the circumstances.

## **760 INTERNATIONAL CONSIDERATIONS**

### **761 Travel to Foreign Countries**

#### **761.1 Policy**

- a. Expenses for transportation, lodging, subsistence and related items incurred by project personnel and by outside consultants employed on the project (GPM 614, "Travel Costs") who are on travel status on business related to an NSF-supported project are allowable as prescribed in the governing cost principles. The requirements for prior approval detailed in the governing cost principles are waived.
- b. Support for the foreign travel of an investigator's dependents is allowable only under the conditions identified in GPM 614, "Travel Costs".

#### **761.2 Use of U.S.-Flag Air Carriers**

- a. The General Services Administration issued an amendment to the Federal Travel Regulations in the November 13, 1998 edition of the Federal Register (Vol. 63, No. 219). The amendment relates to the use of U.S. flag air carriers under the provisions of 49 U.S.C. 40118, which is commonly referred to as the Fly America Act.
  - b. Any air transportation to, from, between or within a country other than the U.S. of persons or property, the expense of which will be assisted by NSF funding, must be performed by, or under a code-sharing arrangement with, a U.S.-flag air carrier if service provided by such a carrier is "available" (see Comp. Gen. Decision B-240956, dated September 25, 1991). Tickets (or documentation for electronic tickets) must identify the U.S.-flag air carrier's designator code and flight number.
  - c. For the purposes of this requirement, U.S.-flag air carrier service is considered "available" even though:
    1. comparable or a different kind of service can be provided at less cost by a foreign-flag air carrier;
    2. foreign-flag air carrier service is preferred by or is more convenient for NSF or traveler; or
    3. service by a foreign-flag air carrier can be paid for in excess foreign currency.
  - d. The following rules apply unless their application would result in the first or last leg of travel from or to the U.S. being performed by a foreign-flag air carrier:
    1. a U.S.-flag air carrier shall be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route;
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2. if a U.S.-flag air carrier does not serve an origin or interchange point, a foreign-flag air carrier shall be used only to the nearest interchange point on a usually traveled route to connect with a U.S.-flag air carrier; or
  3. if a U.S.-flag air carrier involuntarily reroutes the traveler via a foreign-flag carrier, the foreign-flag air carrier may be used notwithstanding the availability of alternative U.S.-flag air carrier service.

#### **761.3 Use of Foreign-Flag Air Carriers**

- a. Travel To and From the U.S. Use of a foreign-flag air carrier is permissible if the airport abroad is:
  1. the traveler's origin or destination airport, and use of U.S.-flag air carrier service would extend the time in a travel status by at least 24 hours more

than travel by a foreign-flag carrier; or

2. an interchange point, and use of U.S.-flag air carrier service would increase the number of aircraft changes the traveler must make outside of the U.S. by 2 or more, would require the traveler to wait four hours or more to make connections at that point, or would extend the time in a travel status by at least six hours more than travel by a foreign-flag air carrier.

b. Travel Between Points Outside the U.S. Use of a foreign-flag air carrier is permissible if travel by a:

1. foreign-flag air carrier would eliminate two or more aircraft changes en route;

2. U.S.-flag air carrier would extend the time in a travel status by at least four hours more than travel by a foreign-flag air carrier and the travel is not part of the trip to or from the U.S.; or

3. U.S.-flag air carrier would require a connecting time of four hours or more at an overseas interchange point.

c. Short Distance Travel. For all short distance travel, regardless of origin and destination, use of a foreign-flag air carrier is permissible if the elapsed travel time on a scheduled flight from origin to destination airport by a foreign-flag air carrier is three hours or less and service by a U.S.-flag air carrier would double the travel time.

#### **762 Charter Flights**

Because of the risk of catastrophic loss, NSF does not encourage the use of charter flights as a means of mass transportation for groups of scientists and engineers nor does it make arrangements for purchase of charter flight airline tickets.

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#### **763 Projects in a Foreign Country**

a. General. Prior to undertaking any projects outside the U.S., the grantee should ensure that any permits or licenses required by the host country or the political subdivision in which the project will be performed have been obtained and that the researcher(s) will abide by the appropriate ordinances of such foreign countries. NSF funds may not be used in support of a project which is prohibited by law in the country in which it is undertaken.

b. NSF-Supported Activities in Greenland. All research projects in Greenland must be approved in advance by the Government of Denmark. Applications for projects in which U.S. citizens and U.S. nationals are involved in any way (logistical, operational and/or financial support) shall be submitted to the Danish Government through diplomatic channels (i.e., through the U.S. Department of State and the American Embassy, Copenhagen) to the Danish Ministry of Foreign Affairs. Application forms, deadline dates and instructions are available from the Director, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

#### **764 Passports and Visas**

NSF assumes no responsibility for securing passports or visas required by any person because of participation in an NSF-supported project. It should be noted that some countries that normally do not require visas for tourists do require special visas for scientists and engineers engaged in research or studies.

#### **765 International Travel Grants**

Funding Limitations. Funds for international travel grants will normally not exceed the

cost of a round-trip, economy class airline ticket between the approved points of origin and destination. Group travel grants awarded to a university, professional society or other non-profit organization to enable it to coordinate U.S. participation in one or more scientific or engineering meetings held abroad may include a flat rate of \$50 per traveler for the general administration of this type of project. NSF international travel grants may not be supplemented by funds from any other NSF grant or fellowship.

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**Exhibit VII-1**

**NATIONAL SCIENCE FOUNDATION**

**ARLINGTON, VA 22230**

**ASSURANCE OF COMPLIANCE**

**with**

**NATIONAL SCIENCE FOUNDATION REGULATION**

**UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

---

(hereinafter called the "Applicant") HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (42 USC §2000d) and all requirements imposed by or pursuant to the Regulation of the National Science Foundation (45 CFR Part 611) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Foundation; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Foundation, this Assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this Assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this Assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Foundation.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, cooperative agreements, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Foundation, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the Applicant, its successors, transferees, and assignees.

PLEASE TYPE OR PRINT

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NAME OF APPLICANT, STREET ADDRESS OR P.O. BOX, CITY, STATE, ZIP CODE

---

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE

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SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL DATE

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**CHAPTER VIII**

**OTHER PROPOSAL AND AWARD CONSIDERATIONS**

The chapter discusses other proposal and award considerations not addressed in the preceding chapters. Topics covered are:

**800 INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS**

**810 HANDLING OF INFORMATION**

**820 TAX STATUS**

**830 ENVIRONMENTAL IMPACT**

**840 PROTECTION OF PROPERTIES IN THE NATIONAL REGISTER OF HISTORIC PLACES**

**850 NATIONAL SECURITY**

**860 MISCELLANEOUS (INCLUDING LIABILITIES AND LOSSES, PRECOLLEGE STUDENTS AND EXPERIMENTAL CURRICULUM**

**DEVELOPMENT PROJECTS AND USE OF METRIC MEASUREMENTS)**

**800 INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS**

a. The Foundation's regulation on Intergovernmental Review of National Science Foundation Programs and Activities is published in 45 CFR Part 660.

b. The Federal Assistance Award Data System (FAADS)

<http://www.census.gov/govs/www/faads.html> notifies the States of Federal assistance awards. FAADS is a computer-based management information system that provides information on assistance awards, including NSF grants, on a quarterly basis. These reports are distributed to the States, and meet the objective of 6502 of Title 31 of the USC.

**810 HANDLING OF INFORMATION**

**811 Questionnaires: Data Collection Under NSF Grants**

**811.1 Paperwork Control**

Under the OMB regulation, *Controlling Paperwork Burdens on the Public* (5 CFR §1320), a grantee's obtaining of information from ten or more persons by means of identical questions is considered to be "sponsored" by NSF only if:

- a. the grantee is collecting the information at the specific request of NSF; or
- b. the terms of the grant require specific approval by NSF of the collection or its procedures. If either of these conditions is met, OMB approval of the data collection is generally required and grantees should obtain the necessary control number from the cognizant NSF Program Officer.

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**811.2 NSF Policy**

Data collection activities of NSF grantees are the responsibility of grantees, and NSF support of a project does not constitute NSF approval of the survey design, questionnaire content or data collection procedures. No representation may be made to respondents that such data are being collected for, or in association with, NSF or the government. However, this requirement is not intended to preclude mention of NSF support of the project in response to an inquiry or acknowledgment of such support in any publication of this data (see GPM 744, "Grantee Obligations").

**812 Release of Information by NSF**

**812.1 Press Releases**

Grants for projects which appear to be of special interest to the general public may be made the subject of an NSF or joint NSF/grantee organization press release to the news media. (See GPM 622, "News Release Costs.")

### **812.2 Open Government Legislation**

a. Pursuant to the Freedom of Information Act (FOIA) (5 USC §552), NSF will provide agency records, with certain exceptions, if the request is in writing, includes the requester's name and mailing address, is clearly identified as a FOIA request, and describes the records sought with sufficient specificity to permit identification. The requester must also agree to pay fees that are chargeable under the NSF regulations. Detailed procedures are contained in 45 CFR §612. Further information is available at <http://www.nsf.gov/home/pubinfo/foia.htm>.

b. The Government in the Sunshine Act (5 USC §552b) requires that all meetings of the National Science Board be open to public observation unless the subject falls within one of ten exemptions. NSF's Sunshine Act regulations are contained in 45 CFR §614. The Sunshine Act and the FOIA cited above, may require NSF to release to the public information, correspondence and documents received by NSF from grantees, unless they fall within the Acts' limited exceptions.

### **812.3 Release of Project Reports**

NSF expects significant findings from research it supports to be promptly submitted for publication. To the extent permitted by law, NSF will honor requests from grantees that release of Annual and Final Project Reports be delayed to permit orderly dissemination of significant findings through refereed channels. Unless such a request is received or material is marked as proprietary, such reports may be made available to others without notice to the grantee. Information, the disclosure of which might invade personal privacy, will be redacted before release.

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### **820 TAX STATUS**

Determination of the tax status of an organization or person receiving compensation in any form as a result of an NSF grant is the responsibility of the IRS, State and local tax authorities and the courts.

### **830 ENVIRONMENTAL IMPACT**

a. The National Environmental Policy Act of 1969 (NEPA) (42 USC §4332) requires that Federal agencies consider the environmental impacts of major Federal actions significantly affecting the quality of the human environment.

b. If a proposed project might have an environmental impact, the proposal should furnish sufficient information to assist Foundation officials in assessing the environmental consequences of supporting the project. NSF will determine:

1. the adequacy of the information submitted;
2. whether or not additional information is needed; and
3. whether or not an environmental assessment or environmental impact statement will be necessary.

c. NSF regulations governing compliance with NEPA are found at 45 CFR §640. NSF regulations supplement the Council on Environmental Quality's regulations, published at 40 CFR §§1500-1508. Categories of activities for which an NSF Program Officer may be required to prepare an environmental assessment are set forth at 45 CFR §640.3(b).

### **840 PROTECTION OF PROPERTIES IN THE NATIONAL REGISTER OF HISTORIC PLACES**

NSF is required by 16 USC §470f to take into account the effect of grant activities on properties included in the National Register of Historic Places. Occasionally, an NSF

grant may involve activities that require mitigation or other actions under the National Historic Preservation Act and implementing regulations of the Advisory Council on Historic Preservation (36 CFR §800). In such cases, as deemed appropriate by NSF, conditions executing the goals of the National Historic Preservation Act may be included in the grant and grantees or prospective grantees may be required to coordinate with State or local historical preservation officers.

#### **850 NATIONAL SECURITY**

a. NSF does not have original classification authority and does not normally support classified projects. It therefore does not expect that results of NSF-supported research projects will be classifiable, except in very rare instances.

b. E.O. 12958 (3 CFR 1995 Comp.) states that basic research information not clearly related to the national security may not be classified. Nevertheless, some information July 2002 NSF 02-151

concerning, among other things, scientific, technological or economic matters relating to the national security or cryptology may require classification.

c. There may be cases when an NSF grantee originates information during the course of an NSF-supported project that the grantee believes requires classification under E.O. 12958.

d. In such a case, the grantee has the responsibility to promptly:

1. submit the information directly to the government agency with appropriate subject matter interest and classification authority or, if uncertain as to which agency should receive the information, to the Director of the Information Security Oversight Office, GSA;

2. protect the information as though it were classified until the grantee is informed that the information does not require classification, but not longer than 30 days after receipt by the agency with subject matter interest or by the GSA; and

3. notify the appropriate NSF Program Officer.

e. The Executive Order requires the agency with appropriate subject matter interest and classification authority to decide within 30 days whether to classify the material. If it determines the information will require classification, the grantee shall cooperate with that agency, NSF or other appropriate agencies in securing all related project notes and papers.

f. If the information is determined to require classification, the performing organization may wish or need to discontinue the project. (See GPM 913, "Termination by Mutual Agreement.")

#### **860 MISCELLANEOUS**

##### **861 Liabilities and Losses**

NSF assumes no liability with respect to accidents, bodily injury, illness, breach of contract, any other damages or loss, or with respect to any claims arising out of any activities undertaken with the financial support of an NSF grant, whether with respect to persons or property of the grantee or third parties. The grantee is advised to insure or otherwise protect itself or others as it may deem desirable.

##### **862 Pre-College Students and Experimental Curriculum Development**

###### **Projects**

As required by 42 USC §1869 a and b, grantees of projects which involve pre-college students in research or development, or pilot-testing, evaluation or revision of, experimental or innovative curriculum development projects will:



- a. provide to the school board, or comparable authority responsible for the schools considering participation in the project, information concerning the need for and purposes of, the particular education project, the proposed content of the material to be used, the expected benefits to be derived and other information to assist the jurisdiction in arriving at a decision on participation;
- b. obtain written approval for participation in the project activities after the responsible authority has carried out its procedures;
- c. provide information and materials to the responsible school authority to assist it in carrying out its own established procedures regarding the participation of students in project activities;
- d. provide information to NSF describing compliance with the above provisions; and
- e. provide in every publication, testing or distribution agreement involving instructional material developed under a grant (including but not limited to teacher's manuals, textbooks, films, tapes or other supplementary material) that such material will be made available within the school district using such material, for inspection by parents or guardians of children engaged in educational programs or projects of that school district.

### **863 Use of Metric Measurements**

The Metric Conversion Act of 1975 (15 USC §§205a-k) and E.O. 12770 (3 CFR, 1991 comp.) encourage Federal agencies to use the Metric System in procurement, grants and other business-related activities. The NSF grant will contain a provision encouraging PI/PDs to submit project reports, final reports, other reports and publications produced under grants that employ the metric system of measurements.

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## **CHAPTER IX**

### **RECONSIDERATION / SUSPENSION AND TERMINATION / DISPUTES /RESEARCH MISCONDUCT**

This chapter provides basic information regarding the NSF reconsideration process, resolution of problems arising from the performance of a grant and research misconduct. Topics covered are:

#### **900 RECONSIDERATION OF PROPOSALS DECLINED OR RETURNED BY THE FOUNDATION**

#### **910 SUSPENSION AND TERMINATION PROCEDURES**

#### **920 INFORMAL RESOLUTION OF GRANT ADMINISTRATION DISPUTES**

#### **930 RESEARCH MISCONDUCT**

#### **900 RECONSIDERATION OF PROPOSALS DECLINED OR RETURNED BY THE FOUNDATION**

##### **901 General**

This section describes the types of reconsideration that NSF makes available to individuals and organizations concerning proposals for grants. It does not apply to:

- a. procurements governed by the Federal Property and Administrative Services Act or the Federal Acquisition Regulations;
- b. "discourage" (i.e., non-binding) decisions resulting from submission of a preliminary proposal;

c. proposals for:

1. fellowships;
  2. travel grants;
  3. Small Grants for Exploratory Research (SGER); or
  4. Phase I proposals submitted under the SBIR program.
- d. proposals returned without review by NSF for failure to:

1. provide sufficient lead time before activity is to begin;
2. meet announced proposal deadline date requirements; or
3. comply with proposal formatting requirements stipulated in the *NSF Grant Proposal Guide* or Program Solicitation.

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### **902 Policy**

a. A proposer for NSF assistance whose proposal has been declined may ask the cognizant NSF Program Officer or the cognizant Division Director for information over and above the explanatory materials received with the declination notice. If the PI/PD is not satisfied that the proposal was fairly handled and reasonably reviewed, he/she may request reconsideration by the responsible Assistant Director (AD) or Office Head. An organization (or an unaffiliated PI/PD) still not satisfied after reconsideration by the responsible AD/Office Head may request further reconsideration by the Deputy Director of the Foundation. If a proposal has been declined after review by the NSF, only an explanation will be available.

b. When a proposal has been returned by the Foundation as being inappropriate for NSF consideration, the proposer may request reconsideration of such a determination.

c. The aim of any reconsideration is to ensure that NSF's review has been fair and reasonable, both substantively and procedurally. The scientific and technical merits may be examined within the context of budget availability and program priorities. Reconsideration may also address any procedural errors in peer review or other aspects of proposal review, including unaccounted-for conflict of interests or inappropriate consideration of records, information or rumor.

d. Award of NSF assistance is discretionary and reconsideration is not an adversarial process. A formal hearing, therefore, is not provided. Because factors such as program budget and priorities factor into the decision on a proposal, NSF cannot ensure proposers that reconsideration will result in an award even if error is established in connection with the initial review.

e. No revisions made to the proposal after declination will be considered in connection with the original proposal. However, a substantially revised proposal may be submitted for review as a new proposal under the usual procedures. NSF reserves the right to return without review a proposal that is substantially the same as one that was previously reviewed and declined whether or not a request for reconsideration was made.

### **903 Explanations by the NSF Program Officer or Division Director**

When a proposal is declined, the PI/PD receives verbatim but unattributed copies of the ad hoc reviews and the panel summary (if applicable), a description of how the proposal was reviewed, and, if not otherwise provided in the panel summary, an explanation (written or telephoned) of the basis for the declination. A returned proposal also will be accompanied by an explanation. A PI/PD who is considering asking for reconsideration should first contact the cognizant NSF Program Officer or Division Director, who will

afford the PI/PD an opportunity to present his/her point of view, provide additional information if any exists, and take any further action that seems appropriate.

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**904 Reconsideration by the Assistant Director**

a. If dissatisfied with the explanation provided by the NSF Program Officer or Division Director, the PI/PD may request in writing that NSF reconsider its action. Such a request will be considered only if the PI/PD has first sought and obtained an explanation from the cognizant NSF Program Officer or Division Director and only if the request is received by the Foundation within 90 days after the declination or the return. The request should be addressed to the AD/Office Head for the directorate or office that handled the proposal and should explain why the PI/PD believes that the declination or return was unwarranted.

b. The AD/Office Head will reconsider the record to determine whether NSF's review of the declined proposal was fair and reasonable, substantively and procedurally, taking into account availability of funds and the policies and priorities of the program and NSF. In the case of a returned proposal, the record will be reviewed to determine whether the proposed project was inappropriate for NSF consideration. The AD/Office Head may request additional information from the PI/PD and may obtain additional reviews. If additional reviews are sought, they are subject to standard review procedures (e.g., instructions must be provided to reviewers and conflicts-of-interest policies must be followed). The AD/Office Head may conduct the reconsideration personally or may designate another NSF official who had no part in the initial review to do so. As used here, "AD/Office Head" includes such a designated official.

c. Within 30 days after the date of the request, the AD/Office Head will furnish the results of the reconsideration, in writing, to the PI/PD. If results cannot be furnished within 30 days, the AD/Office Head will send the PI/PD a written explanation of the need for more time, indicating the date when the results can be expected. If the AD/Office Head reaffirms the declination or return, he/she will inform the PI/PD that the PI/PD's organization may obtain further reconsideration by the Deputy Director of NSF as provided below.

**905 Further Reconsideration by the Deputy Director**

a. Within 60 days after the AD/Office Head has notified the PI/PD of the results of the reconsideration, the proposing organization or an unaffiliated PI/PD may request further reconsideration by the Deputy Director of NSF.

b. A request for further reconsideration need not be in any particular format, but it must be in writing, and must be signed by the organization's president or other chief executive officer and by the PI/PD. For declinations, it should explain why the organization believes that an error may have occurred in the initial evaluation and why it is not entirely satisfied with the reconsideration by the responsible AD/Office Head. For returned proposals, it should explain why the organization believes that an error may have occurred in the initial determination that the proposal was inappropriate for NSF consideration.

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c. The Deputy Director will review the request for further reconsideration and the record of earlier NSF actions, including the original review and the reconsideration by the AD/Office Head, to determine whether NSF's review of the declined proposal was fair and reasonable, or, in the case of a returned proposal, whether the proposed project

was inappropriate for NSF consideration. The Deputy Director may request additional information from the PI/PD or the proposing organization and may obtain additional reviews. If additional reviews are sought, they are subject to standard review procedures (e.g., instructions must be provided to reviewers and conflicts-of-interest policies must be followed).

d. The Deputy Director may conduct the further reconsideration personally or may designate another NSF official who had no part in the initial evaluation of the proposal or the earlier reconsideration to do so. As used here, "Deputy Director" includes such a designated official.

e. Within 30 days after a request for further reconsideration is received at NSF, the Deputy Director will furnish the results of the further reconsideration, in writing, to the organization. If results cannot be furnished within 30 days, the Deputy Director will send the organization a written explanation of the need for more time, indicating the date when the results can be expected.

f. The decision made by the Deputy Director is final.

## **910 SUSPENSION AND TERMINATION PROCEDURES**

### **911 Definitions**

a. SUSPENSION is an action by NSF that temporarily withholds Federal support of a project pending corrective action by the grantee or a decision by NSF to terminate the grant.

b. TERMINATION is the cancellation of a grant, in whole or in part, at any time prior to its expiration.

### **912 Suspension and Termination**

#### **912.1 NSF Policy**

a. A grant may be suspended or terminated in whole or in part in any of the following situations by:

1. NSF when the grantee has materially failed to comply with the terms and conditions of the grant;

2. NSF when the Foundation has other reasonable cause;

3. NSF when ordered by the Deputy Director under NSF's Regulation on Research Misconduct (45 CFR §689);

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4. NSF and the grantee by mutual agreement (if NSF and the grantee cannot reach an agreement, NSF reserves the right to unilaterally terminate the grant); or

5. the grantee on written notice to NSF setting forth the reasons for such action, the effective date, and, in the case of partial termination, the portion to be terminated or suspended (with the understanding that if NSF determines that the unterminated portion will not accomplish the purposes of the grant it may suspend or terminate the entire grant).

b. Normally, action by NSF to suspend or terminate a grant will be taken only after the grantee has been informed by NSF of the proposed action, or informed of any deficiency on its part and given an opportunity to correct it. However, NSF may immediately suspend or terminate a grant without notice when it believes such action is reasonable to protect the interests of the government.

c. No costs incurred during a suspension period or after the effective date of a termination will be allowable, except those costs which, in the opinion of NSF, the grantee could not reasonably avoid or eliminate, or which were otherwise authorized by

the suspension or termination notice, provided such costs would otherwise be allowable under the terms of the grant and the governing cost principles.

d. Within 30 days of the termination date the grantee will furnish a summary of progress under the grant and an itemized accounting of costs incurred prior to the termination date or pursuant to c, above. Final allowable costs under a termination settlement shall be in accordance with the terms of the grant, including this section, and the governing cost principles, giving due consideration to the progress under the grant. In no event will the total of NSF payments under a terminated grant exceed the grant amount or the NSF pro rata share when cost sharing was anticipated, whichever is less.

e. A notice of termination other than by mutual agreement and/or the final settlement amount may be subject to review pursuant to GPM 920, "Informal Resolution of Grant Administration Disputes."

### **912.2 Procedures for Suspension or Termination by NSF**

a. When it is believed that a grantee has failed to comply with one or more of the terms and conditions of a grant, the NSF Grants Officer will normally advise the grantee in writing of the nature of the problem and that failure to correct the deficiency may result in suspension or termination of the grant. The grantee will be requested to respond in writing within 30 calendar days of the date of such letter, describing the action taken or the plan designed to correct the deficiency. Copies of such correspondence will be furnished to the PI/PD and to the NSF Program Officer.

However, NSF may immediately suspend or terminate a grant without notice when it believes such action is reasonable to protect the interests of the government.

b. If a satisfactory response is not received within the above period, the NSF Grants Officer may issue a notice immediately suspending authority to further obligate grant funds, in whole or in part. Notice of suspension is sent by certified mail (return receipt July 2002 NSF 02-151

requested) to the Authorized Organizational Representative, with a copy to the PI/PD. Within NSF, copies are furnished to DFM and to the NSF Program Officer. The notice will set forth the terms of the suspension and its effective date.

c. Normally, the suspension will remain in effect for a maximum of 60 days to allow the grantee to take corrective action. In the event that the deficiency is not corrected to the satisfaction of NSF, the NSF Grants Officer may issue a notice of termination, addressed as in b., above. The notice will set forth the reasons for the action and its effective date.

d. The remedies described in GPM 920, "Informal Resolution of Grant Administration Disputes," do not preclude a grantee being subject to Debarment and Suspension under the Government-wide Non-procurement Procedures published at 45 CFR §620.

e. Suspension or termination due to research misconduct will be imposed as provided in that regulation.

### **913 Termination by Mutual Agreement**

#### **913.1 NSF Policy**

Circumstances may arise in which either NSF or the grantee wishes to terminate a project. If both parties agree that continuation of the project would not produce results commensurate with the further expenditure of funds, or if there arises any other reason, the grant may be terminated by mutual agreement.

#### **913.2 Procedures**

- a. If the grantee wishes to terminate the project, the Authorized Organizational Representative should advise the NSF Grants Officer in writing and send a copy to the NSF Program Officer.
- b. If NSF wishes to terminate the project, the NSF Grants Officer will advise the grantee's Authorized Organizational Representative in writing and send copies to the PI/PD and the NSF Program Officer.
- c. Within 30 days after receipt of request from either party for termination by mutual agreement, the other party will provide an appropriate written response. In the event of disagreement between the parties, the NSF Grants Officer will make a final decision, subject to the review procedures prescribed by GPM 920 "Informal Resolution of Grant Administration Disputes."
- d. Following termination, grant closeout procedures will be initiated.

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#### **914 NSF Suspension or Termination Review Procedure**

Grantees should refer to GPM 923, "Procedures," for procedures to request review of a suspension or termination notice. Pending resolution of the request for review, a notice of termination shall remain in effect.

#### **920 INFORMAL RESOLUTION OF GRANT ADMINISTRATION DISPUTES**

##### **921 Background**

Consistent with the *Recommendation on Grant Disputes* by the Administrative Conference of the U.S., and with the intent of the provisions of Alternative Dispute Resolution, the Foundation provides the informal resolution processes described below concerning disputes or disagreements that may arise over Grants Officer post-award decisions under an NSF grant.

##### **922 Scope of Post-Award Disputes Covered**

- a. The disputes below are covered under the process described in GPM 923, "Procedures":
  1. cost disallowances pursuant to a Grants Officer's decision, e.g., specific disallowances under an individual grant or as a result of an audit report;
  2. termination orders; and
  3. the final settlement amount under a termination.
- b. Requests for reconsideration of a declined proposal or a proposal returned without review by NSF are covered in GPM 900, "Reconsideration of Proposals Declined or Returned by the Foundation."

##### **923 Procedures**

- a. The grantee should submit a certified letter to the Director, Division of Grants and Agreements, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, noting the grantee's disagreement or dispute and identifying the NSF Grants Officer's decision in question, giving reasons for the request for review and providing any other material pertinent to the request.
- b. The letter to the Director, DGA, must be postmarked no later than 30 days after the date of the letter notifying the grantee of the decision in question. The time for filing a request for review is strictly enforced and no extensions for the purpose of preparing it will be granted.
- c. The request for review need not follow a prescribed format; however, it must contain a full statement of the grantee's position with respect to the disputed matter and the facts and reasons in support of the grantee's position. Requests will be reviewed if

the grantee submits new information (which was unavailable at the time of the original decision); if an error in fact or application of NSF policy is noted in the original decision; or improper procedures were followed in the original decision.

d. The Director, DGA, will review or designate one or more individuals to review the matter. One reviewing official will be at least at a management level equivalent to the official who made the decision that is being reviewed. In no case, will the review be undertaken by any individual involved with the decision or involved in recommending and/or monitoring the scientific and engineering aspects of the project or responsible for negotiating and/or administering its business aspects.

e. The designated individual(s) will review and consider all relevant information available. A report which identifies the conclusion and recommendation will be completed and in disputes covered under:

1. GPM 922.a.1 and 3, the report will be completed within 30 days and forwarded to the Director, DGA or his/her designee for a final and unappealable written decision for the agency. The Director, DGA or his/her designee will communicate the decision in writing to the grantee, normally within 15 days of receipt of the report, unless otherwise specified by NSF.

2. GPM 922a.2, the report will be completed within 90 days and forwarded to the NSF Deputy Director or his/her designee. The NSF Deputy Director or his/her designee will make the final and unappealable decision for the agency and will communicate the decision in writing to the grantee within 15 days of receipt of the report unless otherwise specified by NSF.

### **930 RESEARCH MISCONDUCT**

RESEARCH MISCONDUCT means fabrication, falsification, or plagiarism in proposing or performing research funded by NSF, reviewing research proposals submitted to NSF, or in reporting research results funded by NSF.

### **931 NSF Policies and Responsibilities**

a. The NSF will take appropriate action against individuals or organizations upon a determination that misconduct has occurred. It may also take interim action during an investigation. Possible actions include sending a letter of reprimand to the individual or organization, requiring prior NSF approval of particular activities by an individual or organization, requiring special assurances of compliance with particular policies, restricting designated activities or expenditures under particular grants, suspending or terminating grants, debarring or suspending an individual or organization and prohibiting participation by an individual as an NSF reviewer, advisor or consultant.

b. NSF will find misconduct only after careful inquiry and investigation by a grantee organization, by another Federal agency or by NSF. An "inquiry" consists of preliminary information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of misconduct has substance. An investigation must be undertaken if the inquiry determines the allegation or apparent instance of misconduct

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has substance. An "investigation" is a formal development, examination, and evaluation of a factual record to determine whether misconduct has taken place or, if misconduct has already been confirmed, to assess its extent and consequences or determine appropriate action.

c. Before NSF makes any final finding of misconduct or takes any final action on

such a finding, NSF will normally afford the accused individual or organization notice, a chance to provide comments and rebuttal and a chance to appeal. In structuring procedures in individual cases, NSF may take into account procedures already followed by other entities investigating or adjudicating the same allegation of misconduct.

d. Debarment or suspension for misconduct will be imposed only after further procedures described in applicable debarment and suspension regulations (45 CFR §620). Severe misconduct is an independent cause for debarment or suspension.

e. The OIG (GPM 118, "Office of Inspector General") oversees investigations of research misconduct and conducts any NSF inquiries and investigations into suspected or alleged research misconduct.

f. The Deputy Director adjudicates research misconduct proceedings and the Director decides appeals.

g. After receiving an investigation report, the subject's rebuttal and recommendations of the OIG, the NSF Deputy Director may initiate further investigation or hearings or order interim or final actions. A written disposition specifying actions to be taken will be sent to affected individuals or organizations and will include instructions on how to pursue an appeal to the Director of the Foundation.

### **932 Role of Grantees**

a. Grantees bear primary responsibility for prevention and detection of misconduct. In most instances, NSF will rely on grantees to promptly:

1. initiate an inquiry into any suspected or alleged misconduct;
2. conduct a subsequent investigation, if the inquiry finds substance;
3. take action necessary to ensure the integrity of research, the rights and interests of research subjects and the public and the observance of legal requirements or responsibilities; and
4. provide appropriate safeguards for subjects of allegations as well as informants.

b. If a grantee wishes NSF to defer independent inquiry or investigation, it should:

1. inform NSF immediately if an initial inquiry finds substance;
2. keep NSF informed during such an investigation;
3. notify NSF even before deciding to initiate an investigation or as required during an investigation:

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(a) if there is reasonable indication of possible violations of civil or criminal law;

(b) if public health or safety are at risk;

(c) if NSF's resources, reputation, or other interests need protecting;

(d) if Federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or

(e) if the research community or the public should be informed;

(f) if research activities should be suspended; and

4. provide NSF with the final report from any investigation.

c. If a grantee wishes NSF to defer independent inquiry or investigation, it should complete any inquiry and decide whether an investigation is warranted within 90 days.

It should similarly complete any investigation and reach a disposition within 180 days.

If completion of an inquiry or investigation is delayed, but the grantee wishes NSF deferral to continue, NSF may require submission of periodic status reports.

d. Grantees should maintain and effectively communicate to their staffs appropriate



policies and procedures relating to misconduct, which should indicate when NSF must or should be notified.

**933 Reporting Possible Misconduct**

Possible misconduct in activities funded by NSF should be reported to the Office of Inspector General, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292-7100 or (800) 428-2189 or via e-mail at [oig@nsf.gov](mailto:oig@nsf.gov).

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**FEDERAL MEDIATION AND CONCILIATION SERVICE  
LABOR-MANAGEMENT COOPERATION PROGRAM**



**FINANCIAL AND ADMINISTRATIVE**

# GRANTS MANUAL

FISCAL YEAR 2004

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## FEDERAL MEDIATION AND CONCILIATION SERVICE FINANCIAL AND ADMINISTRATIVE GRANTS MANUAL

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## CHAPTER I.

### INTRODUCTION

1. **Purpose and Arrangement of the Manual.** *This manual has been prepared to help FMCS applicants and recipients obtain and then maintain an FMCS labor management committee grant. The manual is arranged in a chronological sequence of administrative and managerial activity, from the time you decide to apply for FMCS funds until the day you receive notice from us that all your grant obligations have been met. You will find in Chapter I through Chapter IV applicant procedures and instructions for applying for an FMCS grant. A glossary of terms is included as Appendix 1.*
2. **FMCS-Grantee Relationships** *are partnerships, with the grantee providing the effort and experience and FMCS the funds to carry out approved activities under established policies and guidelines. You are encouraged to direct to FMCS any questions you may have about the regulations and policies contained in this manual. We also welcome all constructive suggestions for improvement in the manual's content and format.*
3. **Federal Grant Regulations.** *Because the Federal Government supports a vast number of financial assistance programs, we are bound by regulatory consistency. In addition, as you progress through the FMCS grant process, as well as this manual, laws which govern FMCS Federal grants program may be identified.*
  - a. **Statutory Authority.** *For FMCS applicants and grantees, first among these documents is the Labor-Management Cooperation Act of 1978, which is a part of Public Law 95-524. The Act establishes our purpose and amends the Labor-Management Relations Act of 1947 to authorize and direct FMCS to provide financial assistance for the establishment and operation of labor-management committees.*
  - d. **Congressional Appropriation.** *Second is our annual Appropriations Act. It establishes the amount of Federal funds which are available for the FMCS Labor-Management Cooperation Program for the upcoming fiscal year which runs from October 1 through September 30.*
  - e. **Federal Circulars.** *Third are the Federal Circulars issued by the Office of Management and Budget. These circulars establish the administrative and cost allowability requirements governing all Federal agencies and departments and their clients who engage in grant activity. These circulars maybe found at [www.whitehouse.gov/omb/grants](http://www.whitehouse.gov/omb/grants).*



- (1) Administrative Circulars. There are two: OMB Circular A-102 and OMB Circular A-110. They pertain respectively to requirements for grants-in-aid to state and local governments and for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations. A-110 has been revised and applicable changes in its requirements have been incorporated in this manual. For example, payment out of grant funds to an individual, whether an employee or not, who contributes to writing the grant application is prohibited.
- (2) Cost Allowability Circulars There are three: OMB Circular A-21 establishes cost principles for educational institutions which engage in Federal grant activity; OMB Circular A-87 establishes the Federal grant cost principles which apply to state and local governments; OMB Circular A-122 establishes similar principles for non-profit organizations.

f. Circular A-21 Subject: Cost Principles for Educational Institutions

(a) *Scholarships and student aid costs:*

1) Costs of scholarships, fellowships, and other programs of student aid are allowable only when the purpose of the sponsored agreement is to provide training to selected participants and the charge is approved by the sponsoring agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that (1) there is a bona fide employer-employee relationship between the student and the institution for the work performed, (2) the tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work, and (3) it is the institution's practice to similarly compensate students in nonsponsored as well as sponsored activities.

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2) Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages shall be subject to the reporting requirements stipulated in Section J.8, and shall be treated as direct or F&A cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis.

- (4) Other OMB Circulars affecting FMCS applicants and grantees include:

- (a) *OMB Circular A-129, which requires that FMCS screen its prospective non-governmental grantees to determine the extent and status of financial dealings between the Federal government and the prospective grantee. Screening consists of agency comparison and verification of information presented in a grant application to credit reports obtained by FMCS through contracts negotiated by the General Service Administration of the United States government. Financially established, first-time non-governmental potential FMCS grantees are subject to the requirements of OMB Circular A-129.*
  - (b) *OMB Circular A-133, which establishes audit requirements in accordance with Government Auditing Standards for State and local government, institutions of higher education and other non-profit institutions/organizations receiving at least \$5000,000 in a fiscal year from Federal funds*
- g. *Other Federal Regulations which apply to the FMCS grants program and which are incorporated in this manual are the Federal Register in which are published the various policies and regulations for FMCS's particular grants program and projects; U.S. Treasury circulars which establish methods for Federal payments on grant obligations; and the Code of Federal Regulations: Titles 29 and 41, which address the rules of conduct within which FMCS as a grantor agency must work.*
- (a) *Of particular note among these miscellaneous regulations is the 1986 Executive Order #12549 which prohibits Federal grantees, their employees, contractors, sub-contractors, and other agents from using grant funds to purchase any direct goods or services from individuals or groups appearing on the Federal government's debarment and suspension roster*

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*located at (<http://epls.arnet.gov>). The prohibition applies not only to the letting of a \$50,000 EAP contract but also to the purchase at the grantee's local stationer of #2 pencils for grant administrative purposes. FMCS requires all grantees to check the U.S. General Services Administration (GSA) List of Parties Excluded from Federal Nonprocurement Programs located at the address above. Each grantee is expected to ensure that its employees, contractors, and subcontractors who are paid in whole in part under the grant or who are responsible for the obligation or expenditure of grant funds, neither appear on the List nor utilize grant project funds in grant project related business with listed individuals and organizations. The List is periodically revised by GSA; and grantees*

*are responsible for checking the website prior to entry into any contacts. Grantee failure to observe the List's strictures may result in grant termination for cause (See Chapter VII of this Manual).*

- (b) Also of note is the Drug-Free Workplace Act of 1988, which requires Federal grantees to maintain a drug-free workplace. FMCS will make no grant to any otherwise successful applicant until it has received from the applicant a signed copy of FMCS's drug-free workplace certification document. (See Appendix 5)*
- (c) All grantees must consult and sign the Certification Regarding Lobbying Requirement located as Appendix 9 in this manual.*
- (d) "The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness-Act of 1988 (P.L. 100-148) states a policy preference for the use of the metric system of measurement except where use is impractical likely to cause significant ineffectiveness in the accomplishments of Federally funded activities"*
- (e) Applicants for Federal funds under any grant program administered by Federal agencies shall seek and obtain a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number for use as the Universal Identifier. This policy directive is part of the implementation of the Federal Financial*

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*Assistance Management Improvement Act of 1999 (Public Law 106-107). A DUNS number is required for any applicant to make us of the E-Grants system. Applicants submitting paper applications are also required to include a DUNS number as their Universal Identifier. The policy does not apply to individuals applying for direct assistance under Federal Programs.*

- (f) Agency responsibilities. Executive Branch departments and agencies.:*
  - a. Must issue any needed direction to offices that award grants and cooperative agreement to implement this policy.*
  - b. Shall also direct recipients to initiate actions to obtain a DUNS number. The number is easily obtained by telephone or via the internet*

4. **Cautionary Provisions, Admonitions, and Prohibitions.** *In addition to its references to Federal circulars and other documents, this manual also contains numerous admonitions on grantee responsibility and numerous prohibitions. The broad nature of all Federal grants programs is such that this must be so to guarantee that the taxpayer from whom the grant funds come, the grantee and its clients, and the grantor receive fair and equal treatment and protection for their investment.*

a. **Conflict of Interest.** *The first cautionary provision covers conflicts of interest.*

(1) **Advice.** *No official or employee of a state or unit of local government or of non-government grantees and subrecipients may participate personally through (a) decision, (b) approval, (c) disapproval, (d) recommendation, (e) the rendering of advice (f) investigation, or (g) otherwise, in any (a) proceeding, (b) application, (c) request for a ruling or other determination, (d) contract, (e) grant, (f) cooperative agreement, (g) claim, (h) controversy, or (i) other particular matters in which grant funds are used, where to his/her knowledge he/she or (a) his/her immediate family, (b) his/her partners, (c) an organization other*

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*than a public agency in which he/she is serving as officer, director, trustee, partner, or employee, (d) or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.*

(2) **Appearance.** *In the use of Federal grant funds, officials or employees of state or local units of government and non-governmental grantees and subrecipients must avoid any action, which might result in, or create the appearance of using his or her official position for private gain, (b) giving preferential treatment to any person, (c) losing complete independence or impartiality, (d) making an official decision outside official channels, or affecting adversely the confidence of the public in the integrity of the Government or the program.*

b. **Admonitions of responsibility,** *not covered elsewhere in this manual and which applies to any FMCS grant applicant once it accepts an FMCS award, are that:*

(1) *The grantee must administer the grant award in accordance with the governing FMCS regulations, policies, terms, and conditions in effect at the time of award. The grantee must also abide by any*

*subsequent laws, Executive Orders, or relevant regulatory material issued during the life of the grant. The grantee may establish additional policies not covered by, nor contradictory to, FMCS policy.*

- (2) *The grantee is responsible for fiscal, administrative, and program management as well as the fulfillment of all special conditions, which may be prescribed for the conduct of the project.*
- (3) *The grantee must comply completely with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which provides in substance that no person in the United States shall on the ground of race, creed, color, national origin, sex, political affiliation or beliefs be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the grantee received Federal financial assistance.*

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- c. **Two Prohibitions**, not covered elsewhere in this manual are that:
  - (1) *The grantee may not, in whole or in part, delegate or transfer responsibility for the management of the grant, or stewardship and control of grant funds, to any other organization, institution, or entity, except as authorized in writing by FMCS.*
  - (2) *The grantee may not represent himself or the grantee organization or its affiliates or delegates as the Federal Government agency providing the financial support for the project activity.*
- d. **Deviations**. *Should you as an FMCS applicant or grantee determine that a requirement or requirements in this manual should not or cannot be applied to your particular grant project, you must submit to FMCS your written request for a deviation. The request must specify the pertinent requirements, your reasons why they are inappropriate to your circumstances, and any provisions or requirements you wish to substitute. No grantee may implement a proposed deviation until it receives from FMCS written authorization to do so.*
- e. **Freedom of Information**. *Applicants for FMCS Labor-Management Cooperation Program grants should be aware that, under the Freedom of Information Act (U.S.C. 552), all information contained in an application is available to members of the general public upon written request.*

f. **Application Rejections and Appeals.** *The authority to reject applications rests with the Director of the Labor-Management Grants Program. Unsuccessful applicants may appeal their rejection. Absent an abuse of discretion, the decision of the Director of the Labor-Management Grants Program is not subject to challenge.*

- a. *Applicants will be formally notified of rejection by a letter from the program director before grants are awarded. The letter will identify the administrative or programmatic deficiencies on which the rejection is based.*
- b. *In order to appeal, rejected applicants must contact the grants program director in writing and informally request added explanation or clarification regarding reasons for rejection. The director will provide such information as soon as practical.*

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- c. *If still unsatisfied, the applicant may demand by written request to the Director, Federal Mediation and Conciliation Service, that a compliance investigation be conducted to determine whether all review procedures for its application were followed in an appropriate manner. Such written requests must be submitted to the director, FMCS, within 30 calendar days of the Program Director's response under paragraph b. The investigation will be completed within 30 calendar days of FMCS receipt of the request.*
- d. *If unsatisfied with the results of the compliance investigation, the applicant may request a formal hearing on the matter by a mutually-agreed-upon Hearing Examiner. A written request for such hearing must be submitted to the Director, Federal Mediation and Conciliation Service, no later than 30 calendar days following applicant notification of the compliance investigation's outcome. The request must identify in detail which specific procedures or other actions are being challenged. The hearing will be conducted in Washington, DC. The costs of the hearing (space rental, hearing examiner, etc.) shall be borne by FMCS. Applicant costs such as salary compensation, travel to Washington, DC, living expenses while in the city, and legal counsel, shall be borne by the applicant.*

## CHAPTER II

### GRANT APPLICATIONS

1. **General.** *FMCS grants must be awarded to labor-management committees comprised of member representing individuals covered by a Collective Bargaining Agreement, including organizations or governmental units with demonstrated interest in the furtherance of labor-management cooperation and which meet Act and Program Announcement requirements. Applications from labor-management committees must be signed by the committee chairperson(s) and must be signed by authorized representatives of **both** labor and management.*
2. **Applications for FMCS Funds** *are entertained by FMCS only for those kinds of projects described in FMCS Application Solicitation. These Announcements are published periodically in the Federal Register and are available upon request. Applications for grant funds must be submitted to FMCS on the Federal Assistance Application for Non-Construction Programs form, (Standard Form 424), a copy of which is located in Appendix 4 to this manual. These forms, as well as an entire application kit, are obtainable from FMCS, by calling (202) 606-8181 or by e-mailing [sirby@fmcs.gov](mailto:sirby@fmcs.gov). In addition a copy of the form in Appendix 4 may be duplicated. Forms are also available at [www.fmcs.gov](http://www.fmcs.gov).*
3. **Application Preparation.**
  - a **General.** *Follow the applicant procedures and instructions laid out in the SF 424 and Application Solicitation. An example of completed application forms is*

contained in Appendix 3. The individual listed as the contact person in Item 5 on the application form will be the only person with whom FMCS will communicate during the application review process.

- b. Budget Information. A completed example of a Budget Information page and an accompanying budget narrative are included in Appendix 3 to this manual. In determining what anticipated project costs will comprise a reasonable budget acceptable to FMCS, refer to Chapter III, Grant Costs. Also, keep in mind that the budget you are preparing, if and as approved, will be the budget document against which your financial management of the grant will be compared and for purposes of audit. Unless you are

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specifically instructed to the contrary, assume that your application pertains to "a single Federal grant program, which does not require a financial or activity breakdown." Thus, only totals need ordinarily be shown in Sections A and B of this part of the application. Sections C, D, and E need not be completed when applying for an FMCS grant.

- c. Special FMCS Requirements for Application Budget Narratives. The FMCS Application Solicitation provides for the attachment to each grant application of a separate page or pages which detail within each of the several Federal object class categories listed in Budget Information Section B, the project's proposed individual budget line items and their estimated cost. The need for all line items, if not self-evident, must be ascertainable within the application's program narrative. A budget narrative sample is included in Appendix 3 to this manual. However, the \$ amounts listed for various line items in the Appendix (i.e., executive director @ \$2,500/month) are only examples. They are not intended as suggestions or allowed maximums or proven minimums. Costs requested should be reasonable, allowable, and acceptable in keeping with the applicant's local standards and those in this manual's Chapter III.
- (1) Personnel. List each project position by job title. Show annual salary rate and percentage of time to be devoted to the project by each employee, and the total salary cost for each, if for more than 12 months. Indicate the estimated amount of project funds to be utilized for each employee's salary. [Neither Federal nor matching funds may be used to support personnel positions currently in existence].
  - (2) Fringe Benefits. Indicate each type of benefit included in your computation and also salary percentages or amounts per employee, as applicable.



- (3) Travel. Itemize anticipated expenses by purpose (i.e., staff field work, training, meetings, etc.) and by numbers of travelers, by transportation costs and by subsistence rates. Differentiate between in-state and out-of-state travel. Show out-of-state destinations, if they are known. If they are not known, provide

## II-2

narrative justification for out-of-state estimates. Show all computation bases (i.e., six people to a 3-day meeting with \$100 plane fare and a \$50/day per diem or lodging and subsistence rate). Consult such references as the Official Airline Guide and current year city tourist guidebooks to obtain travel and lodging rate information. All applications must budget for two people to attend 2-trips to Washington, D.C. for 2 days for grantee orientation and review of grant progress.

- (4) Equipment. Indicate equipment to be purchased by type, number of pieces, unit price and total price (e.g., 3 office desk chairs at \$100: \$300). See Chapter V, Sections B and C, of this manual for procurement and property management regulations.
- (5) Supplies. Include consumable office supplies; training materials, forms; and postage. List items by type and provide estimated unit or monthly cost. The reasonable maximum dollar amount per person per month for consumable office supplies is \$20.
- (6) Contractual. Include all contracts for individuals or services, which are not specifically mentioned elsewhere in this manual. Set forth the proposed procurement method (small purchase, formal bid, negotiation, sole source). For individual consultants show name or type, proposed daily fee and amount of time to be devoted to the project (e.g., consultants @\$950/day x 5 days). For organization contracts (professional associations, educational institutions, etc.), describe the type of service to be performed and the estimated contract cost. See Chapter V, Section B, of this manual for additional procurement requirements.
- (7) Other. Include here any items of direct cost not covered in the other object class categories: space and equipment rentals, printing and photo copying, communications other than postage, equipment and building maintenance (if they are contracted items), security services, audit, etc.

List items by major type and by estimated unit price (i.e., square footage, number of phones, long distance vs. local call charges, number of copies to be printed, etc.).

- (8) Indirect Cost. FMCS does not honor requests for indirect costs or overhead.

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- (9) Project Income. Project income is money earned by a project, either intentionally (participant/attendee registration fees for a project-funded conference) or unintentionally (interest on project funds deposited in a NOW account). Project income is money above and beyond the Federal or the grantee cash share of the project cost. **PROJECT INCOME MAY NOT BE USED AS MATCH.** If income generated by a proposed project-funded activity is to be used as a source of project financial support during the life of the grant, indicate the anticipated amount on line 7.

- (10) About Grantee Contributions (Match). Consult the Application Solicitation for current requirements regarding minimum grantee contributions. Assume that the cost of every line item in the budget is to be shared by FMCS and the grantee at a ratio, which is the same as that of the project's overall required cash sharing ratio. Indicate in the budget narrative the source (budget allocation, public appropriation, private contribution, dues, etc.,) of the grantee share of the project costs. FMCS does not allow in-kind contributions as part of grantee match in the budget. Remember that match is calculated on total project cost, NOT on Federal dollars requested.

- d. Assurances (Application pages 7 and 8). An application submission to FMCS is not complete unless these assurances are included in it, and no award will be made without their inclusion.
- e. Program Narrative. To comply with FMCS program requirements, see the accompanying Application Solicitation.
4. Application Submission. The original signed and labeled (Original) application and three copies must be submitted to FMCS, Office of Labor-Management Grants Program, postmarked no later than midnight of the closing date specified in the Application Solicitation. Applications postmarked after the closing date will be administratively rejected and not considered for funding.
5. Financial Capability Questionnaire. As a part of post-application, pre-award negotiations, an applicant for FMCS initial funding may be requested to complete

*financial capability questionnaire, which is a survey of the applicant's current accounting system and financial status. If so requested, the applicant must fill out the form, have it certified by an independent accountant, and submit it to FMCS. (See Appendix 6)*

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6. **Drug-Free Workplace Certification**. See Chapter I, Page 3, Paragraph (4)(b).
7. **Lobbying**. See Appendix 9. This is also part of the post-application, pre-award process and does not have to be completed as part of the application
8. **Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number** for use as the Universal Identifier. See Chapter 1, Page 4, Paragraph (4) (e).

**CHAPTER III.**

**GRANT COSTS**

1. **Allowable Direct Project Costs** are those specified in the Application Solicitation, this manual, OMB Circulars A-21, A-87, and A-122, in other appropriate circulars that may be issued, or as specified in cost principle policies current at the time of grant award and reflected in a grantees Notice of Award. The cost of a grant project is comprised of its allowable direct costs less program income or other applicable credits.
2. **Certain General Cost Allowability Provisions** apply to grants and must always be kept in mind. They comprise the framework within which specific cost allowability provisions lie. They are:
  - a. The cost of a particular item must be reasonable;
  - b. Each cost item must contribute to the purpose and execution of the grant project;
  - c. Each cost item must be allowable under the grantee's own laws, regulations and policies;
  - d. Each cost item must be treated consistently by the grantee within both its grant and its non-grant activities; and
  - e. The grantee's own cost allowability provisions are to be utilized by the grantee in determining allowable grant costs, except where such provisions do not exist or where Federal provisions are more strict. In such case, Federal provisions apply.
3. **Allowable and Unallowable Grant Items of Cost**

*This section identifies a selected list of allowable and unallowable cost items. The omission from the list of a particular cost item does not imply the allowability or unallowability of that item. The items on the list are only those most ordinarily considered for possible expenditures of funds in the conduct of a grant supported project.*

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- a. *Costs requiring FMCS prior approval are designated in this manual. However an item of cost so designated is specified as a cost item in the budget narrative of an application, FMCS approval of the budget and subsequent award of Federal funds constitute approval of that cost.*
- b. *Prior approval of cost items, which do not appear in the application budget, must be requested in writing. Grantees may not consider a request approved until receipt of written authorization from FMCS.*
- c. *When purchasing or planning to purchase goods or services with grant funds, grantees must keep in mind the provisions of Executive Order #12549. See Chapter I of this manual, paragraph 3.c.(4).*
- d. *Questions regarding cost items not covered by the following list, or by this manual generally should be directed to FMCS.*
- e. *Selected List of Allowable and Unallowable Costs.*
  - (1) *Accounting.* *Allowable.*
  - (2) *Advertising.* *Allowable for personnel recruitment and the procurement of goods and services for the execution and performance of a grant project and for other purposes specifically provided for in the approved budget. Applies to newspapers, magazines, radio, television, direct mailing, etc.*
  - (3) *Auditing.* *Allowable, if required.*
  - (4) *Bad Debts.* *Unallowable. Includes actual and estimated losses arising from uncollectable accounts and other claims, and related collection and legal costs.*
  - (5) *Bonding.* *Allowable when required by the grantee for employees handling grant funds.*
  - (6) *Bonuses.* *Unallowable, but see Incentive Compensation, under Personnel in this list of costs.*

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- (7) Conferences. Allowable for certain costs associated with meetings and conferences, including cost of renting facilities and speakers' fees. Grant funds cannot be used for food other than non-alcoholic beverages served at mid-morning and mid-afternoon breaks. Also see Entertainment and Honoraria, in this list of costs.
- (8) Consultant Services. Allowable. See Chapter V, Section B, for details.
- (9) Contingency Funds. Unallowable. Applies to any provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening. But also see Insurance; and under Personnel, see pensions and severance pay.
- (10) Depreciation. Allowable pursuant to terms of grant award.
- (11) Donations and Contributions (by the grantee to others). Unallowable.
- (12) Donations and Contributions (to the grantee by others).  
Allowable for purposes of match that may be required in the FMCS Application Solicitation or offered voluntarily by the applicant or grantee. The donation must be cash. All donations and contributions must be necessary and reasonable for accomplishment of project objectives and must be supported by grantee written records.
- (13) Dues. Allowable for a grantee's organizational or institutional membership in a professional organization. Membership fees for individuals are unallowable.
- (14) Entertainment. Unallowable. Applies to amusements, social activities, business luncheons, office coffee breaks, etc.  
However, cost of coffee and other non-alcoholic beverages are allowable pursuant to terms of award when incurred as a conference or meeting cost when part of the approved budget.

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- (15) Equipment. Allowable with FMCS prior approval.
- (16) Fines and Penalties. Unallowable.
- (17) Food. **Unacceptable** in FMCS grant projects.
- (18) Fund Raising. Unallowable.
- (19) Honoraria. Unallowable. Applies to payments and rewards the intent of which is to confer distinction upon or to symbolize respect, esteem or admiration for the recipient. Excludes compensation for documented services rendered.
- (20) Indirect Costs. Unallowable in FMCS grant projects.
- (21) Insurance and Indemnification. Allowable pursuant to terms of award.
- (22) Interest on Loans. Unallowable.
- (23) Labor Relations. Allowable.
- (24) Lobbying. Unallowable. Applies to publicity or propaganda designed to support or defeat legislation pending before legislative bodies; also to any direct or indirect personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device intended or designed to influence in any manner a member of Congress to favor or oppose by vote or otherwise any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; also to payment for a publicity expert. Excludes activities such as testimony before legislative bodies reviewing statutory reform or the effectiveness of grant programs.
- (25) Losses on Other Grant Awards. Unallowable.
- (26) Meetings. Allowable. But also see Conferences, Entertainment, and Food in this list of costs.

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- (27) Personnel. Unallowable for salary and wages of Federal employees, for reimbursement of an organization or an individual for personnel services by an individual in excess of that individual's official salary; for an

*increase in an individual's salary beyond the amount regularly set under the grantee's established policies; for payment of any portion of that share of a salary in excess of current Federal maximums; for existing staff; for personnel services that would otherwise be unallowable elsewhere in this list of costs or under other paragraphs and subparagraphs in this manual.*

- (a) *Cost of Living and Merit Increases. Allowable to the extent that such payments are made under formally established and consistently applied grantee organization policies, and are uniformly charged as a cost on an actual rather than an estimated basis.*
  - (b) *Incentive Compensation; Pensions Severance Pay. Allowable pursuant to organization/employee prior established agreements or to established and consistent organization plans.*
  - (c) *Overtime. Allowable pursuant to terms of award and to organization/employee prior established and consistent organization plans.*
- (28) *Pre-Award Costs. Allowable only with FMCS prior written approval. Applies only to costs incurred which are necessary to comply with a non-negotiable project performance delivery schedule and only to the extent that such costs would have been allowable had they been incurred after the beginning date of the grant budget period.*
- (29) *Publications. Allowable for both purchase and development. However, all publication development including that for videos, websites, brochures, newsletters, and program announcements, which is financed in whole or in part with project funds must acknowledge FMCS involvement by including in the publication the sentence: "This document/website was financed in whole or in part by a \$ \_\_\_ grant from the Federal Mediation and Conciliation Service."*
- (30) *Public Information. Allowable. But also see Lobbying in this list of costs.*

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- (31) *Rearrangement, Alteration, Renovation. Allowable with FMCS prior approval.*
- (32) *Rentals. Unallowable for privately owned and publicly owned equipment, space or buildings, the purchase or construction of which having been financed by the Federal Government.*



- (33) Recruitment Costs. Allowable pursuant to terms of award.
- (34) Taxes. Unallowable for taxes from which exemptions are available to the grantee directly; for taxes on which exemptions have been afforded the Government and where exemption certificates are available; for special assessments representing capital improvements on land; for Federal income tax; for excise taxes on accumulated deficiencies and other penalties imposed under the Employee Retirement Income Security Act.
- (35) Training. Allowable for project-related activities in setting up or maintaining a labor-management committee. Unallowable for general job-training or re-training of plant or community workforces.
- (36) Travel. Allowable. Applies to costs directly attributable to specific work under a grant; to costs charged on an actual or on a per diem and mileage basis, or a reasonable combination of the two. First class air accommodations and travel outside of Canada and the United States and its territories and possessions are allowable only if and after FMCS approval is obtained.

## **CHAPTER IV.**

### **GRANT AND ADJUSTMENTS TO GRANTS**

*This chapter identifies the several documents, which make up the official record of an FMCS grant, discusses their relevance, and describes the circumstances under which they are used. Grants to support projects under the Labor Management Cooperation Act of 1978 are made on a budget period basis, which is subject to an annual appropriation of funds by Congress.*

## SECTION A.

### GRANT DOCUMENTS AND TYPES

1. **Notice of Award (LM-1).** Grants in response to approved applications for FMCS funds are awarded on an FMCS Notice of Award (LM-1). This Notice obligates and reserves Federal funds for the grantee's use for a specific period of time in order to execute the project covered by the Notice. The Notice also commits the grantee to its share of the project's financial support. All correspondence concerning the grant should refer to the award number shown on the Notice.
2. **Special Conditions.** Where necessary, the Notice of Award (LM-1) includes a list of special conditions which the grantee must meet in order to receive the grant.
3. **Award Acceptance.** No obligations or commitments of FMCS funds to a project are valid and no FMCS funds may be disbursed to or expended by the grantee until authorized representatives of both FMCS and the grantee have signed the Notice of Award and any applicable special conditions, and until FMCS has in its possession copies of the Notice and its special conditions which bear the grantee representative's original signature of acceptance. FMCS as justification for grant termination without further notice may consider award acceptances not received by FMCS within 45 days of the date of award appearing on the Notice of Award.
4. **Match Change** Once the Award Notice (LM-1) has been signed by both FMCS and the grantee representative grantee must submit a written request prior to the end of the first 3 months of the grant a request to lower the approved match money. If FMCS approves to lower the approved match the Federal amount will be lowered as well. After the 3 months grantee is obligated to the required percentage of match as shown on the signed award notice  
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5. **Grant Types.** There are two:
  - a. **Initial Grant.** This grant obligates FMCS funds, which have been awarded, to a project for an initial budget period shown on the Notice of Award (LM-1). The grant is based upon an approved application from the grantee. The award of an initial grant does not constitute a commitment for future FMCS funding.
  - b. **Supplemental Grant.** When allowed by FMCS policy, this grant obligates FMCS funds for a budget period subsequent to the one currently in progress. When awarded, the additional amount is added to the current grant amount. The award is based on an approved application from the grantee. On a Notice of Award a supplemental grant is identified by the letter **S** following the grant number. FMCS awarded funds which are unexpended by a grantee at the end of the current budget period shall,

subject to FMCS approval, be used to defray partially the amount of Federal support required during the supplemental period.

6. **Grant Adjustment Notices (LM-2) or (GAN)** are issued by FMCS as its acknowledgment of grantee compliance with special conditions or in favorable answer to grantee written requests for grant project changes concerning one or more of the following circumstances: budget period extensions; budget revisions; changes in project scope. Grant Adjustment Notices (LM-2), when issued, become a part of the official record of a grant. No GANs approving time extensions or changes in budgets or project scope will be issued if the grantee is delinquent in responding to any official FMCS reporting requirements.

## **SECTION B.**

### **GRANT DURATION ADJUSTMENTS**

1. **Budget Periods.** Grantee obligations and expenditures of both the Federal and the approved grantee shares of project costs may be made only within the confines of the current budget period as shown on the Notice of Award.
2. **Time Extensions.** Additional time to complete a project phase or a total project with grant funds may sometimes be necessary. In such cases, FMCS will consider grantee requests for time extensions, and will issue a Grant Adjustment Notice if and when it approves the request.

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- a. Grantee requests to FMCS for time extensions must be submitted at least 30 days but no more than 60 days before the currently scheduled budget period ends.
- b. Grantee requests for time extensions must identify the circumstances, which necessitate the extension, and if necessary, a concurrent request for a budget revision or a change in project scope, if either condition is applicable. The maximum extension period is six months.

## **SECTION C.**

### **BUDGET ADJUSTMENTS**

1. **Grant Budgets.** A grant budget as approved within the context of a Notice of Award is the official financial plan for the grantee's utilization of both the Federal and the grantee

share of project costs. Grant expenditures within the various Federal object class categories, (Personnel, Fringe benefits, Travel, etc.) must generally conform to the amounts set forth for those categories in the approved budget and may not be made for any purpose contrary to the approved application and to the regulations and policies of the Federal Government in general, FMCS and the grantee in particular.

2. **Major Budget Revisions.** Should a grantee find, during the course of administering a grant-supported project, that the currently approved budget can no longer represent a true picture of anticipated necessary expenditures to support the project effectively, an FMCS approved budget revision may be in order. All grantees must obtain prior approval from FMCS for budget revisions when:

- a. The revision results from changes in the scope of objectives of the project; or
- b. Funds approved for trainee costs are transferred to other expense categories; or
- c. The Federal share of the grantee budget is over \$100,000 and the cumulative amount of transfers among object class categories is expected to exceed 10% of the total grant budget; or

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- d. The revision includes the addition to the budget of a cost item or items requiring FMCS prior approval in accordance with the provisions of OMB Circulars A-21, A-87, or A-122, or this manual.

3. **Budget Revision Requests** as required by #2 above, directed to FMCS, must be in writing and describe the pending revision.

- a. The request must justify the revision in narrative form;
- b. The request must identify clearly the Federal object class categories between which funds are to be transferred;
- c. The request must indicate the dollar amounts of change between each currently approved category total and each pending category total; and
- d. The request must list currently approved cost items proposed for deletion and each pending addition to each object class category, and provide unit prices.

4. **Submission of Requests.** Budget revision requests should be submitted to FMCS at least 30 days before the request is to be effected.

5. **FMCS Responsibility.** *FMCS will contact grantees within 14 days of its receipt of a budget revision request, either to notify the grantee informally of its decision, to request additional information, or with official revision approval.*
6. **FMCS Official Approval** *of a budget revision request will be contained in a Grant Adjustment Notice.*
7. **After-The-Fact Budget Revision Requests** *will not be approved.*
8. **Minor Budget Revisions.** *Budget changes other than those described above do not require FMCS approval. These changes include the use of grantee funds over and above any grant budget's approved grantee minimum share to further project or program objectives.*

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#### **SECTION D.**

#### **CHANGES IN PROJECT SCOPE**

1. **Changes in Project Scope.** *Events may occur during the course of a project, which have a significant impact upon the project's execution. In such cases the grantee must inform FMCS as soon as certain types of conditions manifest themselves. These conditions are generally viewed to be events or developments, which affect the project's ability to attain its objectives or to meet its established time schedules and goals. They may be either favorable or detrimental. Examples are:*
  - a. *any revision of the scope or objectives of the project regardless of whether there is an associated budget revision requiring project approval;*
  - b. *a change in a key person specified in the application or grant award document;*
  - c. *the project director is replaced, or absent for more than three months;*
  - d. *additional contracting out or otherwise obtaining the services of a third party to perform activities, which are central to the purposes of the grant;*
  - e. *in the event the grantee undergoes a change in ownership or name,*

*FMCS must be notified in writing immediately.*

*f. grantees should inform FMCS of minor changes in the scope of a project within the framework of the grantee's regular reporting responsibilities and procedures. Minor changes might include the addition of one more member to the labor-management committee.*

2. **Change-In-Scope Requests.** *A grantee must inform FMCS of any deliberate intent to effect a major change in the project scope, submitting a change-in-scope request. The contents of this request should normally include the following:*

a. *A description of the proposed change and the date when such change is to go into effect;*

b. *A justification of the proposed change; and*

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c. *A discussion of the positive program and fiscal implications in approving the change as well as potential negative effects if such a change is not approved.*

3. **Submission of Requests.** *Change-in-scope requests should be submitted to FMCS at least 30 days before the intended change.*

4. **FMCS Responsibility** *for handling change-in-scope requests is the same as that identified for budget revision requests in paragraph C.6., above.*

5. **FMCS Official Approval** *of a change-in-scope request will be contained in a Grant Adjustment Notice.*

6. **The Budget and Changes-in-Scope.** *If any change in project scope necessitates a project budget revision in accordance with the criteria provided in paragraph C.2., above, the grantee must submit to FMCS a budget revision request.*

**CHAPTER V.**

**GRANT MANAGEMENT STANDARDS**

**SECTION A.**

**ACCOUNTING STANDARDS**

1. **General.** *EACH GRANTEE MUST MAINTAIN AN ADEQUATE SYSTEM OF ACCOUNTING AND INTERNAL CONTROL FOR ITSELF. Each grantee must also ensure that adequate systems are also maintained by its secondary recipients and contractors. All grantee and subrecipients accounting systems must maintain a separation of FMCS grant project funds from other funds.*
2. **Types of Accounting Systems.** *An accounting system is generally one of two types:
  - a. **Cash Basis.** *Project revenues are recorded as cash is received, and project expenses are recorded as cash is spent.*
  - b. **Accrued Basis.** *Revenue due the project and expenses incurred by the project for a given period are recorded without regard to the timing of the actual exchange of cash and whether or not any current service or performance is required.**
3. **Accounting for Grant Funds** *is to be done in accordance with the grantee's own accounting practices so far as they do not conflict with or omit the standards listed in this section. Accounting must be based on generally accepted accounting principles, and must be consistently applied regardless of the source of funds. Itemization of all supporting records of grant expenditures shall be recorded in sufficient detail to show the exact nature and cost of the expenditures for each account. Records must be maintained*

*in such a manner as to permit preparation of required financial reports and to indicate that project funds were used for the purposes for which the grant was made. A grantee's accounting system must provide for:*

- a. *Compliance with statutory and regulatory requirements for the award of Federal funds and their subsequent distribution, financial management and disposition, and accounting;*

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- b. *Accurate, current, and complete disclosure of the financial results of each grant activity in accordance with FMCS reporting requirements as set forth in this manual;*
  - c. *Records which accurately and adequately identifies the receipt and expenditure of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;*
  - d. *Comparison of actual with budgeted amounts for the grant and relation of financial information to performance or productivity data;*
  - e. *Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and their disbursement by the grantee, whenever funds are advanced by the Federal Government. Advances made by the grantee to secondary recipients shall conform to the same standards of timing and amount as apply to advances by FMCS to grantees;*
  - f. *Procedures for determining reasonableness, allowability, and appropriate-ness of costs in accordance with this manual;*
  - g. *Accounting records, which are supported by source documentation;*
  - h. *Generation of financial data which can be used in the planning, management and control of current and future projects; and*
  - i. *Facilitation of effective audits.*
4. ***Secondary Recipients.*** *FMCS grantees shall require secondary recipients to adopt the standards in paragraph 3, above.*
  5. ***Accounting Suggestions.*** *The following suggestions are offered for the preparation of acceptable accounting records:*



- a. *Maintain a separate income account for Federal funds received or amounts owed to FMCS;*

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- b. *Maintain time-and-attendance records to support salary and wages charged to the grant;*
  - c. *Maintain a separate accounting ledger for the Federal share of each FMCS grant;*
  - d. *If applicable, maintains a separate accounting ledger for the contributed non-federal share of each FMCS grant and for project income;*
  - e. *Sub-divide the accounting ledger or ledgers for each grant into the object class categories shown on the budget page of the approved application budget;*
  - f. *Support expenditures charged to cost accounts with vouchers approved both by the grant financial manager and by the grant project director;*
  - g. *Credit refunds of expenditures to the applicable object class categories;*
  - h. *As applicable, audit reported cash transactions once every fiscal year; and*
  - i. *Retain both the audit reports and supporting work papers for review by representatives of cognizant Federal agencies and the General Accounting Office.*
6. **Interest Income.** *Interest earned on advances of Federal funds except for interest earned on advances to a State or to instrumentalities of a State as provided by the Inter-governmental Cooperation Act of 1968, (P.L. 90-577), shall be remitted to FMCS.*
  7. **Reporting Financial Irregularities.** *Every grantee and each of its secondary recipients must report promptly to FMCS the nature and circumstances surrounding any financial irregularities discovered during the course of a project or in its aftermath.*
  8. **Match Expenditures.** *Initially, the grantee share of project cash need not be expended at exactly the same rate and time as the Federal share. However, the approved ratio must*

be met or exceeded at the calendar half-way point of the grant budget period, and consistently thereafter.

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## **SECTION B.**

### **PROCUREMENT STANDARDS**

1. **General.** All grantees must follow Federal standards for the procurement with grant project funds of supplies, equipment, construction and all other services. All procurement transactions whether negotiated or advertised, and without regard to dollar value, must be conducted in a manner which provides the greatest open and free competition. All grantees must be alert to organizational conflicts of interest or noncompetitive practices among contractors, which may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, or requests for proposal for a proposed procurement are excluded from bidding or submitting a proposal to compete for the award of such procurement.
2. **Grantee Responsibility.** A grantee shall use its own procurement procedures, which reflect applicable state and local laws and regulations and its own policies. Additionally, procurement under Federal grant projects must also conform to Federal standards.
3. **Grantee Code of Conduct.** A grantee must maintain a code or standards of conduct, which govern the performance of its authorized representatives engaged in the award and administration of contractors supported by Federal funds. No grantee employee, officer, or agent may participate in the selection or award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, could be involved.
4. **Methods of Procurement.** There are four:
  - a. **Small Purchase.** Applies to procurements for goods, services, supplies, etc., costing in the aggregate not more than \$100,000 and which are based on sound and appropriate procedures and in which price or rate quotations are obtained from at least three qualified sources.
  - b. **Sealed Bids.** Applies to procurements which lend themselves primarily to firm-fixed-price contracts; in which grantee selection of the successful bidder can be made principally on the basis of price; for which a complete, adequate and realistic specification or purchase description is available; and for which two or more responsible contractors are willing and able to compete.

- c. Competitive Negotiations. Applies to procurements in which conditions fail to lend themselves to formal advertising; in which proposals are requested from an adequate number of qualified sources to permit reasonable competition and in which negotiations are conducted with more than one of the sources; and for which requests for proposal identify all significant evaluation factors including price or cost where required and their relative importance.
  - d. Non-Competitive Negotiations. Applies to procurements in which the item is available from only one source; or, in which, after a number of solicitations, competition is determined inadequate; also, for which other procurement methods are infeasible and for which written documentation is available to support the procurement's non-competitive nature; and before which FMCS written approval has been obtained. Such procurements are known as sole source.
  - e. Qualification. Grantees are directed to award contracts that possess the ability to perform successfully the terms and conditions contained in proposed contracts.
5. Procurement Procedures. The grantee must maintain procurement procedures which provide that proposed procurement actions:
- a. Be competitive;
  - b. Avoid the purchase of unnecessary or duplicative items and services;
  - c. Obtain purchases on the most economical basis;
  - d. Be prefaced by solicitations which are based on clear and accurate descriptions of technical requirements for the material, product or service to be procured; but which refrain from unduly restrictive requirements; and which clearly set forth all requirements which offerors must fulfill and all other factors to be used in bid or proposal evaluation;
  - e. Include and encourage qualified small, minority and women's businesses as possible sources of supplies, services, etc.;
  - f. Be climaxed only by award to a responsible contractor that possesses the potential ability to perform successfully under the procurement's terms and conditions; and

- g. *Be supported by records and files which are retained and are sufficient to detail the procurement's significant history.*
  - h. *In addition, the grantee shall have procedures to handle and resolve protests relating to their procurements and review of protests against their subrecipients and shall, in all instances, disclose information regarding any protest to FMCS. Protestors themselves must exhaust all administrative remedies with the grantee or its subrecipient before requesting a review of the grantee's action by FMCS. Reviews of protests by FMCS are limited to:*
    - 1) *violation of Federal Law or regulations and the standards of this section;*
    - 2) *violations of the grantee's protest procedures;*
    - 3) *failure by the grantee to review a complaint or protest against a subrecipient.*
6. **Prohibited Restrictions on Competition.** *Some situations are considered to be restrictive of competition and must be avoided by the grantee. Examples are:*
- a. *placing unreasonable requirements on firms in order for them to qualify to do business;*
  - b. *requiring unnecessary experience;*
  - c. *non-competitive pricing practices between firms or affiliated companies;*
  - d. *non-competitive awards to consultants on retainer contracts;*
  - e. *organizational conflicts of interest;*
  - f. *specifying brand names only;*
  - g. *any arbitrary action in procurement process.*

7. **Contracts.** *There are several types of contracts: fixed price, cost reimbursable, purchase orders, etc. Contracts resulting from the formal advertising procurement*

*method must be firm-fixed-price. Cost-plus-a-percentage-of-cost contracts are prohibited.*

a. *General Grantee Contractual Requirement.* *The arrangement must be formal, proper and consistent with the usual contracting practices and policies of the grantee or secondary recipient.*

b. *Requirements for Grantee Contracts with an Organization.*

(1) *Indirect costs or overhead charges in cost-type arrangements must be based on an audited or negotiated rate previously approved by a state or Federal agency or on an indirect cost submission reflecting actual cost experience during the organization's most recently completed fiscal period;*

(2) *Arrangements with non-profit organizations and government units must be directly and exclusively devoted to grant project purposes and charged at rates which are not more than actual cost;*

(3) *Fixed fee or profit allowances, where applicable in cost-type arrangements, must not exceed 10% of total estimated cost.*

c. *Requirements for Grantee Contracts with an Individual.*

(1) *Time and services for which payment is or will be made must be supported by adequate documentation;*

(2) *Dual compensation, compensation from the individual's regular employer and from the grantee for work performed during a single period of time, is prohibited;*

(3) *Transportation and subsistence costs for travel performed by the individual must be at a rate consistent with the grantee's general travel reimbursement practices; or, with Federal practices, whichever is applicable.*

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(4) *Compensation for an individual consultant must be reasonable and consistent with that paid for the individual's particular services or for similar services nationally or locally, whichever is less.*

- (a) *For consultants associated with educational institutions the maximum rate of compensation is the individual's academic salary projected for 12 months and divided by 260 working days;*
- (b) *For consultants employed by state and local governments the maximum rate of compensation, if the government unit does not provide the individual's services without cost, is the individual's daily salary rate paid by the government unit;*
- (c) *For consultants employed with non-government organizations the maximum rate of compensation is the individual's daily salary paid by the organization;*
- (d) *In any case the maximum rate for an individual consultant paid from grant project funds can be no more than \$950 for an **eight-hour day**. The day includes preparation, evaluation, and travel time. The rate excludes travel and subsistence costs. **Time and effort records must be maintained.***

8. **Awarding Agency Review.** *Before completing a procurement action the grantee must make available to FMCS for review, procurement documents such as requests for proposal, invitations for bid, independent cost estimates, etc., when:*

- a. *the grantee's procurement procedures or operation fails to comply with the standards in paragraph 5; preceding, or*
- b. *a proposed contract modification changes the contract's scope or increases the contract amount by more than the small purchase threshold; or*
- c. *the procurement is expected to exceed the small purchase threshold, and*
  - 1) *is to be awarded without competition, or only one bid or offer is received in response to the solicitation; or*

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- 2) *specifies a brand name product; or*
- 3) *is to be awarded to other than the apparent low bidder when sealed bid procurement is used.*

9. **Special Federal Contractual Provisions.** *A grantee must include in each contract, in addition to provisions to define a sound and complete agreement, several other*

provisions depending on the contractual amount and intent. These special provisions apply to all contracts over \$10,000; to construction and repair contracts over \$2000; to contracts in the field of science and technology in which there has been little significant experience outside of work funded by Federal assistance; and to any contract or agreement, the principle purpose of which is to create, develop or improve products, processes or methods, or for exploration into fields that directly concern public health, safety or welfare. Appendix 2 to this manual contains these special provisions. These provisions must also be applied to subcontracts.

### **SECTION C.**

#### **PROPERTY MANAGEMENT STANDARDS**

1. **General and Definitions.** Grantees and secondary recipients may use their own property management standards and procedures as long as the Federal provisions in paragraph 2, following, are met. Some useful definitions are:
  - a. **Real Property.** Land, including land improvements, structures and their appurtenances. Excludes moveable machinery and equipment.
  - b. **Equipment.** Tangible personal property having a useful life or more than a year and an acquisition cost of \$5,000 or more per unit. The acquisition cost of an item is the net invoice unit price of the property including the cost of modifications, attachments, accessories, etc., necessary to make the property useable for the purchase for which it is acquired. Other charges, installation, taxes, etc., shall be included or excluded from the acquisition cost in accordance with the grantee's regular practice.
  - c. **Supplies.** Tangible personal property other than that which is classified as equipment.
  - d. **Consumables.** Items such as paper, pencils, etc.

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2. **Property Title, Use, and Disposition**
  - a. **Real Property.** Not applicable to FMCS grant projects.
  - b. **Equipment and Supplies.** Title rests in the grantee except when the property is otherwise identified by FMCS in the grant agreement or elsewhere, in writing.
    - (1) **Use.** The property is to be used in the project for which it was acquired for as long as needed, whether or not FMCS funding continues. Shared

*use by other Federally sponsored projects is permissible as long as the project for which the item was originally acquired is not adversely affected. In either case, certain procedural requirements must be met.*

- (a) Accurate property records must be maintained to include a description of the property; manufacturer's serial number, model number, or other identification number; source of the property, including the Federal agreement number; identity of entity in which property title is vested; acquisition date; percentage of FMCS participation in cost of grant project for which the property was acquired; location, use and condition of the property and the date the information was reported; unit acquisition cost; and, ultimate disposition data including date, sales price, and, if applicable, the method of determining the property's fair market value.*
- (b) At least once every two years a physical inventory of property must be taken; the results reconciled with property records; the existence, current utilization, and continued need for the property verified. Differences between the inventory and the records must be investigated to determine the cause.*
- (c) A control system to insure adequate safeguards against property loss, damage or theft must be maintained. All such losses must be reported to appropriate authority and must be investigated and fully documented.*
- (d) Adequate maintenance procedures to keep the property in good condition must be maintained.*

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- (e) Where a grantee is authorized or required to sell the property, proper sales procedures must provide for competition to the extent practicable and for the highest possible return.*
- (2) Disposition. Property with a unit acquisition cost of more than \$5,000 may be retained by the grantee for non-project uses provided that compensation is made to FMCS. Compensation is to be computed by applying the percentage of FMCS participation in the cost of the original grant project to the current fair market value of the property. If the grantee has no further need for the property and the property has further use value, instructions for its disposition must be requested from FMCS. If no instructions for disposition are received within 120 days of the grantee's request, the grantee shall sell the property and reimburse FMCS or its successor in an amount computed by applying to the sale proceeds the*



percentage of FMCS participation in the original grant project, less \$500 or 10% of the proceeds whichever is greater for the grantee's selling and handling expenses. Property with a unit cost less than \$5,000 may be retained or sold and the proceeds kept by the grantee without further Federal involvement.

- c. Patents, Copyrights, etc. Patentable items, patent rights, processes, or inventions produced within a grant project must be promptly and fully reported to FMCS. Copyrights of materials developed in the course of or under an FMCS grant project are the author's privilege; but FMCS reserves a royalty free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for government purposes.

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**SECTION D.**

**AUDIT STANDARDS**

1. **Audit Requirements.** Grantees that expend \$500,000 or more annually in federal financial assistance must have a single audit or program-specific audit (if certain criteria are met) performed in accordance with the Single Audit Act Amendments of 1996, and Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. The circular, is effective for audits of fiscal years beginning after June 30, 1996. OMB defines federal financial assistance within the scope of the circular as assistance received or administered in the form of grants, cooperative agreements, loans, loan guarantees, property (including donated surplus property), interest subsidies, insurance food commodities, direct appropriations and other assistance.

*For those grantees exempt from single audit requirements, financial and compliance records still must be made available for review or audit by other federal officials or pass-through entities. FMCS may also request that a limited program-specific audit be conducted using grant funds.*

2. **Background.** *The Single Audit Act of 1984 required audits of states and local governments (including Indian tribal governments) that administer federal financial assistance programs. A single audit encompasses a grantee's financial statements and schedule of expenditures of federal awards for the entire organization or the respective departmental units administering federal funds, as opposed to a program-specific audit, which focuses on one particular program (thus, the concept of "single" audit). OMB implemented the act by issuing Circular A-128, Audits of State and Local Governments. By the 1990, OMB extended single audit requirements to non-profit organizations with the issuance of Circular A-133, Audits of Institutions of Higher Education and Other Non-Profit Organizations. (Colleges and universities were included, but hospitals were not.)*

*With the passage of the Single Audit Act Amendments of 1996 (31 U.S.C. Chapter 75), single audit requirements were statutorily imposed on non-profit organizations that administer federal financial assistance programs, including colleges and universities and hospitals.*

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*On June 30, 1997, OMB issued revised circular A-133 to implement the 1996 amendments and impose the circular's requirements on all types of grantees. In doing so OMB rescinded Circular A-128 and prior versions of Circular A-133 that applied solely to colleges and universities and other non-profit organizations. (Non-U.S. based recipients are not subject to revised Circular A-133, but must be monitored through other means by their awarding agency or primary grantee.) Several revised provisions have changed the face of single audits, namely, the raised threshold for determining whether to have a single audit performed and the risk-base approach to auditing programs. Clearly, with so many smaller grantees now exempt under the raised threshold for single audit, pass-through entities face heightened monitoring responsibilities previously met through subrecipients' single audit results.*

3. **Raised Threshold for Audit.** *Under OMB Circular A-133, the threshold for determining whether a single audit or program-specific audit must be performed has been raised from \$25,000 in federal funds received to \$500,000 expended annually. Thus, nonfederal entities (both recipients and subrecipients) that expend \$500,000 or more annually in federal funds must have an audit under Circular A-133. Nonfederal entities that expend less than \$500,000 annually are exempt from federal audit requirements for that year.*

*Many grantees are no longer required to have single audits performed under the new threshold, but may be required to have other types of audits or evaluations performed (e.g., performance audits or reviews). In addition, grantees must maintain records for review of audits by federal agency officials, the General Accounting Office or pass-through entities. Under Circular A-133, a limited scope audit includes on an agree-upon procedures engagement conducted in accordance with Generally Accepted Auditing Standards or attestation standards, paid for and arranged by a primary grantee, addressing one or more type(s) of compliance requirements (specifically, allowable costs/cost principles, eligibility, matching, level of effort, earmarking and reporting. (Limited scope audits are available for subrecipient monitoring purposes only.)*

*Pass-through entities that award federal funds to subrecipients remain responsible for monitoring subrecipient activities to ensure they comply with program requirements. Pass-through entities can monitor subrecipients that expend \$300,000 or more in federal assistance by reviewing the results of that subrecipient's single audit. For those subrecipients exempt from a single audit, pass-through entities are responsible for monitoring and oversight by relying on other procedures.*

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*The means of monitoring and oversight of subrecipients is left to the discretion of the primary grantee under Circular A-133, but could include a review of subrecipient reports or documentation (e.g., evaluate audit findings, review corrective action plans), on-site visits, or arranging for a limited scope audit. Such monitoring procedures can be targeted more selectively and less costly than a full-blown single audit.*

### **PREPARING FOR AUDIT**

*The grantee is responsible for making arrangements to have an audit performed and ultimately faces the consequences of an audit examination. Careful planning and preparation beforehand by the grantee is an essential ingredient of a successful audit engagement.*

1. **Preparing for Audit.** *In general, grantees can take five basic steps to prepare for an audit:*
  - ◆ *determine whether an audit is required by law, regulations or grant agreements);*
  - ◆ *select and engage an auditor (unless the audit will be conducted by a federal auditor);*
  - ◆ *reach a mutual understanding with the auditor about the type of audit to be performed and its required scope (in doing so, identify the entity to be audited the entire organization, individual components, governmental departments or units);*

- ◆ *collect and make available to the auditor relevant financial and organizational documentation (e.g., charters, by-laws, bank account authorizations, financial statements of assets and liabilities, schedules of expenditures of federal awards, accounting records, cost allocation plans); and*
- ◆ *collect and make available to the auditor relevant compliance documentation (e.g., previous audit reports, major contracts, grant agreements, a list of subrecipients, federal guidance, government-wide directives, statutes, program descriptions).*

2. **Audit Responsibilities.** *With the enactment of the Single Audit Act Amendments of 1996 and issuance of revised Circular A-133, grantees face new pre-audit reporting responsibilities, such as the preparation of a summary schedule of prior year audit findings. In preparing for a single or program-specific audit under the revised circular, the grantee must:*

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- ◆ *arrange for an audit in accordance with proper procurement of audit services;*
- ◆ *maintain internal control (ongoing);*
- ◆ *comply with laws; regulations and grant agreement provisions (ongoing);*
- ◆ *identify all federal awards received and expended so that the auditor can determine which programs are major programs under applicable definitions and must be tested, and how to design audit tests considering various risk factors, such as changed conditions, the extent to which the program is subgranted or contracted out and the adequacy of controls;*
- ◆ *prepare the schedule of expenditures of federal awards (list federal programs by agency, the name of any pass-through entities and their identification numbers. The total amount of federal awards expended for each program, a description of significant accounting practices used to prepare the schedule and total amounts awarded to subrecipients);*
- ◆ *prepare financial statements (a balance sheet of assets and liabilities); and*
- ◆ *prepare a summary schedule of prior audit findings.*

*Toward the end of the audit process, the grantee will have additional reporting tasks to perform:*

- ◆ *prepare portions of the Data Collection Form*
- ◆ *ensure the single audit is performed and reports submitted on time;*
- ◆ *prepare any necessary corrective action plan; and*
- ◆ *follow-up and take corrective action on current audit findings.*

3. **Audit Purpose.** *Single audits performed under the act and revised Circular A-133 cover the entire operation of a grantee or at least those departments or units that receive, expend or administer federal financial assistance. The purpose of the single audit is to determine whether:*

- ◆ *The grantee's financial statements present fairly its true financial position and picture of operations, in accordance with generally accepted accounting principles;*
- ◆ *the grantee has internal accounting and other control systems to provide reasonable assurance that its administration of federal awards complies with relevant laws and regulations; and*
- ◆ *the grantee is in compliance with laws, regulations and agreements that could have a material effect on its financial statements and on each major federal assistance program, as defined in the act and revised Circular A-133.*

*For further information concerning OMB Circular A-133 Audits of State, Local Governments, Institutions of Higher Education and Other Non-Profit Organizations/Institutions, please consult the revised OMB Circular A-133.*

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## **CHAPTER VI.**

### **GRANT PAYMENTS AND REPORTS**

#### **SECTION A.**

#### **PAYMENTS**

1. **Payment of Funds.** *FMCS funds are obligated to a grant project by FMCS when the Notice of Award is signed. They are thus reserved for the project's purposes until they are expended by the grantee or until, in the case of non-expenditure within the time limits set in the Notice of Award or subsequent Grant Adjustment Notices, they are deobligated by FMCS by means of Grant Adjustment Notices and thus revert to the Government.*
2. **Payment Issuance.** *In accordance with the Debt Collection Improvement Act of 1996 all FMCS grantees receive funds via Electronic Funds Transfer (EFT) on a reimbursement or monthly advance basis. The EFT requests are provided to the grantees at the time of award. The U.S. Treasury issues the EFT after FMCS has approved the requests.*

*FMCS grantees receiving a Federal payment shall designate a financial institution or authorized payment agent through which a Federal payment may be made. **Grantees under certain circumstances, may qualify for a waiver of the EFT requirement. Under the Act, payment must be made by EFT unless one of four circumstances applies: hardship; impossibility; excessive costs; or endangerment of law enforcement or national security interests. Grantees must certify in writing for a waiver outlining the circumstances that apply.***

*Any payment that we make to you will be made by electronic funds transfer unless you certify in writing that you do not have an account with a financial institution or an authorized payment agent.*

*I certify that I do not have an account with a financial institution or an authorized payment agent.*

---

*Signature*

*Date*

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3. **Cash Depositories.** *FMCS grantees and secondary recipients must deposit their grant project funds in a bank with FDIC coverage. Any balances exceeding the FDIC coverage must be collaterally secure. FMCS regulations do not require the physical segregation of project funds or the establishment of any eligibility requirement for cash depositories. However, consistent with the national goal of expanding the opportunities for minority business enterprises, all grantees and subrecipients are encouraged to utilize the services of banks which are at least half owned by members of minority groups.*
4. **Payment Cancellations.** *Unless otherwise required by law, FMCS withholds payment on grantee fund requests only when the grantee is demonstrating an unwillingness or inability to attain project goals or an inability to maintain an acceptable accounting system; cannot adhere to FMCS requirements, including an acceptable accounting system; and timely submission to FMCS of accurate financial and narrative reports and special condition requirements; or engages in improper grants administration, including failure to minimize the time elapsing between its receipt of funds from the U.S. Treasury and the actual expenditure of those funds; or is indebted to the United States and collection of the indebtedness will impair accomplishment of FMCS grant project objectives. Where such a condition or conditions exist, FMCS will inform the grantee that payments will not be made for grantee-incurred obligations after a specific date and until the condition or conditions are corrected, at which time payments will be resumed on either an advance or reimbursement basis as FMCS deems more appropriate.*

## **SECTION B.**

### **REPORTS**

1. **Reporting the Unexpected.** *See Chapter IV, Section D.*
2. **Regular Grantee Reports.** *There are three reports required, two financial in*

*nature and one performance-oriented. As required by the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107, FMCS provides the forms on-line in a fillable format to allow for application by electronic funds.*

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*In preparing the financial reports, grantees should keep certain definitions in mind. Obligations are amounts owed on orders placed, contracts let, services received and similar transactions during a given period that will eventually require payment. Outlays are treated and reported differently depending on whether a cash or accrual accounting system is used. In either case, however, outlays are the same as expenditures, the sum of actual cash the grantee has disbursed or paid out. Project income is money earned by the project and is used to offset approved grant project costs. It is not grant cash payments received from FMCS by way of the U.S. Treasury, nor is it cash contributions accepted as a matching share by FMCS at the time of grant award. The three regular reports are:*

- a. *Financial Status Report (Form LM-7). A quarterly LM-7 must be submitted to FMCS no later than 30 days after the end of each calendar quarter during which the grant project was supported by approved project funds, whether or not actual obligations or expenditures of funds by the grantee took place. The end of each calendar quarter is December 31, March 31, June 30 and September 30. Grantees are given a grace period of 30 days after the calendar quarter to submit reports. Therefore, LM-7s are due at FMCS no later than January 31, April 30, July 31, and October 31. A final LM-7 for the project must be submitted no later than 90 days after the last day of the project's final budget period. Extensions to reporting due dates may be granted by FMCS upon request of the grantee. A sample of a Financial Status Report (Form LM-7) is included in Appendix 7 of this Manual.*
- b. *Request for Advance or Reimbursement (Form LM-6). While the LM-6 is technically a request for funds, it is also a report of expenditures and FMCS uses it as such. Grantees who are not paid under letters-of-credit must submit an LM-6 to FMCS when they want funds. No fund requests should be submitted for a period of time covering less than a month, except in unusual circumstances. Grantees on letter-of-credit are not required to submit LM-6s.*
  - (1) *Requests solely for fund advances must be submitted only on a monthly basis, and FMCS will ordinarily honor those requests only after the 15th of the preceding month; i.e., only after November 15 will FMCS honor an*

*advance request covering anticipated expenses for the month of December.*

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- (2) *Fund requests solely for reimbursement may be submitted at the grantee's convenience, except that the final reimbursement request for a grant must be received by FMCS within 90 days after the grant's last approved budget period expiration date.*
- (3) *Combination request on a single LM-6 for both an advance and a reimbursement of funds will be honored by FMCS as a request for an advance. See (1) above.*
- (4) *All fund requests will be placed on hold if other reporting requirements are delinquent. Chronic delinquencies may result in grant suspension and/or termination.*

**c.** *Milestones (FMCS Form LM-8). All FMCS grantees must monitor their grant projects to ensure that project performance goals are being achieved in a timely manner, and must submit to FMCS a quarterly narrative report summarizing their findings for each grant project. The milestone reports are due December 31, March 31, June 30 and September 30. **Grantees are given a grace period of 30-day period after the calendar quarter.** Therefore, LM-8s are due at FMCS no later than January 31, April 30, July 31, and October 31. A final performance report must be submitted within 90 days after the grant's last approved budget period expiration date. Extensions to reporting due dates may be granted by FMCS upon request by the grantee. Quarterly performance reports should include:*

- (1) *A comparison of actual accomplishments to the goals and implementation plan established for the reported quarter;*
- (2) *If goals have not been met, the reasons for same; and,*
- (3) *Other pertinent information including, when appropriate, an analysis and explanation of cost overruns or high unit costs, potential program problem areas, or significant achievements.*
- (4) *Copies of all LMC meeting minutes along with a list of "members present and members absent".*



3. **Report Preparation.** *Grantees will receive training on the electronic preparation and submission of the LM-6, LM-7 and LM-8 forms at the FMCS grantee orientation session.*
  
4. **Report Burden.** *FMCS must include on each form it requires its grantees to complete the estimated time (burden) necessary for completion. These estimates are based on FMCS's assumption that grantees are familiar with their own grant projects and maintain as a matter of course management and accounting records adequate to complete the forms in the time estimated. However, grantees may appeal FMCS estimates to FMCS.*

**CHAPTER VII.****GRANT TERMINATION AND CLOSEOUT**

1. **Terminations and Suspensions.** *To terminate a grant is to end it before the approved budget period has expired, before project goals are achieved, and before the entire Federal award has been expended for the purposes originally intended. A termination can be complete or partial. A termination is implemented only when continued funding of all or a part of a grant project will no longer produce desired results or when the grantee has demonstrated a conscious failure to comply with grant conditions. In lieu of complete termination of a grant, a grant suspension, a temporary withholding of all or part of the approved funding, can be implemented, to last until some corrective action is taken. In any case, a grant project which is prematurely ended or which is temporarily halted will still be subject to the same requirements regarding record keeping and reports submission as is a project, which runs uninterrupted for the duration of its approved budget period.*
  - a. **Termination.** *Grant termination procedures are implemented when FMCS issues to a grantee a notice of intent to terminate; or when a grantee issues to FMCS a similar notice; or when both FMCS and the grantee jointly agree that a termination is appropriate. In any case, a grant termination is not completed until FMCS issues an actual notice of termination in the form of a Grant Adjustment Notice. Upon receipt of a notice of termination the grantee must refund to FMCS all cash advanced in excess of firm financial commitments of record as of the date of the termination notice. There are two kinds of terminations:*
    - (1) **Termination for Convenience.** *Either FMCS or the grantee may terminate the grant in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FMCS will allow full credit to the grantee for the Federal share of the remaining obligations properly incurred by the grantee prior to termination.*

(2) Termination for Cause. FMCS may terminate any grant in whole or in part at any time before the scheduled date of completion, whenever it is determined by FMCS that the grantee has failed to comply with the conditions of the grant. Such action, however, will be preceded when-ever possible by a letter of warning giving the grantee 30 days to reach full condition compliance. Should the grantee fail to reach compliance, FMCS will then promptly notify the grantee in writing of its final determination and the reasons for the termination, together with the effective date of termination. Payments made to grantees or recoveries made by FMCS under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.

b. Suspension. FMCS may, until corrective action is taken, suspend a grant in whole or in part, withhold Federal fund payments, and prohibit additional grantee obligations and expenditures of funds whenever the grantee has demonstrated or threatened a material failure to comply with grant award stipulations, standards, and conditions. All suspensions are effective on the date of delivery of a suspension notice to the grantee. There are two kinds of suspensions.

(1) Suspension on Notice. As the name implies, a suspension on notice is preceded by written notification to the grantee of FMCS intent to suspend assistance in whole or in part unless good cause is shown why assistance should not be suspended. Should no cause be shown within a reasonable period of time, FMCS would then issue the suspension by means of a Grant Adjustment Notice.

(a) A suspension will not exceed 30 days in length unless during that period termination proceedings are begun or FMCS and the grantee agree to a continuation of the suspension.

(b) If termination proceedings are initiated during the life of the suspension, the suspension remains in effect until such proceedings are fully concluded.

(c) During a period of suspension, the grantee may incur no new obligations in connection with the suspended grant or grant component without FMCS written authorization.

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(2) Summary Suspension. A summary suspension is one levied upon a grantee without notice and without an opportunity to show cause. It is

*issued only after FMCS has determined that immediate suspension is necessary because of a serious risk of substantial injury to or loss of project funds or property; or of violation of a Federal, state, or local criminal statute, or of FMCS rules regulations, guidelines and instructions; and that such risk is sufficiently serious to outweigh the general policy in favor of advance notice and opportunity to show cause.*

- (a) A notice of summary suspension is delivered to the grantee by letter or telegram.*
- (b) The notice includes the duration, extent, terms and conditions of any suspension, complete or partial, and prohibits the grantee from making any new expenditures or incurring any new obligations in connection with the suspended grant or grant component.*

- (3) In Any Suspension. Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the grantee's approved work program and not in anticipation of suspension or termination, shall not be considered additional expenditures. However, funds shall not be recognized as committed solely because the grantee has obligated them by contract or otherwise.*

*2. Closeout. Closeout is the grant process by which FMCS determines whether all applicable administrative actions and all required work within the grant have been completed by the concerned parties. The closeout process is initiated on the date that all work under a grant is completed, or on the latest approved date on which FMCS financial assistance ends.*

- a. FMCS will make prompt payments to a grantee for allowable reimbursable costs under the grant being closed out if such payments are requested and if funds remain in the grant's account.*
- b. As soon as possible after the grant project is concluded, the grantee must refund to FMCS any balance of unobligated Federal dollars advanced to the grantee.*

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- c. Within 90 days of the project's conclusion, the grantee must meet its unpaid grant obligations and submit to FMCS final financial and performance reports, and other reports required as a grant condition. The grantee shall include in its final submission a current accounting*

*for any property acquired with grant project funds. The 90-day final reporting period may be extended for valid reasons, upon the grantee's written presentation and request.*

- (1) *Final Financial Status Report.* *This report must show expenditure of the grantee share of approved costs, and a zero balance for unliquidated obligations. It must indicate the exact amount of unobligated grant funds which are to be deobligated by FMCS from the grant.*
  - (2) *Final Performance Report.* *This report is a summary of the project's success in adhering to the goals, objectives, and implementation plan of the grant.*
  - (3) *If required, a financial and compliance audit of the grant project.*
- d. *Within 60 days of receipt from the grantee of accurate final reports as described above, FMCS will issue a final Grant Adjustment Notice, which formally closes out the grant.*
- e. *Cautionary Provisions.*
- (1) *No adjustment to payments for costs incurred by the grantee under a grant during the grant closeout period shall be construed as increasing the amount of Federal funds within a grant above the amount shown on the applicable Notice of Award.*
  - (2) *FMCS records retention requirements as described in this manual must be observed.*

### 3. **Records Retention and Access.**

- a. *Grant Project Records* *must be retained by the grantee for a period of three years following the date of grantee submission to FMCS of the project's final financial status report. Grant project records include but are not limited to grant financial records and related original and supporting documents that substantiate costs charged to the activity. Financial records, identifiable by*

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*grant number, include all accounting records and reports, supporting documents, statistical records, property records, and all other records, books and papers pertinent to a grant project, including books of original entry, source documents which support accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications and required grantee financial and performance reports. Personnel and payroll records*

*must include the time and attendance reports for all individuals reimbursed under a grant, whether they are employed full-time or part-time. Time and effort reports are required for consultants. The Director, FMCS, and the Comptroller General of the United States or any of either's duly authorized representatives shall have access to all records to make audits, examinations, excerpts, and transcripts.*

b. Exceptions to the normal three-year retention period are as follows:

- (1) *If any litigation claim or audit is begun before the expiration of the normal three-year retention period, the grant project's records must be retained until all litigations, claims, or adverse audit findings involving the records have been resolved.*
- (2) *Records for non-expendable personal property acquired wholly or in part with Federal funds must be retained for three years after the grantee's final disposition of the property.*

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## **APPENDIX 1**

### **GLOSSARY OF TERMS**

**Budget Period.** *The intervals of time into which a project period is divided for budgetary and funding purposes. In the FMCS grant program, two budget periods are ordinarily the maximum number funded within a project's Federally supported duration. **Your budget period is specifically listed in Block 7 of your Award Notice.***

**Categorical Grant.** *A grant, which is competitive in nature and for which limited funds are available. All FMCS grants are categorical.*

**Contract.** *A legal instrument reflecting a relationship between the Federal government and a State or local unit of government or other recipient; or between any two parties. The Federal government advocates the use of a contractual instrument whenever the relationship's principal purpose is the acquisition by purchase, lease, or barter of property or services for the direct benefit or use of the Federal government or a grantee; or whenever the Federal government or its grantee determines in a specific instance that the use of a contractual agreement is more appropriate to mutual purposes than is a grant or a cooperative agreement. Unless otherwise stated or enlarged, the policies and requirements applied in this manual to grants, grantors, and grantees also apply to contracts and the parties to a contractual agreement.*

**Contractor.** *A party to a contractual agreement.*

**Cooperative Agreement.** *A legal instrument reflecting a relationship between the Federal government and a unit of State or local government or other recipient, for purposes similar to those of a grant but in which substantial Federal involvement beyond the funding aspect is anticipated. Unless otherwise stated or enlarged, the policies and requirements applied in this manual to grants, grantors, and grantees also apply to cooperative agreements and their parties.*

**Date of Completion.** *The calendar date on which all programmatic work under a grant is completed; or the date shown on the grant's Notice of Award or a subsequent Grant Adjustment Notice as the final day in the grant's project period.*

### **(APPENDIX 1) 1 OF 3**

**Disallowed Cost.** *Those charges to a grant, either anticipated or effected, that FMCS determines to be unacceptable or which are unallowable in accordance with Federal cost principles.*

**Disbursements.** *Payments made by check or in cash.*

**Grant.** *A legal instrument reflecting a relationship the principal purpose of which is the transfer of money or property in lieu of money paid by the Federal government to a State or local unit of government or to another recognized recipient, in order to accomplish a public purpose of support or stimulation authorized by Federal statute. During performance*

*of the contemplated activity no substantial involvement other than financial is anticipated between the executive agency acting for the Federal government and the grant recipient.*

**Grantee.** *The State, local government or other unit designated by FMCS as the prime recipient of grant funds.*

**Grantor.** *The Federal agency authorized by Congress to enter into agreements with units of State or local government or with other entities for the purpose of a grant.*

**Indirect Costs.** *Those costs incurred for a common or joint purpose benefiting more than one program or cost objective which are not readily assignable to the cost objectives or programs specifically benefited, without effort disproportionate to the results achieved.*

**Local Government.** *A local unit of government including a county, municipality, city, town, township, local public authority, 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.*

**Prior Approval.** *Prior written permission by FMCS. Any requests for such approval must be signed by an authorized official of the applicant or grantee organization.*

**Program.** *An overall grant activity specifically authorized by Congress.*

#### **(APPENDIX 1) 2 OF 3**

**Project.** *A specifically identified individual activity within a grant program, which is supported in whole or in part by a grant, contract, or cooperative agreement.*

**Project Director.** *The individual designated by the grantee as the person responsible for the overall conduct, direction and supervision of the project.*

**Project Income.** *Net income generated by grant-supported activity or personnel. This income must be reported on the LM-6 form and subtracted from total program outlays.*



**Project Period.** *The total length of time for which Federal support of a project is approved. The project period may vary from several months to several years and consists of one or more budget periods. However, FMCS approval of a project period does not constitute a commitment by FMCS to provide financial support beyond the budget period for which a grant has been made.*

**Secondary Recipient.** *A unit of State or local government or another entity serving a grantee as either a subgrantee or a contractor or a subcontractor.*

**State.** *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 institutions of higher education and hospitals.*

**Subcontractor.** *A party to a contractual agreement, which is a part of another, usually larger, contract.*

**Subgrantee.** *A unit of State or local government or another entity to which the grantee, after receiving a grant award, grants in turn all or a portion of the funds.*

**Unacceptable Costs.** *Charges to a grant, either anticipated or effected, which FMCS determines to be disallowed because of agency funding policy.*

## APPENDIX 2

### CONTRACT PROVISIONS UNDER FMCS GRANTS

*In addition to provisions defining a sound and complete procurement contract, any recipient of FMCS grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal law, or the grantor agency.*

1. *Contracts other than small purchases shall contain provisions or conditions, which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.*
2. *All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.*
3. *All contracts, including small purchases shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).*
4. *Where applicable, all contracts awarded by grantees and subgrantees in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).*
5. *The contract shall include notice of grantor agency requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental, or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of grantor agency regulations pertaining to copyrights and rights in data.*

### (APPENDIX 2)

6. *All negotiated contracts awarded by grantees shall include a provision to the*

*effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.*

7. *Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed.*
8. *Contracts shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).*
9. *Purchases of paper and paper products in excess of \$10,000 must meet recovered materials purchasing requirements, which mandate the purchase of such items containing the highest percentage of recovered materials practicable. See Sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976.*
10. *No contracts, including small purchases, shall be made with parties listed on the General Services Administration's list of Parties Excluded from Federal Procurement or non-Procurement Programs in accordance with Executive Order 12549.*

(APPENDIX 2)

APPENDIX 3

LMC BUDGET

- a. Personnel (includes cost of living increase after 12 months; estimated in accordance with established policy @ 4% for coming year)

Executive Director	12 months @ \$2,500/mo.	100%	30,000
	6 months @ 2,600/mo.	100%	15,600
Secretary	12 months @ \$1,208/mo.	100%	14,496
	6 months @ 1,256/mo.	100%	<u>7,536</u>
			<b>\$67,632</b>

- b. Fringe Benefits

Social Security @ 7.65%			5,174
Health Insurance @ 10%			6,763
Established applicant pension plan contribution @ 8%			<u>5,411</u>
			<b>\$17,348</b>

- c. Travel

1 2-day round trip, Washington, DC, for orientation  
(Project Director and Accountant)

Airfare @ \$500 RT x 1 trip x 2 travelers		\$1,000
Hotel @ \$165/day x 2 days x 1 trip x 2 travelers	660	
Per diem @ 50/day x 2 days x 1 trip x 2 travelers	200	

1 3-day round trip to attend the National Labor-Management Conference  
(Grantees may charge no more than 3 people to the grant)

Airfare @ \$500 RT x 1 trip x 3 travelers		\$1,500
Hotel @ \$175/day x 3 days x 1 trip x 3 travelers	1,575	
Per diem @ 50/day x 3 days x 1 trip x 3 travelers	450	
Registration @ \$450/person x 3 travelers		1,350

Daily Office Travel

100 miles/week x 73 x \$.36.0/mile	2,628
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Off-Site Committee Retreat (LMC Committee)

Per diem @ \$50 day x 2 days x 10 members	1,000
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Mileage - 10 members (rides shared)	<u>330</u>
	<b>\$10,693</b>

- d. Supplies

Consumables (paper, pens, paper clips,

etc.,) @ \$20/person/month x 18 months		\$360
Postage @ \$25/month for 18 months	<u>\$450</u>	
		<b>\$810</b>

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**e. Equipment**

1 Executive desk	@ \$300	\$300
1 Secretarial desk	295	295
1 Executive chair	75	75
1 Secretarial chair	100	100
4 Side chairs	50	200
1 File cabinet	100	100
1 Desktop Computer	3,100	<u>3,100</u>
		<b>\$4,170</b>

**f. Contractual**

Consultant to assist with special training programs (\$800 day for 5 days) as discussed in text		\$4,000
Consultant ( project evaluation) (\$300/day for 10 days)		3,000
Website Development @ \$150hr x 15	<u>2,250</u>	
		<b>\$ 9,250</b>

**g. Other**

Space rental 400 sq. feet @ \$4 per square foot for 1.5 years		\$2,400
Phones, 1 line		
Installation @ \$50		50
Local use @ \$20/month, 18 months		360
Long distance @ \$25/month, 18 months		450
Reproduction/printing--machine rental, paper, etc., for 18 months	1,500	
Janitorial @ \$17/week, 73 weeks		1,241
Equipment maintenance 18 months		<u>160</u>
		<b>\$6,161</b>

**TOTAL PROJECT COST \$116,064**

Federal	\$104,458
Match (10 %)	<u>11,606</u>
<b>Total</b>	<b>\$116,064</b>

