



City of Jonesboro

Financial and Internal Controls Manual for Grants Department

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Chapter 1 OVERVIEW

1.1

Purpose

The City of Jonesboro Financial Manual for Grants and Contracts (FMGC) is established to set forth the financial requirements for all grants including Community Development Block Grant (CDBG) funds that are contracted through grants, contracts, and other agreements.

1.2

Scope

The manual covers the Federal, State and agency administrative and cost requirements that are applicable to all external funds. It also includes specific requirements for the following programs and funds:

1. Community Development Block Grant for Housing and Urban Development;
2. TIGER Planning Program, U.S. Department of Transportation;
3. JAG and COPS Hiring Programs for the U.S. Department of Justice.

While the FMGC includes information relating to applicable Federal, State, and Local requirements, this manual does not supersede or replace those requirements. Any omission of an applicable Federal or State requirement from this manual does not waive a Recipient's (or subrecipient's) responsibility to comply with that requirement. In the event of a conflict between an applicable Federal, State or local requirements and this manual, the Federal or State requirement will apply.

1.3

Applicability

The City of Jonesboro compiles Federal, State, and Local requirements that apply to recipients and sub-recipients of CDBG funds. The requirements also apply when the recipient subcontracts CDBG funds to a lower tier sub-recipient/sub-recipient.

1.4

Effective Date

The FMGC rescinded and replaced all earlier versions of the manual effective December 1, 2015, except as specifically provided in this version. Unless otherwise specified, any changes occurring to this manual thereafter will take effect on the date those changes are posted in this manual.

1.5

Distribution of Manual

The FMGC is made available to CDBG Recipients (and subrecipients) as a publication on the City of Jonesboro internet website. Hard copies of the manual are only distributed in instances where the information is needed to carry out the terms of a contract and there is no means to send the document electronically.

1.6

Request for Fiscal Technical Assistance

Recipients may request clarification on the requirements of this manual by emailing to the Grants Coordinator. Sub-recipients should request clarifications from Recipients.

1.7

Resources

The specific resources used in the revision of this manual are identified in the respective sections of each chapter, and appendices, where applicable. These generally include references to:

- Office of Management and Budget (OMB) Circulars
- Federal Guides (Title 24, Section 101(c) §570) and (Title 2, Subtitle A, Chapter II §200)
- Program statutes and regulations
- State statutes, including Arkansas Code Annotated, etc.
- Local ordinances and resolutions

1.8

Organization

Each chapter is organized into sections that are structured by a policy Statement, supporting requirements, program or entity specific considerations, and the cited resources.

1.9

Updates

Updates to the FMGC will be made as needed. When possible, changes will be made annually to coincide with the beginning of the city's fiscal year, January 1 or the start date of the Federal program. However, updates may be made more frequently when significant changes require more timely revisions.

Chapter 2 INTERNAL CONTROLS

2.1

Introduction

Adequate internal control is a key defense (but no guarantee) against fraud, waste and program abuse. All recipients have a responsibility to reduce the risk of fraud, waste and program abuse by implementing effective internal controls that adequately safeguards assets. This chapter compiles the applicable Federal, State and agency requirements and guidance governing internal control. In the event of conflict between these standards and Federal statute or regulation, the Federal statute or regulation will apply. This chapter is organized as follows with examples of internal control characteristics being provided in Appendix B to this manual:

Individuals, who suspect fraud, waste or program abuse may report the matter to State of Arkansas Fraud and Abuse Hotline 1-800-422-6641. The Hotline is available 24 hours a day, 7 days a week and permits anonymous reporting.

2.2

General

Effective control and accountability must be maintained for all cash, real and personal property, and other assets funded by public funds.

In accordance with the Grants Management Common Rule (Common Rule): Recipients must maintain effective internal control and accountability for all grant and sub-awards related to cash, real and personal property, and other assets. Recipients must adequately safeguard all such property and must assure that it is used solely for authorized purposes (24 CFR 85.20 (b) (3)).

Recipient reporting is a central component to Federal financial assistance oversight as it shows how funds are spent and used and ensures that recipients are accountable for the money they

have received. Through recipient reporting, the government and public can determine whether or not the program is meeting its goals and objectives.

However, effective oversight may be impacted by granting agency and program-specific reporting requirements, cited in the Codification of Government-wide Grants Requirements (common rules) and in the terms and conditions of each award. In addition, Office of Management and Budget (OMB) guidance has set forth multiple reporting schedules including 2 CFR 200 commonly known as the super circular (24 CFR 570.503 (a)(4)).

The Office of Management and Budget addresses internal controls over compliance requirements in 2 CFR 200.62 a useful tool in defining what constitutes “effective internal controls” in that it provides guidance for understanding and evaluating internal control. The Code requires all non-Federal entities to provide reasonable assurance regarding the achievement of the following objectives and the description of internal control as published by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission in its report, “Internal Control-Integrated Framework” (COSO Report). This framework is discussed further in Section 2 of this manual.

The Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) incorporated the components of internal control presented in the COSO Report in its Statement on Auditing Standards No. 78 (SAS 78), entitled “Consideration of Internal Control in a Financial Statement Audit.” SAS 78 is effective for all audits of financial Statements for periods beginning on or after January 1, 1997. SAS 78 may be purchased from the AICPA.

Authority:

- OMB Circular A-133 Compliance Supplement, Part 6
- OMB Circular A-110 §__.21(b)(3)
- 2 CFR 200.62 (b)(2)
- 29 CFR §97.20(b)(3)
- 45 CFR §92.20(b)(3)
- 7 CFR §3015.61(c)
- 24 CFR 85.20(b)(3)
- 24 CFR 570.503 (a)(4)

2.3

Components of Internal Control

Internal controls shall be designed, implemented and evaluated based on the ability of the controls to provide reasonable assurance for compliance with applicable requirements in a cost effective manner.

The OMB Circular A-133 Compliance Supplement and 2 CFR 200 Appendix XII provide assistance in complying with internal control and audit requirements by identifying types of

compliance requirements and describing for each, the objective of internal control and certain characteristics of internal control that, when present and operating effectively, may ensure compliance with program requirements. The guidance, however, is not intended as a “checklist of required internal controls characteristics.” Judgment will need to be exercised in determining the most appropriate and cost effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with program requirements.

The types of compliance requirements are primarily described in Parts 3 and 6 of the Compliance Supplement. Part 3 provides fourteen types of compliance requirements that it identifies as being generic to most Federal programs that are administered by entities subject to the audit requirements of OMB Circular A-133 Part 6 and 2 CFR § 200.500 Subpart F describes internal control characteristics for thirteen of these fourteen types of compliance requirements (all except those pertaining to special tests and provisions). These characteristics, which are provided in Appendix B to this manual, are organized within the framework of the five components of internal control presented by the COSO Report. The five components of internal control are:

Control Environment: According to the COSO Report, the control environment “sets the tone of an organization and influences the control consciousness of its people.” It provides structure and discipline, and forms the foundation for all other components of internal control.

Risk Assessment: Risk assessment refers to the “identification, analysis, and management of risks relevant to the preparation of financial Statements that are fairly presented in conformity with generally accepted accounting principles [GAAP] (or another comprehensive basis of accounting).”

Control Activities: Control activities are the policies and procedures that help ensure that management’s directives are carried out.

Information and Communication: The identification, capture and exchange of information in a form and timeframe that enables people to carry out their responsibilities.

Monitoring: In relation to the COSO report and SAS 78, monitoring refers to the process used to assess the quality of internal control performance over time.

Authority:

- OMB Circular A-133 Compliance Supplement Part 6
- 2 CFR §§ 200.61- 200.62
- 2 CFR §§ 200.500 – 200.521

2.4

Fraud

Fraud, program abuse [including waste], possible illegal expenditures, unlawful activity, violations of law, Agency rules, or policies and procedures occurring under any grant or program contract awarded by the Agency are prohibited. Suspicion of such misuse must be reported to the Agency's Office of Investigations no later than five business days from the date of discovery of such act.

Recipients shall establish and implement procedures for preventing, reporting, investigating, and taking appropriate legal and/or administrative action concerning any fraud, program abuse, possible illegal expenditures, unlawful activity, violations of law or local ordinances, or policies and procedures occurring under any grant or program contract awarded by the City. Any board member, staff, or sub-recipient staff having knowledge of such misuse is required to report such information to the State of Arkansas' Office of Investigations no later than five business days from the date of discovery of such act. Contact information for the State of Arkansas' Office of Investigations is provided in Appendix D to this manual.

Individuals who suspect fraud, waste, or program abuse may report the matter to the State's Fraud and Abuse Hotline 1-800-422-6641, which is available 24 hours a day, 7 days a week and permits anonymous reporting. Recipients shall establish and implement reasonable internal program management procedures that are sufficient to ensure that its employees, participants, and sub-recipients are aware of this Hotline.

The Office of Investigations may elevate the report to the appropriate Federal or State authority, accept the case for investigation and/or action at the State level, or return the case to the recipient or sub-recipient for action including, but not limited to:

- Further investigation
- Referral for prosecution under the Arkansas Penal Code, or other Federal or State laws
- Other corrective action, as may be appropriate

In the event that the State refers the case back to the Recipient or subrecipient, the recipient or sub-recipient shall submit a final investigation closing report to the Office of Investigations upon completing the investigation and after all feasible avenues of legal and/or corrective action have been taken.

Recipients shall ensure the confidentiality of all reports of violations as listed above except as provided by law or court order. No retaliation shall be taken against any person filing a report.

Chapter 3. INSURANCE

3.1

Introduction

This chapter compiles the applicable Federal, State and Local requirements governing insurance. In the event of conflict between these standards and Federal or State statute or regulation, the Federal or State statute or regulation will apply.

Record retention and access requirements are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

3.2

Bonding Requirements

A fidelity bond or other method to secure funds against loss must be in place, and submitted to the City of Jonesboro as required by this Section.

All Recipients, except educational institutions, must obtain a fidelity bond that indemnifies the City against loss arising from a fraudulent or dishonest act of the Recipient's officers and employees holding positions of fiduciary trust; i.e., individuals responsible for receiving or depositing City funds, or issuing financial documents, checks or other instruments of payment. The Recipient must be the insured entity and the City must be the assigned certificate holder. The Recipient must submit the performance bond to the City's Procurement Department within seven calendar days of the beginning date of a grant award. Failure to do so may result in termination of the grant award. Under no circumstances will the City disburse to the Recipient an amount of cash that exceeds the coverage provided by the fidelity bond that is on file with the City.

Amount: The fidelity bond must be in an amount that is sufficient to cover the largest cumulative amount of all cash requests submitted on a given day or the cumulative amount of funds on hand at any given point. Such amount will be determined based on cumulative amounts drawn during any consecutive three-day period for single or multiple funding sources.

In addition State of Arkansas Procurement Rules (R1:19-11-220) requires a secure an additional amount of funds against loss as follows:

- If the amount secured by the City's fidelity bond is "sufficient to cover the largest cumulative amount of all cash requests submitted on a given day or the cumulative amount of funds on hand at any given point," but is less than 10% of the funds subject to the control of its workforce service providers, the difference must be secured through bonds, insurance, escrow accounts, cash on deposit, or other methods in accordance with the requirements of R1:19-11-220.
- If, when the City conducts a fiscal integrity evaluation in accordance with R1:19-11-220, the City determines that more than 10% of the funds subject to the control of its workforce service providers must be secured against loss, the additional amount must be

secured through bonds, insurance, escrow accounts, cash on deposit, or other methods in accordance with the requirements of R1:19-11-220.

- If the City's fidelity bond is sufficient to cover all amounts required above, no additional funds must be secured against loss.

When determining whether coverage is sufficient to secure 10% of the funds subject to the control of the City's workforce service providers, the Board should only consider the amount of funds that are drawn by and in the possession of its subrecipient during any consecutive three-day period, not the total contract amount.

Escrow Accounts: If the City or its sub-recipient establishes an escrow account to secure funds under R1:19-11-220 the escrow of funds must meet the following criteria:

- The funds placed in escrow require the signature of persons other than the persons with signatory authority for the sub-recipient.
- The funds do not lapse due to requirements for timely expenditure of funds.
- This provision does not conflict with any provision in contract, rule, or statute for the timely expenditure of funds.

Cost: Recipients are responsible for the cost of a fidelity bond to provide the coverage. For Boards, when this coverage is not sufficient to satisfy the requirements of the Arkansas State Procurement Rules at R1:19-11-220, the City may at its discretion pay for the additional bonding, insurance, other protection methods; or the City may require its subrecipient or vendor to fund the cost to the extent allowable under Federal and State law. The cost is reimbursable with funds.

Sureties: Fidelity bonds must be executed by a corporate surety or sureties holding certificates of authority, authorized to do business in the State of Arkansas, and acceptable to the City. If a surety upon a bond loses its authority to do business in the State of Arkansas, or the bond is cancelled, reduced or otherwise amended, the Sub-recipient or Vendor must immediately notify the City and provide a replacement bond that is adequate to cover the terms and conditions of its contract and this manual. Until such time that, an adequate replacement bond is secured by the insurer and provided to the City, no further disbursements will be made to the Sub-recipient or Vendor.

Verifications: For cities, when amounts that are in addition to the City's fidelity bond must be secured in accordance with R1:19-11-220, the City must ensure, based on the schedule referenced in R1:19-11-220, that each of its Sub-recipients or Vendors is required to verify that:

- The insurance or bond policy is valid, premiums are paid to date, the company is authorized to provide the bonding or insurance, and the company is not in receivership, bankruptcy or some other status that would jeopardize the ability to draw upon the policy
- The escrow account balances are at an appropriate level
- The method of securing the funds has not been withdrawn, drawn upon, obligated for another purpose, or is no longer valid for use as the method of security

- Other such protections as are applicable and relied upon by the Board are verified as in force

Changes: The City shall ensure that the Sub-recipients and Vendors are required to disclose any changes in and circumstances regarding the method of securing or protecting funds under the City's control.

Authority:

- OMB Circular A-110 §___.21(b)(3)
- 29 CFR §97.20(b)(3)
- 45 CFR §92.20(b)(3)
- 7 CFR §3015.61(c)
- 2 CFR §200.304
- 2 CFR §200.317
- 2 CFR §200.325
- Arkansas State Procurement Rules R1:19-11-220

3.3

Other Insurance Requirements

Insurance coverage must comply with applicable Federal, State and agency requirements.

Costs of insurance that are required or approved and maintained pursuant to a Federal or State award are allowable. Costs of other insurance in connection with the general conduct of activities (i.e., general liability) are allowable subject to the following limitations:

- Types and extent and cost of coverage are in accordance with the organization's policy and sound business practice
- Costs of insurance or contributions to any reserve covering the risk of loss of, or damage to, Federal government or State property are unallowable except to the extent that the awarding agency has specifically required or approved such costs

Actual losses that could have been covered by permissible insurance are unallowable, unless expressly provided for in the award.

Costs incurred because of (1) losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and (2) minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

The following insurance coverage is required by Federal, State or agency requirements:

Authority:

- 20 CFR §667.274
- 2 CFR §200.304 Subpart D
- OMB Circular A-21 (J)(25)
- OMB Circular A-87 Attachment B, (22)
- OMB Circular A-122 Attachment B, (22)
- 2 CFR §200.310

Chapter 4. COST SHARING AND MATCHING

Cost-sharing or matching refers to that portion of project or program costs required by the granting agency. All contributions, including cash and in-kind including third party contributions are acceptable as part of the recipient's cost-sharing or matching when they meet the criteria established in the standard provision governing recipient contributions. Grant cost-sharing must be in conformance with applicable Federal regulations outlined in 2 CFR 200.306.

Chapter 5. PROGRAM INCOME

5.1

Introduction

This chapter compiles the applicable Federal, State and agency requirements governing program income. In the event of conflict between these standards and Federal or State statute or regulation, the Federal or State statute or regulation will apply.

Record retention and access requirements are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

5.2

General

Gross income that is directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period is program income, and shall be disbursed before requesting additional cash payments for the same program.

Program income is, “gross income received by the recipient or sub-recipient directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period.” “Grant period” refers to the time between the effective date of the award and the ending date of the award reflected in the final financial report.

According to the administrative requirements cited at the end of this section, “Recipients are encouraged to earn income to defray program costs.” However, Recipients shall disburse program income and interest earned on such funds before requesting additional cash payments for the same program. Program income includes:

- Income from fees for services performed
- Income from the use or rental of real or personal property acquired with grant funds
- Income from the sale of commodities or items fabricated under a grant agreement
- Income from payments of principal and interest on loans made with grant funds.

Except as otherwise provided in regulations of the Federal or State awarding agency (i.e., Workforce Investment Act), program income does not include:

- Interest on Federal grant funds (but see Entity and Program Specific Considerations)
- Rebates, credits, discounts, refunds, and interest earned on any of them
- Royalties and license fees for copyrighted material, patents, and inventions developed by the recipient or sub recipient unless specifically identified as program income by the grant agreement or Federal agency regulations
- Proceeds from the sale of real property or equipment (such proceeds should be handled in accordance with Chapter 11 of this manual)
- Income earned after the date of the award

Entity Specific Considerations:

Non-governmental Entities: Contractors that are non-governmental entities must remit interest earned on advances to the Granting Agency on an annual basis, so that it may be remitted to the Federal awarding agency in accordance with Federal regulations. Interest amounts of up to \$250 per year may be retained for administrative expenses.

Authority:

- 20 CFR §667.200(a)(7)
- OMB A-110 §§ __.2(x), __.22(k), and __.24(e)-(g)
- 2 CFR §200.307
- 29 CFR §97.21(i) and §97.25(a)-(b) and (e)-(f)
- 45 CFR §92.21(i) and §92.25(a)-(b) and (e)-(f)
- 7 CFR §277.10 and §3015.41

Chapter 6. BUDGET

6.1

Introduction

This chapter compiles the applicable Federal, State and Local requirements governing budgets of public funds administered by the recipient. In the event of conflict between these standards and Federal statute or regulation, the Federal statute or regulation will apply.

Record retention and access requirements are provided in Appendix E. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

6.2

Budget Development

Each recipient and sub-recipient must develop a budget that will enable it to comply with uniform administrative requirements to compare actual expenditures or outlays with budgeted amounts for each grant or sub-award.

Each recipient or sub-recipient must develop a budget for each grant or sub-award that it receives. For some Recipients (and for most Recipients' sub-recipients), the budget will be developed as part of a grant application or competitive procurement process. Other recipients, such as non-profits, receive pass-through funding allocations and must develop budgets for those funds based on the allocations that they receive. The City recommends that each sub-recipient include the following procedures for budget development:

- Identify expected revenues by contract, category and year of appropriation
- Identify expenditures by functional classification and cost category
- Develop written policies and procedures that specify the process by which the budget is developed, approved, implemented, monitored and revised
- Maintain supporting documentation for budgeted amounts

Requirements for budget submission, budget controls, and changes to the budget are discussed in Section 6.3, Section 6.4 and Section 6.5 of this chapter, respectively.

Authority:

- OMB Circular A-110 §__.21(b)(4)
- 29 CFR §97.20(b)(4)
- 45 CFR §92.20(b)(4)
- 7 CFR §3015.61(d)
- 2 CFR §200.8

6.3

Submission Requirements

A budget shall be submitted to the granting agency within the prescribed timeframes and in the prescribed formats to satisfy Federal or State law, local ordinances or contractual requirements.

Federal statute or regulation, State statute or the Granting Agency may require that a recipient or sub-recipient submit a budget or additional budget information to the Granting Agency in relation to a specific award. While some recipients or sub-recipients are not required to submit an operating budget beyond that which they submitted in response to the Granting Agency solicitation for grant applications or competitive procurements, other recipients, such as non-profits, are required by Federal statute to provide certain budget information to the Granting Agency.

Non-Profits Budget Submission Requirements. In addition to requests for changes discussed in Section 6.5 of this manual, non-profits must also comply with budget submission requirements established by Federal and State statute.

The City is required by the current General Appropriations Act to annually file an itemized budget covering its fiscal year operations (separate from the budget required by the Arkansas Administrative Code). The budget must be submitted to the State of Arkansas Legislative Audit, along with required supporting information, within 90 days following the beginning of the City's fiscal year. These required documents are discussed below. Contact information for the State of Arkansas Legislative Audit is provided in Appendix D to this manual.

- Operating Budget and Expenditures. Each City must submit its City Council-approved operating budget as described in the preceding paragraph along with:
 - Actual expenditures for the City's fiscal year just ending
 - Actual expenditures for the City's previous fiscal year

The budget must clearly distinguish between the operational costs of the City and the costs paid by the City on behalf of the City's recipients. Expense categories similar to the following must be used to identify expense items in the City's submitted operating budget:

- Personnel costs (salaries and wages)
- Personnel benefits (fringe benefits, etc.)
- Occupancy costs (rent, utilities, etc.)
- Equipment and related costs (equipment purchases, equipment rentals, maintenance, etc)
- General office expenses (telephone, data communication, supplies, etc.)
- Professional services (legal and accounting fees, monitoring services, consulting fees, professional memberships and dues, etc.)
- Travel costs (conferences, local travel, registration fees, etc.)

- Marketing costs (marketing consulting fees, media advertising, printing, etc)
- Service delivery costs (public services, etc.)

The details must provide a complete understanding of the nature and amount of the budgeted items.

Schedule of Projected Capital Expenditures. A Schedule of Projected Capital Expenditures must be submitted to Legislative Audit with the City Council-approved operating budget. Submission of the schedule does not satisfy the prior approval requirements.

Authority:

- 2 CFR §200.431
- 2 CFR §200.474

6.4 Budget Control

Actual expenditures or outlays shall be compared with budgeted amounts for each grant or sub grant.

In accordance with the administrative requirements of the Grants Management Common Rule (Common Rule) and Uniform Grant Management Standards (UGMS), all recipients shall compare actual expenditures or outlays with budgeted amounts for each grant or subaward that is funded by public funds administered by the recipient. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

Additionally, the City recommends that the following budget controls be implemented:

- Conduct budget-to-actual comparisons no less than quarterly
- Prescribe a threshold(s) above or below which budget variances will be investigated and reported, and the actions that will be taken
- Prepare and analyze budget projections on a quarterly basis; i.e., expenditure projections

A budget projection is an extension of cumulative actual operating results into the future (future anticipated expenditures), usually to the end of the entity's fiscal year and/or contract period to project possible budget shortages and surpluses.

Authority:

- OMB Circular A-110 §__.25
- 7 CFR §§3015.110–3015.116
- 29 CFR §97.30

- 45 CFR §92.30
- 2 CFR §200.308

6.5

Budget Changes & Revisions

Written Granting Agency approval must be obtained prior to making budget changes or revisions that meet applicable thresholds.

In general, recipients may change or revise budgets within their approved direct cost budgets without the prior approval of the Granting Agency when:

- Such changes are necessary to meet unanticipated requirements and make limited program changes to approved projects
- The Granting Agency does not specifically require the recipient or sub-recipient to obtain prior approval for such changes
- The changes will not require changes to the recipient or sub-recipient's contract with the Granting Agency or other documents required by the Granting Agency, such as a City plan

Specific examples of several types of budget changes follow. Recipients and sub-recipients should refer to their contract to determine if prior Granting Agency approval is required for budget changes.

Authority:

- OMB Circular A-110 §__.25
- 7 CFR §§3015.110–3015.116
- 29 CFR §97.30
- 45 CFR §92.30
- 2 CFR §200.308

Chapter 7. Cost Principles

7.1

Introduction

This chapter compiles the applicable cost principles governing the allow ability of costs, whether direct or indirect.

7.2

General Allow Ability Criteria

In order to be allowable under a Federal or State award, a cost must meet the general allow ability criteria established by the Office of Management and Budget Circulars, and/or the Uniform Grant Management Standards, as applicable.

A cost must meet the following general criteria in order to be allowable under a Federal or State award:

- Be necessary and reasonable for proper and efficient performance and administration of the award.

In determining whether a cost is reasonable, consideration must be given to:

- Whether it is a type of cost that is generally recognized as ordinary and necessary for the operation of the organization or the performance of the award
 - Restraints or requirements imposed by such factors as: sound business practices; arm's length bargaining; Federal, State, and other laws and regulations; and terms and conditions of the award
 - Market prices for comparable goods or services
 - Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its employees, the public at large, and the Federal or State government
 - Significant deviations from the established practices of the organization which may unjustifiably increase the award's cost
- Be allocable to the award under the provisions of applicable Office of Management and Budget (OMB) Circulars and the Uniform Grant Management Standards (UGMS). Where a cost or activity benefits multiple activities or programs, it must be allocated in accordance with the relative benefits received by each activity or program. Unless specifically advised by the head of the awarding agency, a cost or activity may not be charged to a Federal or State award, to which the cost is not allocable, to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the awards, or for other reasons, regardless of whether the cost would otherwise be allowable under those awards.

However, where a cost or activity is allocable to and allowable under two or more programs in accordance with the existing program agreements, a single cost objective may be established, and funded with a combination of funds made available under those programs

- Be authorized or not prohibited under State or local laws or regulations.
- Conform to any limitations or exclusions set forth in cost principles established by applicable OMB Circulars or UGMS (Part II), Federal or State laws, terms and conditions of the award, or other governing regulations as to types or amounts of cost items.
- Be consistent with policies, regulations, and procedures that apply uniformly to both Federal and/or State awards and other activities of the organization.

- Be accorded consistent treatment. A cost may not be assigned to the award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the award as an indirect cost.
- Except as otherwise provided for in the applicable OMB Circulars and UGMS (Part II), be determined in accordance with generally accepted accounting principles.
- Be the net of all applicable credits. Applicable credits, whether accruing or received, that are related to allowable costs, should be credited to the applicable award(s) as a cost reduction or cash refund, as appropriate.
- Be adequately documented. Documentation required may include, but is not limited to, travel records, time sheets, invoices, contracts, mileage records, billing records, telephone bills and other documentation that verifies the expenditure amount and appropriateness to the grant.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal or State award in either the current or prior period, except as specifically provided by Federal law or regulation.

Authority:

- OMB Circular A-21
- OMB Circular A-87
- OMB Circular A-122
- ASMB C-10 Questions 2-12 and 2-16
- 2 CFR §200.474
- 24 CFR §570.200(g)

Chapter 8. COST ALLOCATION AND RESOURCE SHARING

8.1

Introduction

Depending on organization and function, an entity may use a cost allocation plan, indirect cost rate, or both to identify and assign indirect costs to benefiting cost objectives. This chapter compiles the Federal, State and granting agency requirements that apply to cost allocation plans, as well as, the Federal requirements that apply when resource sharing is used to fund costs that are allocated among multiple entities; i.e., partners in a one-stop center. In the event of conflict between these standards and Federal statute or regulation, the Federal statute or regulation will apply.

Requirements pertaining to indirect cost rates are addressed in Chapter 10 of this manual while underlying cost principles for the general allow ability and treatment of costs.

Record retention and access requirements that apply to cost allocation plans are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

8.2

Cost Allocation Plan

The cost allocation plan must be adequately documented and must include all costs that will be claimed as allocated costs under Federal or State awards.

The cost allocation plan must include all costs that will be claimed as an allocated cost under a Federal or State award. This includes both allocated and billed costs as described in the paragraphs below. Costs that are omitted from the cost allocation plan will not be reimbursed. Documentation requirements are discussed in the remainder of this section.

Documentation. As provided in applicable cost principles, “All costs and other data used to distribute the costs in the plan should be supported by formal accounting and other records that will support the propriety of the costs assigned to Federal or State awards.” Thus, the cost allocation plan must be adequately documented. Documentation requirements are provided below, and include both general information that is required for all cost allocation plans, as well as, more specific information that is required to support allocated and billed costs.

General. The following types of information must accompany all cost allocation plans:

- An organization chart that is sufficiently detailed to show operations including the activities of the organization whether or not they are shown as benefiting from those functions being allocated
- A copy of the organization’s financial Statements for the period covered by the costs (i.e., comprehensive annual financial report, where applicable) or, a copy of the approved budget if the plan covers budgeted costs. The financial Statements are required to support the allowable costs of each activity included in the plan.
- A certification that the plan 1) was prepared in accordance with the applicable Office of Management and Budget (OMB) Circular and/or the Uniform Grant Management Standards (UGMS), 2) contains only allowable costs, and 3) was prepared in a manner that treated similar costs consistently among the various Federal or State awards and between Federal and other non-Federal awards/activities. The certification is discussed further under the subtitle Certification in this section.

If the cost allocation plan is one that must be approved by a Federal or State agency, documentation of the approval must also be maintained. Submission and approval requirements are discussed later in this section.

Allocated Costs. Certain information must be provided for every allocated cost as bulleted below. Allocated costs refer to those that are pooled and distributed to benefiting cost objectives on a reasonable basis. General accounting, personnel administration, and purchasing costs are commonly allocated. Required documentation:

- Brief description of the service
- Identification of the unit rendering the service
- Identification of the operating activities receiving the service
- Items of expense included in the cost of the service
- Method used to distribute the cost of the service to the benefited entity
- Summary schedule showing the allocation of each service to the specific benefited entity

Billed Costs. Certain information must be provided for every billed cost. Billed costs refer to those that are billed to organizations or programs on an individual fee-for-service or similar basis, such as computer services, transportation services, insurance and fringe benefits. Billed costs are common with internal service funds, self-insurance funds, and fringe benefits. Required documentation for internal service and self-insurance funds and fringe benefits follow.

- **Internal Service Funds.** For each internal service fund or similar activity with an operating budget of \$5 million or more, the cost allocation plan must include:
 - A brief description of each service
 - A balance sheet for each internal service fund based on individual account contained in the governmental unit's accounting system
 - A revenue/expense Statement, with revenues broken out by source, e.g. regular billings, interest earned, etc.
 - A listing of all non-operating transfers into and out of the fund
 - A description of the procedures (methodology) used to charge the costs of each service to users, including how billing rates are determined
 - A schedule of current rates
 - A schedule comparing total revenues (including imputed revenues) generated by the service to the allowable costs of the service as determined under the appropriate OMB Circular

The "revenues" in the required revenue/expense Statement that is listed above consists of all revenues generated by the particular service, including unbilled and uncollected amounts. If some users were not billed at the full rate for that class of users, a schedule showing the full imputed revenues associated with these users shall be provided. "Expenses" in the revenue/expense Statement shall be broken out by object cost categories, e.g. salaries, supplies, etc.

- **Self-Insurance Funds.** For each self-insurance fund, the cost allocation plan must include:

- The self-insurance fund's balance sheet
- A revenue/expense Statement that includes a summary of billings and claims paid by entity
- A listing of all non-operating transfers into and out of the fund
- The type(s) of risk(s) covered by the fund, e.g. automobile liability, workers' compensation, etc.
- An explanation of how the level of fund contributions are determined on an actuarial basis
- A description of the procedures used to charge or allocate fund contributions to benefited activities

Reserve levels in excess of claims (1) submitted and adjudicated, (2) submitted but not adjudicated, and (3) incurred but not submitted must be identified and explained.

- Fringe Benefits. The cost allocation plan must include the following for fringe benefit costs that are billed costs:
 - A listing of fringe benefits provided to covered employees, and the overall annual cost of each type of benefit
 - Current fringe benefit policies
 - Procedures used to allocate the costs of the benefits to benefited activities

In addition, for pension and post-retirement health insurance plans, the following information must be provided:

- The organization's funding policies, e.g. legislative bills, trust agreements, or State-mandated contribution rules, if different from actuarially determined rates
- The pension plan's costs accrued for the year
- The amount funded, and date(s) of funding
- A copy of the current actuarial report (including the actuarial assumptions)
- The plan trustee's report
- A schedule from the activity showing the value of the interest cost associated with late funding

Certification. An authorized official of the organization must certify that the plan has been prepared in accordance with authorizing legislation and regulations, and State or other applicable requirements. Every cost allocation plan must include a certification. A sample certification follows:

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

- All costs included in this proposal ___ [identify date] to establish cost allocations or billings for ___ [identify period covered by plan] are allowable costs in accordance with the requirements of OMB Circular A-21, A-87, or A-122, and the Federal and State awards to which they apply. Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

- All costs included in this proposal are properly allocable to Federal or State awards on the basis of a beneficial or causal relationship between the expenses incurred and the awards to which they are allocated in accordance with applicable requirements.

Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently

I declare that the foregoing is true and correct:

Organization: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution: _____

Submission and Approval. A State or local government that has been designated as a “major local government” by the Office of Management and Budget (OMB) is required to submit a cost allocation plan to its cognizant agency annually. (OMB periodically lists “major local government” designations in the Federal Register.)

Other entities must develop a plan in accordance with cost allocation plan requirements, but are not required to submit the plan to the Agency (or a Federal agency) for approval. Instead, the approval process for these entities is conducted locally in accordance with the Recipient's local policies, with a copy of the cost allocation plan and related supporting documentation being maintained and made available for monitoring review and audit. The cost allocation plan must be prepared and, when required, submitted within six months prior to the beginning of the Recipient’s fiscal year covered by the plan.

Entity Specific Consideration:

Local Governments that Negotiate an Indirect Cost Rate with the State. When these entities use both a cost allocation plan and an indirect cost rate, the cost allocation plan is usually considered in the negotiation of the indirect cost rate. Although the Local Government is responsible for negotiating the indirect cost rates of these entities, it is not required to and has not chosen to approve the cost allocation plan.

Authority:

- OMB Circular A-87 Attachment C, (A)-(G)
- 2 CFR §200.416
- 2 CFR §200.413
- 2 CFR §200.414

- 2 CFR §200.415

8.3

Allocation Methodology

The allocation methodology must be described in the cost allocation plan and be consistent with applicable cost principles and administrative requirements.

One of the required pieces of information that must be included with the cost allocation plan is the "method used to distribute the cost of the service to the benefited entity." This information will include a description of the overall approach used, as well as, the cost pools (see Section 8.4 of this manual) and allocation (distribution) bases (see Section 8.5 of this manual) used by the Recipient and Sub-

recipient.

Whatever methodology is used, it must:

- Result in an equitable distribution of indirect and/or shared costs
- Correspond to the costs being allocated
- Be efficient to use
- Be consistently applied over time
- Be consistent with Generally Accepted Accounting Principles (GAAP)
- Be consistent with applicable cost principles and administrative requirements
- Be accepted by each entity's independent auditor to satisfy the audit testing required under the Single Audit Act
- Be supported by actual cost data
- Be consistent with the overall program design and services approach

Chapter I-3 of the U.S. Department of Labor One-Stop Comprehensive Financial Management Technical Assistance Guide (One-Stop TAG) describes four examples of allocation methodologies. These methodologies are summarized below, but additional detail is available through the link provided under Authority.

Aggregate — all shared costs or indirect costs that will be allocated using a cost allocation plan are totaled. A single allocation base is chosen and applied to the total costs.

Activity Basis — the costs associated with a particular function or activity is pooled. An allocation (distribution) base is developed for each pool and applied to the respective pools. The resulting distribution of costs reflects each cost objective's share of that activity or function.

Item of Cost Basis — each item of cost is allocated to the benefiting cost objective(s) using a separate allocation (distribution) base, e.g. rental costs allocated on square footage basis or telecommunications costs allocated on a number of units used basis.

Combination Basis — costs are allocated using a combination of the above bases, for example, allocating some costs on an activity basis and others on an individual item of cost basis.

8.4

Cost Pools

Cost pools shall only contain costs that are consistently treated as indirect (or are shared) costs and which jointly benefit two or more of the same programs or other cost objectives to the same degree.

A cost pool can be used in the allocation of indirect and/or shared costs. Only actual costs may be allocated for purposes of expenditure reporting (budgeted costs may only be used for purposes of developing the budget). The costs accumulated in a cost pool must benefit the same programs to the same degree so that the distribution base used to allocate the pool will result in an equitable distribution of costs relative to the benefits received.

The U.S. Department of Labor Employment and Training Administration's One-Stop Comprehensive Financial Management Technical Assistance Guide (One-Stop TAG) lists some examples of cost pools that an organization might establish. Those pools are listed below and described in Chapter II-8 of the One-Stop TAG. The link to the One-Stop TAG is provided under Authority. Examples of cost pools include, but are not limited to:

- Administrative cost pools
- Indirect cost pools
- Intake cost pools
- Supplies expense pools

For administrative and indirect cost pools, in some cases, laws or regulations may limit the amount of administrative or indirect cost allowed. Amounts not recoverable as indirect or administrative costs less than one Federal or State award may not be shifted to another Federal or State award unless specifically authorized by Federal or State legislation or regulation. No more than 20 percent of the sum of any grant, shall be expended for planning and program administrative costs (24 CFR 570.200(g)).

Authority:

- OMB Circular A-87 Attachment A, (F)(1) and (3)
- 24 CFR §570.200 (g)
- 24 CFR §570.502 (a)(4)

8.5

Allocation (Distribution) Base

Cost pools must be allocated to benefiting cost objectives using an allowable basis that results in an equitable distribution of costs relative to benefits derived.

There is no single best base to use to allocate indirect and/or shared costs. The base will vary with organizational structure, type of cost being allocated, program design and the relationship between the base and the allocated costs. Guidelines for selecting an appropriate base(s) are provided below. Examples of allowable and unallowable bases are also provided later in this section.

Guidelines. The following guidelines are taken from the U.S. Department of Labor Employment. An acceptable base meets these criteria.

- **Minimal distortion** — The base should distribute costs in a fair and equitable manner without distorting the results. This requires that the base be as causally related as possible to the types of costs being allocated so that benefit can be measured as accurately as possible.
- **General Acceptability** — The base should be generally accepted and in conformance with Generally Accepted Accounting Principles. For example, it should be consistently applied over time. The base should also be drawn from the same period during which the costs to be allocated have been incurred.
- **Represents Actual Cost or Effort Expended** — The base should be a measure of actual cost or actual effort expended. It should not be based solely on a plan, budget, job description, or other estimates of planned activity.
- **Timely Management Control** — The base should be within management's ability to control on a timely basis. The base should produce reliable and fairly predictable results. If the base is erratic and unpredictable, beyond management's ability to control, or not timely, it is likely to produce unacceptable results.
- **Consistency with Variations in Funding** — The base must be able to accommodate and withstand changes in funding during the year and from year to year. If the base includes factors that are affected by variations in funding, it will produce distorted results.
- **Materiality of Costs Involved** — The time and expense spent in developing the base should not be greater than justified by the materiality of the costs to be allocated. In other words, the recipient should not spend more on obtaining the information needed to allocate pooled costs than the dollars in the pool warrant. The base should be sufficiently detailed to provide the most equitable and accurate allocation possible. At the same time, the base should be simple enough to be efficient while still attaining a fair distribution of costs.
- **Practicality and Cost of Using the Base** — The base should be as efficient as possible in terms of the cost or effort in developing it. Thus, wherever possible, a database that already exists in the financial or participant record keeping and reporting systems should be used rather than create a separate database to be used only for allocating costs.

Possible Allocation Bases. The following bases have been suggested in guidance provided by the U.S. Department of Health and Human Services (DHHS) Assistant Secretary for Management and Budget (ASMB) guide, ASMB C-10. (ASMB C-10 is the implementation guide for OMB Circular A-87.) These are suggestions only. A base that is listed below should

not be used if it will result in an inequitable cost distribution or would be inconsistent with other requirements and guidance provided in this chapter.

| Cost or Activity | Sample Allocation Base(s) |
|---|--|
| Accounting | Number of transactions; direct labor hours; allowable survey methods |
| Auditing | Direct audit hours; expenditures audited |
| Consumable supplies | Total direct costs; direct labor hours |
| Counselor | Direct labor hours; number of participants counseled |
| Data processing | System usage; direct labor hours |
| Disbursing service | Number of checks issued; direct labor hours |
| Fidelity bond | Number of bonded employees |
| Freight | Number of items shipped; cost of goods |
| Health services | Number of employees |
| Intake | Number of eligible participants; current period enrollments |
| Legal services | Direct hours |
| Motor pool costs | Miles driven; days used |
| Office machines and equipment maintenance | Direct machine hours; direct labor hours |
| Office space | Square feet of space occupied; staff salary distribution |
| Payroll services | Number of employees |
| Personnel services | Number of employees |
| Postage | Direct usage; acceptable survey methods |
| Printing/reproduction | Direct labor hours; job basis; pages printed |
| Procurement service | Number of transactions processed; direct hours of purchasing |

| Cost or Activity | Sample Allocation Base(s) |
|----------------------------------|--|
| | agent's time |
| Retirement system administration | Payroll; number of employees contributing |
| Telephone | Number of instruments; staff salary distribution |
| Travel | Mileage; actual expenses; direct labor hours |
| Utilities | Square feet of space occupied; staff salary distribution |

Unacceptable Allocation Bases. Unacceptable allocation bases are generally those that do not meet the general guidelines discussed in this section. Unacceptable bases are those that:

- Distort the final results
- Do not represent actual effort or cost expended
- Are not used consistently over time and with variations in funding
- Do not have an integral relationship to the types of costs being allocated

Examples of unacceptable allocation bases include, but are not limited to, the use of:

- Relative funds available to allocate unassigned direct costs
- Job descriptions to allocate staff costs
- Fixed or predetermined number of staff hours assigned to an activity to allocate staff costs
- Planned participant levels to allocate participant-related costs
- Results from prior periods to allocate current period costs (because they do not measure actual activity or cost)

Authority:

- OMB Circular A-87 Attachment A, (F)(1)
- ASMB C-10, §4.6.2
- 2 CFR §200.412

8.6

Adjustments

Adjustments to allocated and billed services under a negotiated agreement must be performed in accordance with applicable requirements.

The requirements for conducting carry forward adjustments of allocated central services costs, and adjustments of billed central services costs are discussed in this section.

Carry-forward Adjustments of Allocated Central Service Costs. Allocated central service costs are usually negotiated and approved for a future fiscal year on a "fixed with carry-forward" basis. Under this procedure, the fixed amounts for the future year covered by agreement are not subject to adjustment for that year. However, when the actual costs of the year involved become known, the differences between the fixed amounts previously approved and the actual costs will be carried forward and used as an adjustment to the fixed amounts established for a later year. This "carry-forward" procedure applies to all services whose costs were fixed in the approved plan. However, a carry-forward adjustment is not permitted, for a service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately.

Adjustments of Billed Central Services. Billing rates used to charge Federal awards must be based on the estimated costs of providing the services, including an estimate of the allocable service costs. A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the services will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. These adjustments will be made through one of the following adjustment methods: (a) a cash refund to the Federal government for the Federal share of the adjustment; b) credits to the amounts charged to the individual programs; (c) adjustments to future billing rates; or (d) adjustment to allocated central service costs. Adjustments to allocated central services will not be permitted where the total amount of the adjustment for a particular service share exceeds \$500,000.

Authority:

- OMB Circular A-87 Attachment C, (G)(3) and (G)(4)
- 2 CFR §200.420

Chapter 9. INDIRECT COST RATES

9.1

Introduction

Depending on organization and function, an entity may use a cost allocation plan, indirect cost rate, or both to identify and assign indirect costs to benefiting cost objectives. This chapter compiles the applicable Federal, State and Local requirements that apply to indirect cost rates. In the event of conflict between these standards and Federal statute or regulation, Federal statute or regulation will apply.

Requirements pertaining to cost allocation plans are addressed in Chapter 8 of this manual while underlying cost principles for the general allow ability and treatment of costs are discussed in Chapter 8 of this manual.

Record retention and access requirements that apply to cost allocation plans are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

9.2

Simplified Method

The simplified method is appropriate when an entity has only one major function, where its level of Federal funding is relatively small, or where all of its major functions benefit from its indirect costs to approximately the same degree.

When using an indirect cost rate, an organization's indirect costs are generally distributed using one of three basic methods: 1) the simplified method, which is discussed in this section, 2) the multiple rate method (Chapter 7) or 3) the direct allocation method (Chapter 8).

Under the simplified method, indirect costs are distributed to individual awards by applying the same single indirect cost rate to an equitable distribution base for each award. Governmental entities, educational institutions that receive less than \$10 million in Federal funding of direct costs in a fiscal year, and non-profit organizations may use the simplified method. The general guidelines for calculating the indirect cost rate under the simplified method follows.

- Identify the organization's total costs regardless of the source of funds.
- Classify the total costs for the base period as direct or indirect costs. Exclude the following direct costs and indirect costs from the classification:
 - Direct costs — exclude flow-through funds and capital expenditures. Compute and add use allowances. Identify and exclude unallowable costs.
 - Indirect costs — exclude unallowable costs, capital expenditures, and any indirect costs that were directly reimbursed through a Federal or State award. Compute and add use allowances to the pool along with any cost allocation plan allocations.
- Pool indirect costs and select an equitable distribution base.
 - For educational institutions, the base may be direct salaries and wages or modified total direct costs.
 - For governmental entities and non-profit organizations, the base may be (1) total direct costs (excluding capital expenditures and other distorting items such as flow-through funds, major subcontracts that exceed \$25,000, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution. The base generally excludes participant support costs.

Once the distribution base is selected, any unallowable costs that are the same type as those included in the distribution base, but were excluded from direct costs, should be included in the distribution base if they generate overhead or benefit from indirect costs. For example, if direct salaries and wages for an unallowable activity were excluded from direct costs and the distribution base for allocating indirect costs is direct salaries and wages, the unallowable direct salaries and wages costs should be included in the distribution base. However, if the distribution base is one that does not include direct salaries and wages, then unallowable direct salaries and wages should not be included in the base.

While the unallowable costs should be included in the distribution base for purposes of calculating the indirect cost rate, neither the unallowable cost nor the indirect cost associated with it may be recovered and/or reimbursed.

- Divide the total allowable indirect costs (net of applicable credits) by the distribution base to arrive at the overall indirect cost rate (expressed as a percentage). For non-profit organizations that receive more than \$10 million in Federal funding of direct costs in a fiscal year and for educational institutions, the indirect cost rate must also be calculated in terms of the organization's "Facilities" and "Administration" (F&A) indirect cost categories. To calculate the F&A rates, divide the total costs in each of the two indirect cost categories by the distribution base and express the resulting rate as a percentage of the base.
- Apply the indirect cost rate to the distribution base for each award to identify the portion of indirect costs that are allocable to it. The same distribution base is used for each award.

A Sample Indirect Cost Rate Proposal using the Simplified Method is shown in Illustration 6-1 of ASMB C-10, which is the implementation guide for Office of Management and Budget (OMB) Circular A-87 that was issued by the Assistant Secretary for Management and Budget (ASMB) for the U.S. Department of Health and Human Services.

Authority:

- OMB Circular A-87 Attachment E, (C)(1)(a) and (C)(2)
- ASMB C-10, §6.2.3
- 2 CFR §200.416
- 2 CFR §200.417

9.3

Multiple Rate Method

The multiple rate method is appropriate when an entity has several major functions that benefit from its indirect costs in varying degrees.

When using an indirect cost rate, an organization's indirect costs are generally distributed using one of three basic methods: 1) the simplified method (9 of this manual), 2) the multiple rate method which is discussed in this section, or 3) the direct allocation method Section 8 of this manual).

Under the multiple rate method, each award is assigned to one of the organization's major functions. A separate indirect cost rate is developed for each function and applied to all awards within that function. Governmental entities, non-profit organizations, and educational institutions may use the multiple rate method. General guidelines for calculating the indirect cost rates under the multiple rate method follow.

- Identify the organization's total costs regardless of funding source.
- Classify total costs for the base period as direct or indirect costs. Exclude the following direct costs and indirect costs from the classification:
 - Direct costs — exclude flow-through funds, capital expenditures, and unallowable direct costs. Compute and add use allowances.
 - Indirect costs — exclude unallowable costs, capital expenditures, and any indirect costs that were directly reimbursed through a Federal or State award. Compute and add any use allowances and cost allocation plan allocations.
- Pool indirect costs into separate cost grouping. Each cost grouping should consist of a pool of costs that are similar in terms of the major functions that they benefit, and that are measurable by the same distribution base. The number and type of these cost groupings should be kept within practical limits.

Non-profit organizations that receive more than \$10 million in Federal funding of direct costs in a fiscal year and educational institutions must categorize cost groupings between two indirect cost categories: "Facilities" and "Administration" (F&A). These cost groupings are more specifically defined in Appendices F (for non-profit organizations) and F (for educational institutions), respectively.

- Select an equitable distribution base for each cost grouping, taking actual conditions into account. The distribution bases for non-profit organizations and educational institutions are more specifically defined (see Appendices F). Consideration should be given to whether the base is best suited for: assigning costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason (where neither benefit nor cause and effect relationship can be determined).

Governmental entities may use any appropriate and acceptable cost element or related factor associated with the organization's activities provided that:

- It can readily be expressed in terms of dollars or other quantitative measures, e.g., total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, etc.
- It is common to the benefited functions during the base period

Once the distribution base is selected, any unallowable costs that are the same type as those included in the distribution base, but were excluded from direct costs should be included in the distribution base if they generate overhead or benefit from indirect costs. For example, if direct salaries and wages for an unallowable activity were excluded from direct costs and the distribution base for allocating indirect costs is direct salaries and wages, the unallowable direct salaries and wages costs should be included in the distribution base. However, if the distribution base is one that does not include direct salaries and wages, the unallowable direct salaries and wages would not be included in the base.

While the unallowable costs should be included in the distribution base for purposes of calculating the indirect cost rate, neither the unallowable cost nor the indirect cost associated with it may be recovered and/or reimbursed.

- Identify the organization’s major functions, and create a separate indirect cost pool for each function. Allocate the cost groupings to each function using the selected distribution bases. Allocate the cost groupings of non-profit and educational institutions to the major functions in the order prescribed by the applicable Office of Management and Budget (OMB) Circulars (see Appendices F). Aggregate the allocated indirect costs for each function in their respective indirect cost pool.
- Identify an equitable distribution base that will be used to distribute the functions’ indirect cost pools to the respective awards within each function.
 - Governmental entities must distribute the cost pools using (1) total direct costs (excluding capital expenditures and other distorting items such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.
 - Non-profit organizations and educational institutions must distribute the cost pools using modified total direct costs (see Appendices F).
- Establish a separate indirect cost rate for each major function by dividing the indirect costs in each indirect cost pool by the distribution base. Non-profit organizations and educational institutions must also express the indirect cost rate in terms of “Facilities” and “Administration” indirect cost categories (see Appendices F). The rate must be expressed as a percentage of the respective distribution base
- Apply the indirect cost rate established for each function to all awards within that function.

A Sample Indirect Cost Rate Proposal using the Multiple Rate Method is shown in Illustration 6-3 of ASMB C-10, which is the implementation guide for OMB Circular A-87 that was issued by the Assistant Secretary for Management and Budget (ASMB) for the U.S. Department of Health and Human Services.

Authority:

- OMB Circular A-87 Attachment E, (A)(3)
- ASMB C-10, §6.2.4
- 2 CFR §200.416

- 2 CFR §200.417

9.4

Direct Allocation Method

The direct allocation method is appropriate for use by non-profit organizations provided that each indirect cost is prorated using a base that accurately measures the benefits provided to each award or other activity.

When using an indirect cost rate, an organization's indirect costs are generally distributed using one of three basic methods: 1) the simplified method, Chapter 9 of this manual, 2) the multiple rate method Chapter 9 of this manual, or 3) the direct allocation method, which is discussed in this section.

Under the direct allocation method, organizations generally separate costs into three categories: (i) general administration and general expenses, (ii) fundraising, or (iii) other direct functions (including projects performed under Federal awards). Only general administration and general expenses are treated as indirect costs and are distributed in the same manner used for the simplified method (Chapter 10 of this manual). All other costs are charged directly to the benefiting cost objective. Any joint costs are individually prorated to the benefiting cost objectives using bases that: accurately measure the benefits provided to each award; are established in accordance with reasonable criteria; and are supported by current data.

Authority:

- OMB Circular A-122 Attachment A, (D)(4)
- 2 CFR §200.412
- 2 CFR §200.413
- 2 CFR §200.414

9.5

Special Indirect Cost Rates

It is appropriate to make provisions for a separate indirect cost rate that is only applicable to a specific award when that particular award is carried out in an environment that appears to generate a significantly different level of indirect costs.

A special indirect cost rate should be established when additional factors exist that substantially affect the distribution of indirect costs to an award. Such factors include:

- Physical location of the work
- The level of administrative support required

- The nature of the facilities or other resources employed
- The organizational arrangements used
- Any combination thereof

When these factors exist, a separate indirect cost pool and indirect cost rate should be established and used for the affected award provided that:

- The special rate differs significantly from the rate that would have been developed under the simplified or multiple rate methods
- The award to which the rate applies is material in amount

When a special indirect cost rate is developed, that rate is only used to distribute costs to the particular award to which it relates. The rates developed under the simplified, multiple rate, or direct allocation methods are used to allocate indirect costs to all other awards.

Restricted Rates. A restricted rate is a special rate needed when Federal or State statutes restrict the reimbursement of certain indirect costs. It is developed using the same methods as are used for developing non-restricted rates, except that the prohibited costs are eliminated from the indirect cost pool. Like other rates, a restricted rate should be developed during the course of the regular allocation process.

Authority:

- OMB Circular A-87 Attachment E, (C)(4)
- 2 CFR §200.416
- 2 CFR §200.417

9.6

Negotiation

All entities desiring to claim indirect costs under Federal or State awards using an indirect cost rate must either have an approved indirect cost rate, or maintain the indirect cost proposal and supporting documentation for review, as required.

An entity, such as a governmental entity, Indian tribal government, educational institution, or non-profit organization that intends to claim indirect costs under Federal awards or sub awards must negotiate an indirect cost rate with its cognizant agency as required by that agency. If the cognizant agency does not require the entity to negotiate its rate, the entity must prepare an indirect cost rate proposal in accordance with the requirements of this chapter and retain the proposal and supporting documentation for audit purposes. A governmental entity whose indirect cost rate is not approved by the cognizant agency may be required, at the discretion of the entity's designated State Single Audit Coordinating Agency (SSACA), to negotiate an indirect cost rate with that SSACA prior to claiming indirect costs under State awards or sub awards. If

the entity is a local government and only receives Federal or State funds as a sub-recipient, the primary recipient must negotiate and/or monitor the sub-recipient's indirect cost rate plan.

Submission Deadlines. Submission deadlines vary according to the type of entity, and in some cases, type of indirect cost rate proposal being submitted. When a governmental entity is required to negotiate its indirect cost rate with its cognizant agency or SSACA, the entity must submit its indirect cost rate proposal to the agency within six months after the close of the entity's fiscal year. Non-profit organizations that have previously established an indirect cost rate must comply with the same six-month deadline. However, if the non-profit organization has not previously established an indirect cost rate, the entity must submit its initial proposal to the cognizant agency immediately upon being advised that an award will be made, and no later than three months after the effective date of the award.

Types of Rates. An entity may claim indirect costs using a predetermined, fixed, or provisional with final rate. Educational institutions may also claim indirect costs under a negotiated lump sum amount, but must still comply with administrative limitations provided in OMB Circular A-21 (See Entity Specific Considerations – Educational Institutions at the end of this section).

Agreement. When an indirect cost rate is negotiated between a governmental entity or non-profit organization, and a cognizant agency or SSACA, the results are formalized in a written agreement. The cognizant agency for educational institutions formalizes all determinations or agreements and provides copies to other interested agencies.

Rate Changes. If the period of performance for an award extends beyond the applicability of the approved rate and the entity is a governmental entity, it must apply the rate to the expenditures incurred during the applicable fiscal year. Consistent accounting treatment should be maintained in accordance to the organization's normal procedures of expenditure recognition. If the entity is an educational institution; however, it must use the rate in effect at the time of the initial award for the life of the award.

Entity Specific Considerations:

Non-Profit Organizations. A fixed rate must not be negotiated if: 1) all or a substantial portion of the organization's awards are expected to expire before the carry-forward adjustment can be made; 2) the mix of Federal and non-Federal work at the organization is too erratic to permit an equitable carry-forward adjustment; or 3) the organization's operations fluctuate significantly from year to year.

Educational Institutions. Additional provisions relating to a lump sum for indirect costs, administrative limitations, and fixed allowances for administration costs follow.

Lump Sum. A lump sum amount may be negotiated in lieu of an indirect cost rate when the indirect costs are associated with self-contained, off-campus, or primarily subcontracted activities where the benefit cannot be directly determined. The costs will be treated as an offset before allocation to applicable institutional activities. The base on which the remaining expenses are allocated should be appropriately adjusted.

Administrative Limitations. Indirect costs must be classified within two categories: “Facilities” and “Administration,” and the indirect cost rate must be expressed in terms of each component. The amount of the “Administration” category may not exceed 26% of modified total direct costs.

Fixed Allowance. A fixed allowance for “Administration” costs may be claimed in lieu of developing a separate “Administration” indirect cost rate. The allowance may be the lesser of 24% of the modified total direct costs, or a percentage equal to 95% of the most recently negotiated fixed or predetermined rate for the cost pools included under the “Administration” category. If the fixed allowance is used no additional “Administration” charges may be claimed under the award. When a fixed allowance is used, a detailed analysis of administrative costs is not required. However, the indirect cost proposal must be reconciled with the entity’s financial Statements in order to compute the “Facilities” component of its indirect cost rate.

Authority:

- OMB Circular A-87 Attachment E, (B)(5)-(8), (D)(1)(a)-(d), and (E)(1)-(3)
- ASMB C-10 §§6.2.1 and 6.6.3
- OMB Circular A-122 Attachment A, (E)(1)(c)-(d) and (E)(2)(a)-(g)
- OMB Circular A-21 (G)(3)-(9), (11)(a), and (11)(g)
- 2 CFR §200.416 thru §200.419

9.7

Documentation

Adequate documentation, including the indirect cost rate proposal, subsidiary worksheets, and other relevant data must be maintained and made available upon request.

Documentation and certification must be submitted to the governmental entity’s cognizant agency or State Single Audit Coordinating Agency (SSACA) (see Chapter 9 of this manual) in support of its indirect cost proposal. If the entity is not required to obtain an approved indirect cost rate, the documentation and certification must be maintained on file for review. The following documentation is required:

- The rates proposed, including subsidiary work sheets and other relevant data, cross referenced and reconciled to the financial data required by the following bullet. Allocated costs will be supported by the summary table included in the approved cost allocation plan. The summary table is not required if the cost allocation plan for the same fiscal year has been approved by the cognizant agency that is negotiating the indirect cost rate, and is available to the funding agency.
- A copy of the financial data (financial Statements, comprehensive annual financial report, executive budgets, accounting reports, etc.) upon which the rate is based. Adjustments resulting from the use of unaudited data will be recognized, where appropriate, by the Federal cognizant agency in a subsequent proposal.

- The approximate amount of direct base costs incurred under Federal awards. These costs should be broken out between salaries and wages and other direct costs.
- A chart showing the organizational structure of the agency during the period for which the proposal applies, along with a functional Statement(s) noting the duties and/or responsibilities of all units that comprise the agency. (Once this is submitted, only revisions need be submitted with subsequent proposals.)

Each indirect cost rate proposal shall be accompanied by a certification of indirect costs. For entities subject to the U.S. Department of Health and Human Services the certification must be signed by the entity’s chief financial officer (or equivalent) and the entity’s chief administrative officer. Otherwise, only one signature is required.

A sample certification follows:

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

- All costs included in this proposal ___ [identify date] to establish billing or final indirect cost rates for ___ [identify period covered by rate] are allowable costs in accordance with the requirements of the Federal award(s) to which they apply, and OMB Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments” (or OMB Circular A-122, “Cost Principles for Non-Profit Organizations” or OMB Circular A-21 “Cost Principles for Educational Institutions”). Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.
- All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements.

Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct:

Governmental Unit: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution:: _____

Entity Specific Considerations:

Educational Institutions and Non-Profit Organizations. OMB Circulars A-21 and A-122, respectively, do not impose specific documentation or certification requirements for indirect cost rate proposals.

Authority:

- OMB Circular A-87 Attachment E, (D)(2)-(3)
- 2 CFR §200.416
- 2 CFR §200.417

9.8

Refunds

Unallowable and over recovered indirect costs must be refunded or returned to the Granting Agency through an indirect cost rate adjustment.

Regardless of the type of rate that was negotiated, a refund (including interest chargeable in accordance with applicable Federal agency regulations) may be due to the Granting Agency if the proposal is found to include unallowable costs or if there was an over recovery of indirect costs that cannot be carried forward. Costs may be found unallowable: 1) as specified by law or regulation; 2) as identified in Office of Management and Budget (OMB) Circulars; 3) by the terms and conditions of Federal awards; or 4) because they are clearly not allocable to Federal awards.

Entity Specific Considerations:

Non-profit Organizations. OMB Circular A-122 does not address refunds relating to an entity's indirect cost rate.

Educational Institutions. The amount or proportion of unallowable costs included in each year's rate will be assumed to be the same as the amount or proportion of unallowable costs included in the base year proposal used to establish the rate. An adjustment or refund may be used to recoup unallowable indirect costs depending on the period of time covered by the indirect cost rate.

- Future fiscal year – the unallowable costs will be removed from the indirect cost pools and the rates adjusted.
- Past period – the Federal share of the unallowable costs will be computed and recouped by a cash refund (including interest). Provisional or fixed rates will be adjusted when finalized to avoid duplicate recovery of by the Federal government.

- Current period – a rate adjustment or a refund will be required at the cognizant agency’s discretion.

Authority:

- OMB Circular A-87 Attachment E, (E)(4) and (F)(5)
- OMB Circular A-21 (C)(9)
- 2 CFR §200.412 thru §200.415

Chapter 10. PROPERTY

10.1

Introduction

Each recipient and/or sub-recipient must develop and maintain a property accounting system that accounts for all property in accordance with established property standards. This chapter compiles the applicable Federal, State and Local requirements governing the acquisition, management and disposition of property acquired by a recipient using funds administered by the Granting Agency. In the event of conflict between these standards and Federal statute or regulations, the Federal statute or regulation will apply.

In addition to the property management and disposition requirements in this chapter, recipients and subrecipients must comply with appropriate procurement and record retention standards discussed in this manual.

10.2

Vesting of Title

Title to property will vest in the recipient or sub-recipient that acquired the property, subject to the recipient's compliance with applicable property requirements.

Title to property acquired by a recipient or sub-recipient under a Federally sponsored award will vest in the recipient or sub-recipient as long as the recipient or sub-recipient uses the property for the authorized purpose, and complies with the applicable acquisition, management, and disposition Authorities listed below. This applies to the following:

- Real property
- Equipment and other non-expendable property
- Supplies and other expendable property
- Intangible property

Authority:

Real Property:

- OMB Circular A-110 §__.32(a)
- 29 CFR §97.31(a)
- 45 CFR §92.31(a)
- 7 CFR §3015.162
- 24 CFR §570.505
- 2 CFR §200.311
- 2 CFR §200.329

Equipment:

- OMB Circular A-110 §__.34(a)
- 29 CFR §97.32(a)
- 45 CFR §92.32(a)
- 7 CFR §3015.162
- 2 CFR §200.313

Supplies:

- OMB Circular A-110 §__.35(a)
- 29 CFR §97.33(a)
- 45 CFR §92.33(a)
- 7 CFR §3015.162
- 2 CFR §200.314

Intangible Property:

- OMB Circular A-110 §__.36(e)
- 2 CFR §200.315

10.3

Property Control Officer

A property control officer must be designated when specifically required by contract, program or administrative requirement. It is recommended to all other recipients and sub-recipients.

Local government, and other recipients and sub-recipients that are specifically required by a contract, program or administrative requirement, must designate a Property Control Officer. Other sub-recipients are also encouraged, but not required, to designate a Property

Control Officer. The Granting Agency-City Council Agreement requires that the Property Control Officer:

- Maintain control of all acquired real and non-expendable property
- Ensure that a physical inventory is conducted
- Coordinate with the Local Government to conduct an annual physical inventory of any Granting Agency loaned City or State property in the sub-recipient's possession

In addition, the Property Control Officer is generally the individual that an organization assigns responsibility for maintaining property records and for corresponding with the recipient regarding prior approval requirements for property acquisition and disposition. The Property Control Officer generally oversees the conduct of physical inventories and any investigation of missing property.

10.4

Acquisition & Use of Real Property

Real property shall only be acquired when allowable, and with the prior written approval of the Agency. If acquired, real property must be used for the originally authorized purpose as long as needed.

Prior written approval must be obtained from the City Council before purchasing real property. Prior written approval must be requested by completing resolution and submitting it through Legistar to obtain the Mayor's signature as the City's designated authorizing official. Approval is valid after issuance of the approved resolution by the City Council. Final acquisition of the property must not occur prior to City Council's approval.

Resolutions and/or ordinances are required regardless of the unit acquisition cost (UAC) or fair market value (FMV) of the real property, and must be submitted to the City Council even if the property that is being acquired is replacement property. Sub-recipients must submit request through recipients for City Council approval.

Once acquired, real property must be used for the originally authorized purpose as long as it is needed for that purpose, and neither it nor its interests may be disposed of or encumbered during that time. When no longer needed for the originally authorized purpose, real property must be disposed of in accordance with the requirements in Section 13.4 of this manual. However, property subject to Office of Management and Budget Circular A-110 and 2 CFR §200.311 may be used in other programs if prior written approval is obtained from the Granting Agency. Prior written approval may be obtained by written request to the City's grant administrator. In these cases, use in other projects is limited to other federally sponsored programs, or programs whose purposes are consistent with those of the legislature under which the original award was made.

Authority:

- 20 CFR §667.260
- 45 CFR §98.54(b)
- OMB Circular A-110 §__.32(a)-(b)
- 29 CFR §97.31(b)
- 45 CFR §92.31(b)
- 7 CFR §3015.163(a)-(b)
- 2 CFR §200.311
- 2 CFR §200.329
- Ark. Code Ann. §14-54-302
- *Code 2006*, §2.24.03

10.5

Disposition of Real Property

When no longer needed, real property must be disposed of in accordance with written instructions that have been requested from and provided by the Granting Agency or City.

Real property may only be disposed of when it is no longer needed for an authorized purpose. Prior written approval must be obtained from the Granting Agency before disposing of real property. Prior written approval must be requested by resolution and submitting it by Legistar to receive the Mayor's signature as the City's designated authorizing official. The Recipient must dispose of real property that is no longer needed in accordance with the written instructions issued by the Granting Agency and City Council. No later than 30 days after final disposition, a bill of sale must be submitted to the City's Grants Department for record keeping purposes.

Resolutions and/or ordinances are required regardless of the unit acquisition cost (UAC) or fair market value (FMV) of the real property, and must be submitted to the City or Granting Agency even if the property will be used to acquire replacement property. Sub-recipients must submit documentation through the recipient.

Disposition. The Granting Agency and City Council will generally instruct the recipient or sub-recipient to dispose of the property in one of three ways:

Retain Title – The recipient or sub-recipient retains title and compensates the funding source for its equity share of the property's current FMV. Compensation may be provided as an offset to expenditures on the expenditure report if the contract is active, or by check or money order if the contract is closed. If the property will be retained and used to acquire replacement property under the same program, the net proceeds from the disposition may be used to offset the cost of the replacement property.

Sell – The recipient or sub-recipient sells the property, obtaining the highest possible return, and compensates the funding source for its equity share in the property's net sale proceeds. Compensation may be provided as an offset to expenditures on the expenditure report if the contract is active, or by check or money order if the contract is closed. If sold, the recipient or

sub-recipient must have sales procedures that provide for competition to the extent practicable and for obtaining the highest possible return.

Transfer Title – The recipient or sub-recipient will transfer title to the awarding agency, or to a third party, that is either designated or approved by the awarding agency. Any funding source that contributed to the acquisition of the property must be compensated for its equity share in the property's current FMV.

Disposition and Replacement Property:

- OMB Circular A-110 §__.32(c)
- 29 CFR §97.31(c)
- 45 CFR §92.31(c)
- 7 CFR §3015.163(c)
- 2 CFR §200.333

Program Income:

- OMB Circular A-110 §__.24(g)
- 29 CFR §97.25(f)
- 45 CFR §92.25(f)
- 7 CFR §3015.42
- 2 CFR §200.307
- 24 CFR §570.504

10.6

Acquisition & Use of Equipment

Equipment shall only be acquired with the prior approval of the Granting Agency or the City. Equipment acquired with Federal or State funds must be used for an authorized purpose as long as needed, in accordance with applicable administrative requirements.

The Federal or State government has an interest in equipment that was acquired with Federal or State funds, respectively. As long as the Federal or State government retains an interest, equipment that was purchased using Federal or State funds may not be used to provide services for a fee that is less than private companies normally charge for equivalent services unless specifically authorized by Federal or State statute. The Federal or State government will retain an interest in the property until such time as it expressly releases its interest or the property is disposed and the government is compensated for its equity share in the property. Other requirements for equipment use follow.

Use for the Originally Authorized Purpose. Once acquired, equipment must be used for the originally authorized purpose(s) as long as needed, even if Federal support is

discontinued. While needed for the originally authorized purpose, the equipment may not be encumbered for any other use.

Available for Use by Other Programs/Shared Use. If the equipment is used in the originally authorized program less than full-time, it must be made available to other programs as long as:

- Use by other programs will not interfere with using the equipment for its originally authorized purpose
- First preference is given to activities that are sponsored by the same Federal agency as the source that funded the equipment acquisition
- Second preference is given to activities that are sponsored by other Federal agencies* (*Note: second preference applies to nongovernmental entities only.)

User fees are generally appropriate when equipment is made available to other programs. User fees must be treated as program income.

Use for Other Programs. When equipment is no longer needed for the originally authorized purpose, it may be used for other activities that either are currently or were previously supported by a Federal agency. See considerations for nongovernmental entities and for the Food Stamp Employment and Training program for requirements regarding the order of priority. Other Recipients should follow their organizations' policies regarding order of priority when using equipment for other programs.

Entity Specific Consideration:

Nongovernmental Entities. Regarding the order of priority when equipment is no longer needed for the authorized purpose but can be used in other programs, nongovernmental entities are required under Office of Management and Budget Circular A-110 to give first preference for the use of equipment to activities that are sponsored by the same Federal agency as the award that was originally used to acquire the equipment. Second preference must be given to activities sponsored by other Federal awarding agencies.

Authority:

Use:

- 7 CFR § 277.13(b)(2)(i)-(ii) and (e)(2)
- OMB Circular A-110 § __.34(c)-(d)
- 29 CFR §97.32(c)(1)-(2)
- 45 CFR §92.32(c)(1)-(2)
- 7 CFR §3015.166
- 2 CFR §200.313
- 2 CFR §200.320
- ORD-11:054

Unfair Competition:

- OMB Circular A-110 §__.34(b)
- 29 CFR §97.32(c)(3)
- 45 CFR §92.32(c)(3)
- 2 CFR §200.319
- ORD-11:054

10.7

Property Records

Property records that meet or exceed the minimum standards established by applicable administrative requirements must be maintained for all equipment that was acquired in whole or in part with Federal or State funds until such time as transfer, replacement or disposal occurs.

Property records for equipment must meet the minimum standards below. Each organization should assign responsibility for maintaining current and accurate property records to a specific individual, such as a Property Control Officer. Section 13.2 of this manual provides additional information on the duties of the Property Control Officer.

Property Description. Each item of equipment should be described in terms of the unique characteristics of that particular item of property. The property description of equipment acquired with Federal funds is expressly required by regulation to include the manufacturer's serial number.

Identification Number. Each item of equipment must be identifiable in the property records by an identification number; i.e., a manufacturer's serial number, Federal or national stock number, model number, or other identification number. If the Recipient or Sub-recipient uses a method such as tagging, the tag number should be readily visible and difficult to remove without considerable or intentional means, and it should not be reused, even if a property item has been deleted from the inventory.

Funding Source. All funding sources used to acquire the equipment must be identified in the property records. Non-governmental entities must also include the Federal award number, where applicable.

Titleholder. With the exception of property purchased with a specific Federal Agency funds, property records for equipment purchased in whole or in part with any Federal or State funds must identify the entity that holds title to the equipment.

Acquisition Date and Cost. The property records must include the equipment's acquisition date and acquisition cost.

Percentage of Federal or State Participation in the Cost of the Property. Except for property that was purchased by a nongovernmental entity or with a specific Federal Agency funds, the percentage share of the acquisition cost of equipment that was paid under a Federal or State

award must be included in the property records. Property records for property that was purchased by a nongovernmental entity or with a specific Federal Agency funds are not required to include the percentage, but must at a minimum; include information that can be used to calculate the percentage of participation.

Location, Use and Property Condition. Except for property that was purchased by a nongovernmental entity, the location, use and condition of the property must be included in the property records. Nongovernmental entities are required to include location and condition, but not use. Additionally, the property records for a specific Federal Agency property must include the location, use and condition of the property, as well as, the date that such information was reported. Location refers to the physical location of the property. Use refers to whether or not the item of property is being actively used for an authorized purpose. Condition refers to the condition of the property, such as, excellent, good, fair or poor.

Disposition Data. The property records must include data that is relevant to the ultimate disposition of the equipment, including the date of transfer, replacement or disposal of the property; and the sale price, trade-in value, or current per unit fair market value, as applicable.

Entity Specific Considerations:

Non-governmental Entities. See Funding Source, Percentage of Federal or State Participation in the Cost of the Property and Location, Use and Property Condition above.

Authority:

- 7 CFR §277.13(d)(1)
- OMB Circular A-110 §__.34(f)(1)
- 29 CFR §97.32(d)(1)
- 45 CFR §92.32(d)(1)
- 7 CFR §3015.169(a)
- 24 CFR §570.505
- 24 CFR §570.506
- 2 CFR §200.312
- ORD-55:2032

10.8

Physical Inventory

An annual physical inventory must be conducted and reconciled with property records for equipment that was purchased in whole or in part with Federal or State funds.

A physical inventory of equipment that was purchased in whole or part with Federal or State funds must be taken annually, and the results must be reconciled with property and accounting records. See Entity and Program Specific Considerations below regarding requirements that are unique to recipient, sub-recipient entities and equipment acquired using a specific Federal Agency Funds.

In order to maintain sufficient internal control over property, the individual assigned to conduct the inventory should have no responsibilities for entering or reporting of the property. For this reason, the Property Control Officer should ensure that the required inventory is performed, but should generally not be the individual that conducts the physical inventory. Controls are further improved when a team of two or more individuals conducts the physical inventory.

Interim Inventories. While a physical inventory is required at least annually, Recipients and subrecipients may also conduct interim inventories. Recipients and subrecipients may use sampling techniques, such as statistical or dollar sampling when conducting interim inventories, but are discouraged from using such techniques when conducting the required annual inventory.

Entity Specific Considerations:

Non-governmental Entities. Regulations applicable to nongovernmental entities specifically require that the existence, current use, and continued need for the property be verified during the annual physical inventory. The same regulations are also specific in that any differences between the quantities determined in the physical inventory and those in the accounting records must be investigated to determine the cause of the differences.

Authority:

- 7 CFR §277.13(d)(2)
- OMB Circular A-110 §__.34(f)(3)
- 29 CFR §97.32(d)(2)
- 45 CFR §92.32(d)(2)
- 7 CFR §3015.169(b)
- 2 CFR §200.313
- 2 CFR §200.439

10.9

Adequate Safeguards

Adequate controls must be implemented to safeguard equipment that was purchased in whole or in part with Federal or State funds until such time as disposition occur.

All Recipients and Subrecipients must take reasonable precautions to ensure that equipment is properly maintained, accounted for, and protected from damage, loss, unreasonable deterioration

and theft. Recipients and Sub-recipients are advised to consider the following and any additional controls necessary to safeguard the property:

- Maintain adequate and current property records that allow the Recipient and Sub-recipient to locate any property in its possession at all times, whether the property is located on-site or off-site
- Provide a secure area and coordinate between the security function and the Property Control Officer, especially regarding security violations or changes affecting personal property
- Have a written policy for checking out property that requires employees to sign for property in their possession

Recipients are not required to notify the Granting Agency when property acquired under a contract with the Granting Agency is lost, damaged or stolen; however, the Recipient or Sub-recipient must conduct and fully document an investigation. When appropriate, law enforcement authorities should be notified, a police report should be obtained and maintained for Recipient or Sub-recipient records, and the Recipient or Sub-recipient's insurance provider should be notified.

If the Federal or State government owns the property, the appropriate government personnel should be notified and the appropriate procedures to report and investigate the property must be taken.

Authority:

- 7 CFR §277.13(d)(3)
- OMB Circular A-110 §__.34(f)(4)
- 29 CFR §97.32(d)(3)
- 45 CFR §92.32(d)(3)
- 7 CFR §3015.169(c)
- 24 CFR §570.490
- 2 CFR §200.302
- 2 CFR §200.313

10.10

Equipment Maintenance

Adequate maintenance procedures must be developed to keep equipment that was purchased in whole or in part with Federal or State funds in good condition until disposition occurs.

Recipients and Sub-recipients must develop adequate maintenance procedures to keep equipment in good condition, or in a condition that is similar to the condition of the property when it was acquired. It is recommended that Recipients and Sub-recipients follow manufacturer's recommended maintenance schedules.

Authority:

- 7 CFR §277.13(d)(4)
- OMB Circular A-110 §__.34(f)(5)
- 29 CFR §97.32(d)(4)
- 45 CFR §92.32(d)(4)
- 7 CFR §3015.169(d)
- 2 CFR §200.313
- 2 CFR §200.439

10.11

Sales Procedures

Proper sales procedures must be developed when the sale of equipment that was purchased in full or in part with Federal or State funds is authorized or required.

Recipients or Sub-recipients who are authorized or required to dispose of equipment by selling it must develop sales procedures that require the highest possible return on the property. Highest possible return should be defined and determined by each Recipient or Sub-recipient.

Regulations for property purchased by nongovernmental entities also require that procedures provide for competition to the extent practicable.

Authority:

- 7 CFR §277.13(d)(5)
- OMB Circular A-110 §__.34(f)(6)
- 29 CFR §97.32(d)(5)
- 45 CFR §92.32(d)(5)
- 7 CFR §3015.169(e)
- 2 CFR §200.312
- Ark. Code Ann. §14-54-302
- ORD-11:078

10.12

Disposition of Equipment < \$5,000

When no longer needed, equipment that was purchased using Federal or State funds and that has a current per unit fair market value less than \$5,000 may be retained, sold, or otherwise disposed of without further compensation to the funding source.

When equipment with a current per unit fair market value (FMV) less than (<) \$5,000 is no longer needed for an authorized purpose, the equipment may be retained, sold, or otherwise

disposed of with no further obligation to the awarding agency. The Recipient or Subrecipient is not required to request prior written approval to dispose of such property from the Granting Agency; to notify the Granting Agency when final disposition of such property is complete; or to compensate the funding source for its interest in such property.

Authority:

- 7 CFR §277.13(b)(2)(ii)(A) and (b)(3)(I)
- OMB Circular A-110 §__.34(g)
- 29 CFR §97.32(e)(1)
- 45 CFR §92.32(e)(1)
- 7 CFR §3015.168, §3015.191 and §3015.193
- 2 CFR §200.313
- 2 CFR §200.314
- ORD-11:078

10.13

Disposition of Equipment \geq \$5,000

When no longer needed, equipment that was purchased using Federal or State funds and that has a current per unit fair market value of \$5,000 or more must be disposed of in accordance with written instructions requested from and provided by the Granting Agency.

When equipment with a current per unit fair market value (FMV) of \$5,000 or more (\geq) is no longer needed for an authorized purpose, prior written approval to dispose of the property must be obtained from the Granting Agency. Prior written approval must be requested from the Subrecipient to the Recipient in these instances. The property must be disposed of in accordance with the written instructions provided by the Granting Agency in response to the formal request. No later than 30 days after final disposition, all supporting documentation must be submitted to the Granting Agency's designated contract manager. Methods for determining per unit FMV must be documented, kept on file and made available to the Granting Agency upon request.

Except as required by the Program Specific Considerations below, formal written requests are required for all equipment with a current per unit FMV \geq \$5,000, and must be submitted to the Granting Agency even if the property being disposed will be used to acquire replacement property. Recipients' sub-recipients must submit the formal request through Recipients.

Disposition. The Granting Agency will generally instruct the Recipient or Subrecipient to dispose of the property in one of two ways: retain title or sell. However, the Federal or State awarding agency may also reserve the right to transfer title to the government or an eligible third party. If transferred, the Recipient or Subrecipient must be paid an amount calculated by applying the percentage of participation in the purchase to the current FMV of the property.

Retain Title – The Recipient or Sub-recipient keeps the property for other uses, and compensates the funding source for its equity share of the property’s current FMV. Compensation may be provided as an offset to expenditures on the expenditure report if the contract is active, or by check or money order if the contract is closed. If the property will be retained and used to acquire replacement property under the same program, it may be used as a trade-in for the replacement property, or the sale proceeds may be used to offset the cost of the replacement property.

Sell – The Recipient or Sub-recipient sells the property and compensates the funding source for its equity share in the property's net sale proceeds. Compensation may be provided as an offset to expenditures on the expenditure report if the contract is active, or by check or money order if the contract is closed.

Authority:

Disposition:

- 7 CFR §277.13(b)(3)(ii)
- OMB Circular A-110 §__.34(g)
- 29 CFR §97.32(e)
- 45 CFR §92.32(e)
- 7 CFR §3015.168
- 2 CFR §200.313
- 2 CFR §200.439

Replacement Equipment:

- OMB Circular A-110 §__.34(e)
- 29 CFR §97.32(c)(4)
- 45 CFR §92.32(c)(4)
- 7 CFR §3015.167
- UGMS Part III §__.32(c)(4)
- 2 CFR §200.313
- 2 CFR §200.439
- ORD-11:078
- Ark. Code Ann. §14-54-302

10.14

Supplies

Supplies purchased with Federal or State funds may be acquired and disposed of without prior written approval from the awarding Agency; however, any residual inventory of unused supplies at the end of an award must be disposed of as appropriate for the aggregate fair market value of the property.

Recipients and Sub-recipients are not required to obtain prior written approval to acquire or dispose of supplies. When an award ends or is otherwise terminated, any residual inventory of unused supplies must be disposed of as required for the fair market value (FMV) shown below.

FMV < \$1,000. If the unused supplies have an aggregate FMV less than \$1,000 upon termination of the award, the supplies may be disposed of without any further obligation to the awarding agency.

FMV between \$1,000 and \$5,000. If the unused supplies have an aggregate FMV between \$1,000 and \$5,000 upon termination of the award, the awarding agency may, at its discretion, direct the Recipient or Sub-recipient to sell the unused supplies and compensate the awarding agency for its equity share in the current market value or net sale proceeds. Regardless of whether the Recipient or Sub-recipient is directed to sell the supplies, it must compensate the awarding agency for its equity share of the current FMV or net sale proceeds of the property.

FMV > \$5,000. If the unused supplies have an aggregate FMV more than \$5,000 upon termination of the award, and are not needed for any other Federal or State award, the awarding agency must be compensated for its equity share in the FMV or net sale proceeds of the property.

Entity Specific Considerations:

Non-governmental Entities. Unless specifically authorized by Federal statute, nongovernmental entities may not use supplies purchased with Federal funds to provide services to external organizations for a fee that is less than private companies charge for equivalent services.

Authority:

- 7 CFR §277.13(e)(3)-(4)
- OMB Circular A-110 §___.35
- 29 CFR §97.33(b)
- 45 CFR §92.33(b)
- 7 CFR §3015.171
- 2 CFR §200.313
- 2 CFR §200.314
- ORD-11:078

10.15

Intangible Property

Intangible property that was acquired under a Federally sponsored award must be made available to the Federal sponsoring agency, and parties authorized by that agency.

In general, when a Federal funding source is used to acquire intangible property, the Federal awarding agency has a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or

otherwise use the work for its purposes, or for the purposes of any parties authorized by the agency. Specific requirements for some types of intangible property are discussed below:

Copyrights. Recipients or sub-recipients have the right to copyright work that was developed or for which ownership was purchased under a Federally sponsored award.

Patents and Inventions. Patents and inventions produced by nongovernmental entities with Federal funds must be treated in accordance with the government-wide regulations that were developed by the U.S. Department of Commerce and published at 37 CFR Part 401.

Data. The Federal awarding agency has rights to access data that is first produced under a Federally sponsored award to a nongovernmental entity.

Research Data. Research data produced by a nongovernmental entity is subject to compliance with the Freedom of Information Act (FOIA). The Recipient or Sub-recipient must provide any data requested under the FOIA to the Federal government within a reasonable timeframe.

Authority:

Copyrights:

- 7 CFR §277.13(g)
- OMB Circular A-110 §__.36(a)
- 29 CFR §97.34
- 45 CFR §92.34
- 7 CFR §3015.175(b)
- 2 CFR §200.315
- 2 CFR §200.316

Data:

- OMB Circular A-110 §__.36(c)
- 2 CFR §200.315
- 2 CFR §200.316

Research Data:

- OMB Circular A-110 §__.36(d)
- 2 CFR §200.315
- 2 CFR §200.316

Patents and Inventions:

- 7 CFR §277.13(f)
- OMB Circular A-110 §__.36(b)
- 7 CFR §3015.175(a)

- 37 CFR Part 401
- 2 CFR §200.315
- 2 CFR §200.316

10.16

Federally-Owned Property

Federally-owned property must be managed and disposed of in accordance with applicable administrative requirements.

If a Recipient or Sub-recipient is provided with Federally-owned property, title to the property remains vested in the Federal government. The Federally-owned property must be managed as required by the Federal agency, and an annual inventory listing of Federally-owned property must be submitted to the Federal agency that provided the property. When the property is no longer needed, the Recipient or Sub-recipient must request disposition instructions from the Federal agency that provided the property.

If a Federal awarding agency vests title to Federally-owned property in the Recipient or Sub-recipient without any further obligation to the Federal government, the property is "exempt property." Title to exempt property may vest in the Recipient or Subrecipient on a conditional or unconditional basis depending upon the decision of the Federal awarding agency.

Entity Specific Considerations:

Non-governmental Entities. Nongovernmental entities must identify and indicate any Federally-owned equipment in its possession in its property records. It may also make Federally-owned equipment available for use for other non-Federal activities, but only if specifically authorized by the Federal government.

Authority:

- OMB Circular A-110 §§ __.33 and __.34(d) and (f)
- 29 CFR §97.32(f)
- 45 CFR §92.32(f)
- 2 CFR §200.312

10.17

Leases

Costs for leased or rental property must conform to applicable cost principles for rental costs. Such property must be procured in accordance with applicable procurement requirements.

Recipients or Sub-recipients may use Federal or State funds to lease property to the extent that the lease is allowable in accordance with applicable cost principles. No prior approval is required from the Granting Agency if the lease is an operating lease. Prior approval is required from the Granting Agency prior to entering into a capital lease.

Rental costs are generally allowable to the extent that the rates are reasonable in light of such factors as:

- Rental costs of comparable property, if any
- Market conditions in the area
- Alternatives available
- The type, life expectancy, condition, and value of the property leased

However, the cost principles identify certain limitations on leases that are capital leases, when sale and leaseback arrangements exist, and on leases that are less-than-arms-length leases.) (Additional detail can be found in the Federal regulations cited at the end of this section. Leases should be procured in accordance with the requirements in Chapter 13 of this manual.

Authority:

- 65 FR 49367 (August 11, 2000)
- OMB Circular A-21 (J)(38)
- OMB Circular A-87, Attachment B, (38)
- OMB Circular A-122, Attachment B, (46)
- 2 CFR §200.465
- Ark. Code Ann. §14-54-302

10.18

Property Insurance

Sufficient property insurance must be maintained as required for property purchased under a Federal or State award.

The Recipient-Sub-recipient Agreement requires Nongovernmental entities to purchase and maintain property insurance with coverage in an amount that is reasonably sufficient to replace any damaged, lost or stolen property, for as long as property that is purchased using Federal or State funds is kept. Similarly, Office of Management and Budget Circulars requires nongovernmental entities to provide coverage for real property and equipment purchased with Federal funds that is equivalent to the coverage that the entity maintains for its own property.

Also in accordance with the Agreement, the Granting Agency may require Recipients that are Nongovernmental entities, or their sub-recipients, to replace damaged, lost or stolen property

from sources other than Federal funds, if the property was originally acquired under a Federal or State sponsored award and no property insurance was in effect.

In relation to property losses, the Granting Agency encourages Recipients and Sub-recipients to develop procedures that require staff to promptly report theft to the authorities and the Recipient or Sub-recipient's insurance provider. Consistent with the procedures for program income, and the disposition of property, the funding source that was originally used to acquire property that has been stolen should be compensated for any insurance proceeds resulting from related insurance claims.

Certain grant award contracts awarded by the Granting Agency require Recipients or Subrecipients to ensure that commercially available insurance is in place to cover any property or casualty claims, damages, or losses (including reasonable attorney's fees) resulting from the activities of the Recipient, its employees, Subrecipients, other agencies or clients in any facility in which the Recipient is co-located.

Authority:

- OMB Circular A-110 §__.31
- 2 CFR §200.310
- 2 CFR §200.447

Chapter 11. PROCUREMENT

11.1

Introduction

This chapter compiles the applicable Federal, State and Local requirements governing the procurement of goods and services using public funds administered by the Recipient or Sub-recipient. In the event of conflict between these standards and an applicable Federal statute or regulation, the Federal statute or regulation will apply.

Prior approval requirements for property purchases are provided in Chapter 10 of this manual.

11.2

Administrative Responsibility

Recipients and Sub-recipients are responsible, in accordance with good administrative practices and sound business judgment, for the settlement and satisfaction of all administrative and

contractual issues arising out of the Recipient and Sub-recipient's procurements, including micro-purchases.

Procurement issues including, but not limited to, source evaluation, protests of award (see Section 12.20 of this manual), disputes, and claims shall be settled and satisfied by the Recipient, without recourse to Federal or State government. Federal or State agencies will not substitute their judgment for that of the Recipient unless the matter is primarily of a Federal or State concern. Violations of law should be referred to the Federal, State or local authority having jurisdiction.

Authority:

- OMB Circular A-110 § __.41
- 29 CFR §97.36(b)(11)
- 45 CFR §92.36(b)(11)
- 7 CFR §3015.180
- 24 CFR §570.501
- 24 CFR §570.502
- 2 CFR §200.318
- 2 CFR §200.320

11.3

Written Procedures

Recipients shall establish, and require sub-recipients to establish, written procurement procedures that when followed, result in procurements that comply with the standards in this Chapter, its cited authorities, and grant award contracts.

Control activities, by definition in the OMB Circular A-133 Compliance Supplement–Part 6 and 2 CFR §200 Subpart F, “are the policies and procedures that help ensure that management’s directives are carried out.” In order to have sufficient controls over the procurement process, procedures must be clearly written and communicated, as follows. Also, see Section 13.18 of this manual relating to written selection procedures.

Local Governments. “A local government” meaning - a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government,” as defined in the Common Rule and UGMS, Part III. The Local Government will use its own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this Chapter, its cited authorities, and grant award contracts from the Granting Agency.

The procedures shall include:

- Providing for a review of proposed procurements to avoid purchase of unnecessary or duplicative items
- Giving consideration to consolidating or breaking out procurements to obtain a more economical purchase, and promoting participation by historically underutilized businesses, as described in Section 13.5 of this manual; however, aggregate purchases shall not be divided to circumvent procurement requirements
- Where appropriate, analyzing lease versus purchase alternatives, and performing any other appropriate analysis to determine the most economical approach

Other Organizations. Sub-recipients that are institutions of higher education, hospitals, other non-profit organizations, and commercial organizations shall establish written procurement procedures, which shall, at a minimum, provide for the following:

- Avoid purchasing unnecessary items.
- Where appropriate, require that an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.
- Require that solicitations for goods and services provide for all of the following:
 - A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
 - Requirements that the bidder/offer or must fulfill and all other factors to be used in evaluating bids or proposals.
 - A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - The specific features of “brand name or equal value” descriptions that bidders are required to meet when such items are included in the solicitation.
 - Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment, and are energy efficient.

Authority:

- OMB Circular A-110 §__.44(a)
- OMB Circular A-133, Compliance Supplement, Part 6
- 29 CFR §§97.3, 97.36(a), and 97.36(b)(1) and (4)
- 45 CFR §§92.3, 92.36(a), and 92.36(b)(1) and (4)
- 7 CFR §3015.180
- 2 CFR §200.317
- 2 CFR §200.318
- Ark. Code Ann. §14-54-302
- ORD-11:078

11.4

Full & Open Competition

The procurement of all goods and services shall be conducted, to the maximum extent practical, in a manner providing full and open competition consistent with the standards of Office of Management and Budget Circulars, the Grant Management Common Rule, Uniform Grant Management Standards, and this Manual.

Practices that may eliminate or restrict full and open competition include, but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business
- Requiring unnecessary experience and excessive bonding
- Noncompetitive pricing practices between firms or between affiliated companies
- Noncompetitive awards to consultants that are on retainer contracts (or allowing entities that develop or draft specifications, requirements, Statements of work, invitations for bids and/or requests for proposals to compete for such procurements)
- Organizational conflicts of interest
- Specifying a brand name product instead of allowing an equal product to be offered
- Any arbitrary action in the procurement process

Unless otherwise required or encouraged by Federal statute, procurements must be conducted in a manner that prohibits the use of in-State or local geographical preferences in the evaluation of bids or proposals; however, this does not preempt State licensing laws. Geographic location may be a selection criterion when contracting for architectural and engineering services as long as an appropriate number of qualified firms are able to compete for the contract.

Authority:

- OMB Circular A-110 §__.43
- 29 CFR §97.36(c)(1) and (c)(2)
- 45 CFR §92.36(c)(1) and (c)(2)
- 7 CFR §3015.182
- 2 CFR §200.319
- Ark. Code Ann. §14-54-302
- ORD-11:078

11.5

Standards of Conduct & Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal or State funds if a real or apparent conflict of interest would be involved.

Recipients and Sub-recipients shall maintain written standards of conduct, which govern the performance of individuals engaged in the award and administration of contracts and provide for disciplinary action in the event that such standards are violated. Recipients and Subrecipients that have board members are specifically required to include in such provisions, the definition of immediate family and substantial interest. No employee, officer, or agent of the Recipient or Sub-recipient may participate in the selection, award, or administration of a contract that is supported by Federal or State funds if a conflict of interest or apparent conflict of interest would be involved.

In general, a conflict of interest exists when any of the following have a financial or other interest in a firm that is selected to receive an award:

- An employee, officer or agent
- Any member of the employee's immediate family
- The employee's partner
- Any organization that employs or is about to employ any of these groups

The standards of conduct shall prohibit the solicitation and/or acceptance of gratuities, favors or anything of monetary value by an officer, employee, or agent of the Recipient from a bidder or sub-recipient.

Entity Specific Considerations:

Conflict of Interest. In addition to written standards of conduct, Recipients and Sub-recipients must adopt a conflict of interest policy that includes the minimum requirements of State and Federal laws and regulations. (Local policy may be more restrictive.) Furthermore, a member affected by this regulation must:

- Not vote on the provision of services by the member or any organization which the member represents
- Not vote on any matter that would provide a direct financial benefit to the member or the member's immediate family, or on matters of the provision of services by the member or the entity the member represents
- Not participate in a decision in which the member has a direct or indirect interest, particularly a financial interest, which is in substantial conflict with the discharge of the duties of the organization
- Avoid even the appearance of a conflict of interest. Prior to taking office, affected members must provide the chairman a written declaration of all substantial business interests or relationships they, or their immediate families have with all businesses or organizations which have received, currently receive, or are likely to receive contracts or funding from the organization. Such declarations shall be updated within 30 days to reflect any changes in such business interests or relationships. The organization shall appoint an individual to timely review the disclosure information and advise the chairman and appropriate members of potential conflicts; and
- Prior to discussion, vote, or decision on any matter before a Board or Council, if a member, or a person in the immediate family of such member, has a substantial interest

in or relationship to a business entity, organization, or property that would be pecuniary (financially) affected by any official Board or Council action. A member shall disclose the nature and extent of the interest or relationship and shall abstain from voting on or in any way participating in the decision on the matter. All such abstentions and recusals shall be recorded in the minutes of the Board or Council.

Authority:

- 20 CFR §667.200(a)(4)
- OMB Circular A-110 §__.42
- 29 CFR §97.36(b)(3)
- 45 CFR §92.36(b)(3)
- 7 CFR §3015.181
- 24 CFR §570.611
- 2 CFR §200.112
- Ark. Code Ann. §19-11-705

11.6

Small & Minority Firms

All necessary and affirmative steps shall be taken to contract with small and minority business firms and other historically underutilized businesses when possible.

Recipients and Sub-recipients must take affirmative steps to contract with historically underutilized businesses (HUBs), especially small and minority firms, women's business enterprise and labor surplus area firms, when possible. These affirmative steps must include:

- Placing qualified HUBs on solicitation lists, e.g. bidders list
- Assuring that HUBs are solicited whenever they are potential sources
- Dividing total requirements when economically feasible, into smaller tasks or quantities to permit maximum participation by HUBs
- Establishing delivery schedules, where the requirement permits, that encourages participation by HUBs
- Using the services and assistance of the Small Business Administration (SBA) and the U.S. Department of Commerce Minority Business Development Agency in the solicitation and utilization of HUBs
- Requiring the prime recipient, if sub-recipients are to be let, to take the steps above

Entity Specific Considerations:

Non-governmental Entities. A Recipient or Sub-recipient that is a non-governmental entity must contract with HUBs to the fullest extent practical; however, it should do so in accordance with the requirements of OMB Circular A-110, as opposed to the steps above. The requirements of OMB Circular A-110 are:

- Make information on forthcoming opportunities available and arrange timeframes for purchases and contracts to encourage and facilitate participation by HUBs
- Consider in the contract process whether firms competing for larger contracts intend to subcontract with HUBs
- Encourage contracting with consortiums of HUBs when a contract is too large for one of the firms to handle individually
- Use the services and assistance, as appropriate, of such organizations as the SBA and the U.S. Department of Commerce Minority Business Development Agency in the solicitation and utilization of HUBs

Authority:

- OMB Circular A-110 §___.44(b)
- 29 CFR §97.36(e)
- 45 CFR §92.36(e)
- 7 CFR §3015.13 and §3015.180
- 24 CFR §570.904
- 2 CFR §200.321

11.7

Surplus Property Purchases

Whenever cost effective and feasible, Federal and State salvage and surplus property should be purchased in lieu of new property.

The Arkansas State Surplus manages the disposition of both salvage and surplus personal property from State agencies, as well as, property that has been donated to the State by Federal programs. State agencies, political subdivisions, and assistance organizations are eligible to purchase through the State surplus property program. Federal property is available to those entities that the State of Arkansas certifies as eligible to receive and use salvage and surplus. For more information and property listings go to the Arkansas Department of Finance and Administration website.

When using the State surplus property program, send a written request to the State agency that listed the property via the respective State agency contact listed on the State website. If the State Agency listed the property, eligible Recipients and Sub-recipients may apply in writing to the State's Property Manager no earlier than the first business day of the month.

Recipients and Sub-recipients are solely responsible for maintaining, transporting, and disposing of all property acquired through the State surplus property program. When no longer needed by the Recipient or Sub-recipient, the property shall be disposed of according to the disposition instructions in Chapter 10. The Recipient or Sub-recipient shall remove all State property tags when it takes possession of the property.

Entity Specific Considerations:

Non-Profit Entities. Sub-recipients shall include a copy of their contract with the Recipient in written requests for salvage or surplus property from State agencies.

Authority:

- 29 CFR §97.36(b)(6)
- 45 CFR §92.36(b)(6)
- 7 CFR §3015.180
- 2 CFR §200.318
- Ark. Code Ann. §25-8-106

11.8

Records

Procurement records providing the historical detail of each procurement action shall be retained and made available to authorized entities and authorized representatives of those entities for a minimum of three years from the date that the audit report for that period is submitted to the Agency.

Recipients and Sub-recipients shall maintain procurement records detailing the significant history of procurement, including but not limited to: a) rationale for the method of procurement, b) selection of contract type, c) recipient selection or rejection, and d) the basis for the contract price.

The records shall be retained for a period of three years from the date that the audit report for the period is submitted to the Federal Agency. If any litigation, claims or audit findings arise during the three-year period, the related records shall be maintained until the issues have been resolved and final action is taken, even if this causes the time to extend beyond the three-year time period. See Appendix E to this manual for further details.

Recipients and Sub-recipients shall allow timely and reasonable access and the right to examine, copy or mechanically reproduce, all reports, books, papers, documents, automated systems and other records pertaining to any grant award or program contract awarded under an Agency contract for as long as the Recipient retains the records. See Appendix E to this manual for further details.

Entity Specific Considerations:

Non-governmental Entities. Recipients and Sub-recipients that are non-governmental entities who are subject to OMB Circulars are only required by Federal regulation to maintain procurement records for purchases in excess of the small purchase procurement threshold (2 CFR§200.320). The records must include, at a minimum: (a) the basis for recipient selection, (b)

justification for lack of competition when competitive bids or offers are not obtained, and (c) the basis for award cost or price. The same record retention, access and reproduction requirements apply as described above.

Authority:

Procurement Records:

- OMB Circular A-110 §__.46
- 29 CFR §97.36(b)(9)
- 45 CFR §92.36(b)(9)
- 7 CFR §3015.180
- 24 CFR §570.506
- 2 CFR §200.333
- 2 CFR §200.335
- Ark. Code Ann. §16-10-211

Access to Records:

- OMB Circular A-110 §__.53(e)
- 29 CFR §97.42(e)
- 45 CFR §92.42(e)
- 7 CFR §3015.24
- 24 CFR §570.508
- 2 CFR §200.336
- 2 CFR §200.337

Record Retention:

- OMB Circular A-110 §__.53 (a)-(b)
- 29 CFR §97.42 (a)-(c)
- 45 CFR §92.42 (a)-(c)
- 7 CFR §3015.20, §3015.21 and §3015.22
- 2 CFR §200.333
- Ark. Code Ann. §14-2-201-203
- Ark. Code Ann. §14-59-114

11.9

Micro-Purchases & Small Purchase Method

Small purchase procedures shall be used for relatively simple purchases for which the aggregate cost does not exceed the simplified acquisition threshold specified in Appendix A to this Manual.

The small purchase method of procurement permits the collection of price and rate quotations through informal means, such as documented phone quotes, advertisement, catalog pricing, and Internet pricing. Small purchase procedures are appropriate when: a) purchasing goods or services for which the aggregate cost does not exceed the simplified acquisition threshold, b) price is the overriding factor and can easily be compared, c) delivery is standardized, and d) performance outcomes are not dependent on the content of the goods or services procured. For this reason, it is suited for purchases where specifications can be made in advance and award can be made based on lowest price.

Micro-purchases. Recipients can establish (or choose not to establish) a separate micro-purchase threshold of up to \$3,000 per purchase; i.e., relatively simple purchases for which the aggregate cost does not exceed the micro-purchase threshold established by the Recipient. Recipients that establish a separate micro-purchase threshold shall, to the extent practicable, equitably distribute micro-purchases among qualified vendors.

Circumvention. While consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase and participation by historically underutilized businesses as described in Section 12.5 of this manual, aggregate purchases shall not be divided to circumvent procurement requirements, including small purchase and micro-purchase thresholds. Procurements that split or unbundle purchases for this purpose are flawed. Such purchases may be disallowed.

Aggregate Cost. For purposes of determining whether a cost exceeds the simplified acquisition threshold or a micro-purchase threshold, “aggregate cost” means the following:

- For single purchases or individual recurring purchases made without contract, aggregate cost means the cost of the individual purchase.
- For contracts, aggregate cost means the total potential cost of the contract, including any option years and amendments.

Price or Rate Quotations for Micro-purchases and Small Purchase Procurements. When using the small purchase method, Recipients and Sub-recipients must obtain price or rate quotations from an adequate number of qualified sources for all purchases that exceed a Recipient’s micro-purchase threshold. Recipients and Sub-recipients must obtain price or rate quotations for micro-purchases if:

- The purchasing entity has information that the price is not reasonable (i.e., based on comparison to the previous price paid, or personal knowledge of the supply or purchase)
- Purchasing a good or service for which comparative pricing is not readily available (i.e., purchasing a good or service that is not the same as, or similar to other goods or services that have recently been purchased on a competitive basis)

Recipients and Sub-recipients can make micro-purchases without soliciting price or rate quotations if the Recipient or Sub-recipient considers the price to be reasonable based on information such as research, experience, prior purchases, or other information. The basis (e.g. research, experience, purchases, or other information) used by the Recipient or Sub-recipient to

determine price reasonableness of a purchase should be noted in support documentation, or specified by the Recipient's policies and procedures. The Granting Agency may review micro-purchases for price reasonableness.

Awards. The relatively simple nature of small purchase procurements typically results in awarding a purchase based on the lowest price or rate quotation. This includes micro-purchases for which price or rate quotations were obtained because reasonableness could not otherwise be determined. When price or rate quotations were obtained, and award is made to an entity other than the one offering the lowest price or rate, include explanation of the award decision in the support documentation.

Additional Guidance on Small Purchase Procurements. Optional supplemental guidance on the use of the small purchase method of procurement is provided below. The guidance is based on the Federal Acquisition Regulation (FAR) at 48 CFR §13.106. The FAR sets forth procurement regulations that apply to Federal agencies. Recipients or Sub-recipients are not subject to compliance with FAR. However, because of similarities between the FAR and grant procurement standards, FAR policies can be a useful aid to Recipients and Sub-recipients, furthermore it may be incorporated into the Recipient's local policies and procedures at the Recipient's discretion unless such provisions are otherwise required by or in conflict with applicable Federal, State, and/or Granting Agency requirements. In such cases, compliance with the applicable Federal, State, and/or Granting Agency requirements must be maintained.

Considerations. Recipients and Sub-recipients may refer to the preliminary considerations listed in the FAR prior to requesting quotations or offers at 48 CFR §13.106-1(a).

Soliciting from a Single Source. Bids may be solicited from only one source if the procurement officer determines that only one source is reasonably available. See 48 CFR §13.106-1(b).

Solicitation. Solicitations may be oral or written; however, oral quotations and offers are generally only used for aggregate acquisitions less than \$25,000. See 48 CFR §13.106-1(c)-(d).

Options. The solicitation may include renewal options provided that the sum of all options does not exceed the small purchase threshold. See 48 CFR §13.106-1(e).

Evaluation of Quotation or Offers. All offers or quotations should be considered and evaluated by the contracting officer in an impartial manner. See 48 CFR §13.106-2.

Basis for Award. Alternatives for determining price reasonableness are provided at 48 CFR §13.106-3(a).

File Documentation and Retention. Methods for documenting the small purchase procurement are provided at 48 CFR §13.106-3(b).

Notification. Unsuccessful offerors only need to be notified of non-selection if such notification is requested by the offeror. See 48 CFR §13.106-3(c).

Request for Information. If a supplier requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the contract award decisions should be provided. See 48 CFR §13.106-3(d).

Taxpayer Identification Number. When oral solicitation is used, a copy of the award document containing the taxpayer identification number should be sent to the Recipient's payment office. See 48 CFR §13.106-3(e).

Entity Specific Considerations:

Non-governmental Entities. For Recipients that are non-governmental entities, OMB Circular A-110 does not provide any specific requirements for conducting the small purchase method of procurement. Unless otherwise specified, procurements must be conducted in accordance with the standards in this chapter.

Authority:

- DOL One-Stop Comprehensive Financial Management Technical Assistance Guide, II-10-2
- 29 CFR §97.36(d)(1)
- 45 CFR §92.36(d)(1)
- 7 CFR §3015.180
- 2 CFR §200.67
- 2 CFR §200.320
- ORD-11:078

11.10

Sealed Bid Method

Sealed bid procedures shall be conducted in accordance with applicable administrative requirements.

The sealed bid and competitive proposal (see Section 13.12 of this manual) methods of procurement are appropriate when purchasing goods or services for which the aggregate cost exceeds the simplified acquisition threshold. The sealed bid method, which is also known as formal advertising, must be used when the following conditions exist:

- A complete, adequate, and realistic specification or purchase description is available
- Two or more responsible bidders are willing and able to compete effectively
- Price is the primary basis for selecting the successful bidder
- A firm fixed price contract will be awarded

Sealed bid procurements must be conducted in accordance with the following Federal requirements:

- The Invitation for Bid (IFB) must be publicly advertised, as described below
- Bids must be solicited from an adequate number of known suppliers
- Bidders must be allowed sufficient time to submit a bid
- The IFB must include all information needed by the bidder to submit a responsive bid
- All bids must be publicly opened at the time and place specified in the IFB
- A firm fixed-price contract must be made in writing to the lowest responsive and responsible bidder
- When specified in bidding documents, discounts, transportation costs, and life cycle costs must be considered in determining the lowest bid (although payment discounts may only be used if the Recipient takes advantage of them)
- A Recipient may reject any or all bids when a sound documented reason exists

Additional Guidance on the Sealed Bid Method. Optional supplemental guidance on the use of the sealed bid method of procurement is provided below. The guidance is based on the Federal Acquisition Regulation (FAR) at 48 CFR §§14.401-14.409. The FAR sets forth procurement regulations that apply to Federal agencies. Recipients are not subject to compliance with FAR. However, because of similarities between the FAR and grant procurement standards, FAR policies can be a useful aid to Recipients, and may be incorporated into the Recipient's local policies and procedures at the Recipient's discretion, unless such provisions are otherwise required by or in conflict with applicable Federal, State, and/or agency requirements. In such cases, compliance with applicable Federal, State, and/or agency requirements must be maintained.

Develop the IFB. The FAR policy for determining what information to include in an IFB is provided at 48 CFR §14.201.

Bidding Time. While the FAR generally considers 30 days to be a reasonable time to allow between the issuance of the IFB and the bid opening, it also includes a policy for determining whether a longer or shorter bidding time would be appropriate. See 48 CFR §14.202-1.

Telegraphic, Electronic, and Facsimile Bids. Considerations for the use of telegraphic (including mailgrams), electronic, and facsimile bid delivery methods are discussed at 48 CFR §14.202-2 (Telegraphic Bids); 48 CFR §14.202-7 (Facsimile Bids); and 48 CFR §14.202-8 (Electronic Bids).

Bid Envelopes. The FAR policy regarding prepaid postage envelopes and pre-printed address are provided at 48 CFR §14.202-3.

Bid Samples and Descriptive Literature. Treatment of unsolicited bid samples and descriptive literature, as well as, considerations for the use of and waivers for bid samples and descriptive literature are discussed at 48 CFR §14.202-4 (Bid Samples); 48 CFR §14.202-5 (Descriptive Literature); and 48 CFR §14.404-4 (Restrictions on Disclosure of Descriptive Literature).

Final Review of IFB. The FAR policy for conducting a final review of the IFB prior to issuance is provided at 48 CFR §14.202-6.

Public Notice and Use of Bidder's List. Generally accepted timeframes for publishing public notices and policies for using the bidders list are discussed at 48 CFR §§14.203, 14.203-1, 14.203-2, and 14.203-3.

Records of IFBs and Bids. Policies for documenting the IFB distribution and date of issuance, records of issued solicitations, and the abstract or record of bids are discussed at 48 CFR §14.204.

Pre-Bid Conference. The use of pre-bid conferences, including the FAR policy that conferences should not be used to substitute for amendments to the IFB, are discussed at 48 CFR §14.207.

Amendment of an IFB. Circumstances under which it is appropriate to amend an IFB and relative considerations are discussed at 48 CFR §14.208.

Cancellation of Invitations Before Opening. The FAR discusses situations and considerations used to determine whether to cancel an IFB prior to opening any bids at 48 CFR §14.209.

Release of Acquisition Information. The FAR policy for restricting information concerning sealed bid solicitations is provided at 48 CFR §14.211.

Responsiveness of Bids. The FAR defines a “responsive bid” at 48 CFR §14.301.

Consideration of Late Bids. The FAR defines a late bid, and includes circumstances under which such a bid may be used at 48 CFR §14.302 (Bid Submission); 48 CFR §14.303 (Modification or Withdrawal); and 48 CFR §14.304 (Submission, Modification and Withdrawal).

Receipt and Safeguarding of Bids and Opening Bids by Mistake. Methods for securing bids, as well as, treatment of bids that are opened by mistake are discussed at 48 CFR §14.401.

Opening Bids on Bid Opening Date. The FAR policies for opening bids and making them available to the public are discussed at 48 CFR §14.402-1.

Postponement of Openings. The circumstances under which it is generally acceptable to postpone a bid opening, as well as procedures for doing so, are provided at 48 CFR §14.402-3.

Recording of Bids. The elements of each bid that are significant for purposes of preparing a bid abstract are discussed at 48 CFR §14.403.

Rejection of Bids. The FAR discusses a number of circumstances and procedures relating to the cancellation of invitations after opening, rejection of individual bids, notice to bidders of rejection of all bids, and all or none qualifications at 48 CFR §§14.404-1, 14.404-2, 14.404-3, 14.404-4, and 14.404-5.

Minor Informalities or Irregularities in Bids. The FAR policy for the treatment of minor informalities or irregularities in bids is discussed at 48 CFR §14.405.

Receipt of Unreadable Electronic Bid. The FAR policy for the treatment of unreadable electronic bids is discussed at 48 CFR §14.406.

Mistakes in Bids. The FAR policies relating to the determination of whether a mistake in a bid exists, and treatment of mistakes are discussed at 48 CFR §§14.407-1, 14.407-2, 14.407-3, 14.407-4.

Award. Guidelines for making and documenting the award process are at 48 CFR §§14.408-1, 14.408-2, 14.408-3, 14.408-4, 14.408-6, 14.408-7 and 14.408-8.

Information to Bidders. The FAR discusses procedures for the dissemination of award information to bidders at 48 CFR §§14.409-1 and 14.409-2.

Entity Specific Considerations:

Non-governmental Entities. For non-governmental entities, OMB Circular A-110 does not provide any specific requirements for conducting procurements using the sealed bid method. Unless otherwise specified, procurements must be conducted in accordance with the standards in this Chapter.

Authority:

- 29 CFR §97.36(d)(2)
- 45 CFR §92.36(d)(2)
- 7 CFR §3015.180
- 2 CFR §200.320
- ORD-11:078

11.13

Competitive Proposal Method

Competitive proposal procedures shall be conducted in accordance with applicable administrative requirements.

The sealed bid (see Section 12.11 of this manual) and competitive proposal methods of procurement are appropriate when purchasing goods or services for which the aggregate cost exceeds the simplified acquisition threshold. The competitive proposal method is normally used when two or more responsible bidders are willing and able to compete effectively for the business and the procurement lends itself to a fixed-price or cost-reimbursement contract. The competitive proposal method is generally used when conditions are not appropriate for the sealed bid method.

Competitive proposal procurements must meet the following Federal requirements:

- Requests for proposals (RFPs) must be publicized and identify all evaluation factors and their relative importance. Any response to publicized RFPs must be honored to the maximum extent practical.
- RFPs must be solicited from an adequate number (usually two or more) of qualified sources.
- Recipients and Sub-recipients must have a method for conducting technical evaluations of the proposals received and for selecting awardees.
- Awards must be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
- Recipients and Sub-recipients may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort. See Section 13.15 of this manual for additional requirements for the procurement of A/E professional services.

Additional Guidance on the Competitive Proposal Method. Optional supplemental guidance on the use of the competitive proposal method is provided below. The guidance is based on the Federal Acquisition Regulation (FAR) at 48 CFR §§15.000-15.609. The FAR sets forth procurement regulations that apply to Federal agencies. Recipients and Sub-recipients are not subject to compliance with FAR. However, because of similarities between the FAR and grant procurement standards, FAR policies can be a useful aid to Recipients and Sub-recipients, and may be incorporated into the Recipient and Sub-recipient's local policies and procedures at the Recipient and Sub-recipient's discretion, unless such provisions are otherwise required by or in conflict with applicable Federal, State, and/or granting agency requirements. In such cases, compliance with applicable Federal, State, and/or granting agency requirements must be maintained.

Best Value. This policy discusses considerations involved in determining best value, and tradeoffs that may occur at 48 CFR §§15.101, 15.101-1 and 15.101-2.

Information Exchange. In accordance with this policy, all exchanges of information conform to procurement integrity requirements. This policy is discussed further at 48 CFR §15.201.

Pre-solicitation Notices. Pre-solicitation notices facilitate the competitive proposal process by identifying the level of viable competition that exists for a given acquisition. The FAR describes the specific details of using a pre-solicitation notice at 48 CFR §15.202.

Requests for Proposals (RFPs). The FAR policy for determining what information to include in the RFP is provided at 48 CFR §15.203.

Uniform Contract Format. The FAR discusses the use of a uniform format to facilitate the preparation of the RFP and the contract. Regardless of whether the Recipient or Subrecipient uses a uniform contract format, it may reference the FAR for discussion of the major sections of

the RFP and their contents at 48 CFR §§15.204, 15.204-1, 15.204-2, 15.204-3, 15.204-4 and 15.204-5.

Issuing Solicitations. FAR policy for issuing solicitations electronically is provided at 48 CFR §15.205.

Amending the Solicitation. Considerations for amending the RFP are at 48 CFR §15.206.

Handling Proposals and Information. Policies for safeguarding RFPs and Requests for Information (RFI) to prevent unauthorized disclosure are discussed at 48 CFR §15.207.

Oral Presentations. The FAR addresses the type of information that may be obtained through oral presentations, the information that should be included in the RFP, and the types of documentation that should be retained at 48 CFR §15.102.

Submission, Modification, Revision, and Withdrawal of Proposals. The FAR addresses the responsibilities of proposers to submit proposals by the time Stated in the RFP, and the treatment and consideration of late proposals at 48 CFR §15.208.

Exchanges with Bidders after Receipt of Proposals. Within certain limitations, the FAR allows for a continued exchange of information after proposals have been received at 48 CFR §15.306.

Recipient or Sub-recipient Responsibilities Regarding Source Selection. Guidelines for selecting an evaluation team and other responsibilities of the procurement officer are provided at 48 CFR §15.303.

Evaluation Factors. The FAR policy provides that evaluation factors vary by solicitation, but always include price, past performance, historically underutilized business, quality, and subcontracting opportunities; and that all factors that will be used in the evaluation of proposals be included in the RFP along with each factors' relative significance at 48 CFR §15.304.

Proposal Evaluation. The FAR policy provides that all proposals may be rejected and that the Recipient may opt to make no award at 48 CFR §15.305.

Source Selection Decision. This section provides that all proposals be evaluated against the selection criteria in the RFP and that the selection process be documented and free from bias at 48 CFR §15.308.

Pricing Policy. The FAR provides that goods and services be purchased from responsible sources at reasonable prices, and that contracts be priced separately and independently at 48 CFR §15.402.

Proposal Analysis Techniques. The FAR provides different techniques for analyzing proposals at 48 CFR §15.404-1.

Obtaining Cost or Pricing Data. FAR policy when obtaining cost or pricing data is discussed at 48 CFR §§15.403-1, 15.403-2, 15.403-3, 15.403-4 and 15.403-5.

Subcontract Pricing Considerations. The use of cost or price analysis to determine the reasonableness of prime and subcontracting costs is discussed at 48 CFR §15.404-2.

Profit. FAR policy provides that profit not exceed ten percent of a contract's estimated cost. This section also provides considerations for negotiating profit at 48 CFR §15.404-4. See also Section 13.16 in this manual.

Should-Cost Review. A should-cost review is a form of cost analysis. The FAR discusses two types of should-cost reviews in further detail at 48 CFR §15.407-4.

Pre-negotiation Objectives. The FAR discusses the establishment and use of pre-negotiation objectives at 48 CFR §15.406-1.

Price Negotiation. The negotiation of price and profit are discussed in detail at 48 CFR §15.405. See also Section 13.19 in this manual.

Documenting the Negotiation. The FAR discusses the principal elements of negotiation that should be documented in the contract file at 48 CFR §15.406-3.

Proposal Revisions. In accordance with FAR policy, an award may be based on final proposal revisions submitted by each competitor after negotiations. See 48 CFR §15.307.

Award to Successful Bidder. FAR policy provides that the successful bidder be notified of award by receipt of an executed contract or other award notice. See 48 CFR §15.504.

Notifications to Unsuccessful Bidders. The FAR provides that the procurement officer to promptly notify bidders in writing if their proposals is excluded or eliminated from competition and that the unsuccessful bidders should be notified within three days after the date of award. See 48 CFR §15.503.

Pre-award Debriefing of Bidders. Bidders excluded from the competitive range or otherwise excluded from the competition before award may request a debriefing before the award. Appropriate procedures for the pre-award debriefing are discussed at 48 CFR §15.505.

Post Award Debriefing of Bidders. The FAR provides that unsuccessful bidders should be debriefed in accordance with 48 CFR §15.506.

Defective Cost or Pricing Data. In accordance with FAR policy, if the discovery of inaccurate, incomplete or noncurrent cost, pricing, or other data occurs before the price agreement or after award, the procurement officer should request the bidder to correct the error. Different procedures apply depending on whether the defect is identified before the price agreement or after the award. See 48 CFR §15.407-1.

Discovery of Mistakes. FAR policy is to treat mistakes in a proposal that are disclosed after award in accordance with the procedures for mistakes in bids. See 48 CFR §15.508 and 48 CFR §14.407-4.

Unsolicited Proposals. The FAR handles unsolicited proposals in accordance with 48 CFR §§15.600 (Scope), 15.601 (Definitions), 15.602 (Policy), 15.603 (General), 15.604 (Points of Contact), 15.605 (Proposal Content), 15.606 (Procedures), 15.606-1 (Receipt), 15.606-2 (Evaluation), 15.607 (Criteria), 15.608 (Prohibitions), and 15.609 (Limitations).

Entity Specific Considerations:

Non-governmental Entities. For non-governmental entities, OMB Circular A-110 does not provide any specific requirements for conducting the competitive proposal method of procurement. Unless otherwise specified, procurements must be conducted in accordance with the standards in this Chapter.

Authority:

- 29 CFR §97.36(d)(3)
- 45 CFR §92.36(d)(3)
- 7 CFR §3015.180
- 2 CFR §200.319
- ORD-11:078

11.14

Noncompetitive Method

Noncompetitive procedures shall be conducted in accordance with applicable administrative requirements.

Procurement by noncompetitive procedures is procurement through solicitation of a proposal from only one source (sole source procurement), or if after solicitation of a number of sources, competition is determined to be inadequate. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures (including micro-purchase procedures), sealed bids or competitive proposals, and one of the following circumstances applies:

- The item is available only from a single source.
- Public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- The awarding agency authorized noncompetitive proposals.
- After solicitation of a number of sources, competition is determined inadequate.

Cost analysis, which includes verification of the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

Recipients shall limit use of noncompetitive procurements, consistent with requirements to maximize full and open competition in Section 13.3 of this manual. The Granting Agency monitors Recipients or Sub-recipients' use of noncompetitive procurements through on-site reviews of procurement files, policies and procedures, and processes. Such reviews can occur during regularly scheduled monitoring reviews and other Granting Agency visits. If the Granting Agency finds a Recipient or Sub-recipient's procurement process to be inconsistent with the principle of maximizing full and open competition, then the Granting Agency will require corrective action, which can include imposing prior approval or pre-award review requirements until the matter is resolved to the Granting Agency's satisfaction.

Entity Specific Considerations:

Non-governmental Entities. For non-governmental entities, OMB Circular A-110 does not provide any specific requirements for conducting the non-competitive method of procurement. However, unless otherwise specified, procurements must be conducted in accordance with the standards in this Chapter.

Authority:

- 29 CFR §97.36(d)(4)
- 45 CFR §92.36(d)(4)
- 7 CFR §3015.180
- 2 CFR §200.320

11.15

Program Related Client Services

Contracts for the purchase of program-related client services must comply with contracting requirements of the General Appropriations Act of the corresponding biennium, in addition to the requirements of Chapter 15 of the Financial Manual for Grants and Contracts (FMGC).

No funds appropriated to the Recipient or Sub-recipient may be used for contracts for the purchase of program-related client services unless:

- Such contracts include clearly defined goals, outputs, and measurable outcomes which directly related to program objectives
- Such contracts include clearly defined sanctions or penalties for noncompliance with contract terms and conditions
- Such contracts specify the accounting, reporting, and auditing requirements applicable to funds received under the contract

- The Recipient or Sub-recipient has implemented a formal program using a risk assessment methodology to monitor compliance with financial and performance requirements under the contract, including a determination of whether performance objectives have been achieved
- The Recipient or Sub-recipient has implemented a formal program to obtain and evaluate program costs information to ensure that all costs, including administrative costs, are reasonable to achieve program objectives

Recipients and Sub-recipients must ensure that all client services contracts contain the required contract terms above. The Recipient and Sub-recipient must maintain a contract administration system that incorporates risk assessment, monitoring, and cost evaluation requirements applicable to client services contracts.

11.16

Professional & Consulting Services

Professional services, including auditors and consulting services, must be selected and awarded in accordance with applicable administrative requirements.

Professional services, including auditors, and consulting services, must be selected and awarded in accordance with the following requirements.

Professional Services. Award and selection of professional services shall not be based upon competitive bids. Award and selection must be based upon:

- The basis of demonstrated competence and qualifications to perform the services
- A fair and reasonable price

Fees must be consistent with, and may not exceed, the recommended practices and fees published by the applicable professional associations. Additionally, the fees may not exceed any maximum provided by law.

Architectural, engineering, or land surveying. In procuring architectural, engineering, or land surveying services, a Recipient or Sub-recipient must:

- First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications
- Then attempt to negotiate with that provider a contract at a fair and reasonable price

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the Recipient or Sub-recipient must:

- Formally end negotiations with that provider
- Select the next most highly qualified provider

- Attempt to negotiate a contract with that provider at a fair and reasonable price

The Recipient or Sub-recipient must continue the process described above to select and negotiate with providers until a contract is entered into, but not to the extent that a contract with an unqualified firm or individual would result. Also, see the reference to A/E professional services in Section 13.12 of this manual.

Audit services. In procuring an auditor, positive efforts must be made to use small businesses, minority-owned firms, and women's business enterprises. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

As provided by single audit requirements, an auditor who prepares the indirect cost proposal or cost allocation plan must not also be selected to perform the audit required by OMB Circular A-133 and/or 2 CFR §200.509) when the indirect costs recovered by the auditor during the prior year exceeded \$1 million.

Consulting Services. A Recipient or Sub-recipient may contract with a consultant only if:

- There is a substantial need for the consulting service
- The Recipient or Sub-recipient cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with a State governmental entity

Selection must be based on demonstrated competence, knowledge, qualifications, and on the reasonableness of the proposed fee for the services. If other considerations are equal, preference must be given to a consultant whose principle place of business is in the State, or who will manage the consulting contract wholly from an office in the State.

A consulting contract, including renewals, amendments, and extensions, may not be divided into more than one contract to avoid procurement requirements. Consulting services do not fall within the definition of professional services procurement and must be competitively procured.

Authority:

- OMB Circular A-133 §__.305
- Government Code, Chapter 2254, Subchapters A and B
- 20 CFR §§663.505-663.590
- 2 CFR §200.459

11.17

Selection Procedures

Written selection procedures must exist for procurement transactions. An entity on the Federal debarment list shall not be selected for an award.

Written selection procedures must identify all requirements and evaluation factors to be used in evaluating bids or proposals. A clear and accurate description of the technical requirements of the goods or services being procured must be included in the solicitation. Such description:

- Shall not, in competitive procurements, contain features that unduly restrict competition, or otherwise provide one competitor with an unfair advantage over others
- May include a Statement of the qualitative nature of the good or service being procured
- When necessary, must set forth the minimum essential characteristics and standards that must be met to satisfy the intended use
- Should avoid detailed product specifications, if at all possible

A “brand name or equal” description may be used to define performance or other salient procurement requirements only when it is impractical or uneconomical to provide a clear and accurate description of the technical requirements. The specific features that must be met must be clearly Stated. See also Entity Specific Consideration below.

Debarment. Recipients shall not make awards to any party that is:

- Debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension”
- Found on the Excluded Persons List System (EPLS) in compliance with Executive Order 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as implemented by 29 CFR, Chapter XII, Part 1471

Recipients and Sub-recipients shall use the following to conduct a search for such persons or entities prior to awarding or renewing a contract:

- The System for Award Management (SAM)

Additional Guidance on the Development of Selection Criteria. Optional supplemental guidance on the development of selection criteria can be found at 48 CFR §13.106-2 (Small Purchase Method); 48 CFR §14.201-8 (Sealed Bid Method); and 48 CFR §§15.304-15.308 (Competitive Proposal Method). The guidance is based on the Federal Acquisition Regulation (FAR). The FAR sets forth procurement regulations that apply to Federal agencies. Recipients and Sub-recipients are not subject to compliance with FAR. However, because of similarities between the FAR and grant procurement standards, FAR policies can be a useful aid to Recipients and Sub-recipients, and may be incorporated into the Recipient or Sub-recipient’s local policies and procedures at the Recipient and Sub-recipient’s discretion, unless such provisions are otherwise required by or in conflict with applicable Federal, State, and/or granting agency requirements. In such cases, compliance with applicable Federal, State, and/or granting agency requirements must be maintained.

Entity Specific Consideration:

Non-governmental Entities. To the extent practical and economically feasible, non-governmental entities subject to OMB Circular A-110 and 2 CFR §200 Appendix XII must ensure that solicitations include the acceptance of products and services dimensioned in the metric system of measurement and preference for energy efficient products and services that conserve natural resources and protect the environment.

Authority:

Selection:

- OMB Circular A-110 §__.44
- 29 CFR §97.36(c)(3)
- 45 CFR §92.36(c)(3)
- 7 CFR §3015.180
- 2 CFR §200.324

Debarment:

- OMB Circular A-110 §__.13
- 29 CFR §97.35
- 45 CFR §92.35
- 2 CFR §200.213
- 2 CFR Appendix XII to Part 200

11.18

Cost or Price Analysis

A cost or price analysis must be performed in connection with every procurement action.

Recipients must make independent estimates before receiving bids or proposals. Beyond that, the method and degree of cost analysis or price analysis may vary dependent on the facts surrounding each procurement situation. Note that costs or prices based on estimated costs are allowable only to the extent that costs incurred or cost estimates are consistent with Federal cost principles.

A cost analysis is required when a bidder must submit the elements of its estimated cost. It is also required when adequate price competition is lacking (i.e. sole source procurements, contract modifications or change orders) unless price reasonableness can be established using: 1) a catalog or market price of a commercial product that is sold in substantial quantities to the general public; or 2) based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price. For micro-purchases, price reasonableness may be determined as described in Section 12.10 of this manual.

Profit, when applicable, must be negotiated as a separate element of the price anytime a cost analysis is performed and for all contracts in which there is no price competition. Considerations for determining a fair and reasonable profit must include:

- Complexity of the work to be performed
- Risk borne by the sub-recipient
- Sub-recipient's investment
- Amount of subcontracting (by the sub-recipient)
- Quality of its record of past performance
- Industry profit rates in the surrounding geographical area for similar work

Optional supplemental guidance on performing a cost or price analysis can be found in the Federal Acquisition Regulation (FAR) at 48 CFR §13.106-3 (Small Purchase Method) and 48 CFR §15.404-1 (Sealed Bid and Competitive Negotiation Methods). The FAR sets forth procurement regulations that apply to Federal agencies. Recipients are not subject to compliance with the FAR. However, because of similarities between the FAR and grant procurement standards, FAR policies can be a useful aid to Recipients. The guidance may be incorporated into the Recipient's local policies and procedures at the Recipient's discretion, unless such provisions are otherwise required by or in conflict with applicable Federal, State, and/or agency requirements. In such cases, compliance with applicable Federal, State, and/or agency requirements must be maintained.

Entity Specific Considerations:

Non-governmental Entities. Aside from requiring that "some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action," OMB Circular A-110, which is applicable to non-governmental entities, does not provide for any of the specific requirements described above.

Authority:

- OMB Circular A-110 §__.45
- 29 CFR §97.36(f)(1)-(3)
- 45 CFR §92.36(f)(1)-(3)
- 7 CFR §3015.180
- 2 CFR §200.323
- 2 CFR §200.404

11.19

Protest Procedures

Protest procedures must be in place to handle and resolve disputes relating to procurements.

Protests must be settled in accordance with good administrative practice and sound business judgment as prescribed in Section 13.1 of this manual. In all instances, information regarding the protest must be disclosed to the awarding agency. A protester must exhaust all administrative remedies with the Recipient or Sub-recipient before pursuing a protest with the Granting Agency. Reviews of protest by the Granting Agency will be limited to:

- Violations of Federal law or regulations and procurement standards established by Federal regulations (violations of State or local law will be under the jurisdiction of State or local authorities)
- Violations of the Recipient's or Sub-recipient's protest procedures for failure to review a complaint or protest

Protests received by the Agency other than those specified above will be referred to the Recipient or sub-recipient.

Entity Specific Considerations:

Non-governmental Entities. OMB Circular A-110, which applies to non-governmental entities, does not provide any specific requirements for protest procedures.

Authority:

- 29 CFR §97.36(b)(12)
- 45 CFR §92.36(b)(12)
- 7 CFR §3015.180
- 4 CFR §§21.1- 21.14

11.20

Pre-Award Review

A pre-award review should be conducted to determine the adequacy of a bidder's financial management system prior to award.

In accordance with Federal and State regulations, prior to awarding a contract and any time subsequent to award, the Recipient or Sub-recipient may evaluate the bidder's financial management system and may make an assessment of the bidder's level of risk of noncompliance or nonperformance under the contract. A bidder may be considered "high risk" if it:

- Has a history of poor performance
- Is not financially stable
- Has a management system that does not meet the standards prescribed in the OMB Circular A-110 or the Common Rule (as applicable) (see Appendix C to this manual for the codification of the Common Rule)
- Has not conformed to the terms and conditions of a previous award

- Is not otherwise responsible

If the bidder is considered “high risk” but will still be awarded the contract, the Recipient or Subrecipient should impose additional restrictions on the bidder until the risk conditions have been corrected. When additional requirements will be imposed, the Recipient must notify the bidder in writing as to:

- The nature of the additional requirements
- The reason why the additional requirements are being imposed
- The nature of the corrective action needed
- The time allowed for completing the corrective actions
- The method for requesting reconsideration of the additional requirements imposed

Special conditions or restrictions may include:

- Payment on a reimbursement, where otherwise not required
- Requiring additional, more detailed financial reports
- Additional project monitoring
- Requiring technical or management assistance
- Establishing additional prior approvals
- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period

Any special conditions or restrictions must be promptly removed once the risk conditions have been corrected.

Entity Specific Considerations:

Non-governmental Entities. Other than the special award conditions summarized above, OMB Circular A-110, which applies to non-governmental entities, does not provide any specific reference or requirement that provide for the performance of a pre-award review. Additionally, OMB Circular A-110 does not elaborate on the types of special conditions or restrictions that may be imposed before corrective action has been taken.

Authority:

- OMB Circular A-110 §__.14
- 29 CFR §97.12 and §97.20(c)
- 45 CFR §92.12 and §92.20(c)
- 7 CFR §3015.180
- 2 CFR §200.330
- 2 CFR §200.328

11.21

Performance Bonds

Bonding for construction or facility improvements must adequately protect the Federal and/or State government's interest.

Except as otherwise required by statute, Recipients must require any recipient or sub-recipient for construction or facility improvements to demonstrate that it is adequately bonded. The policy varies by the amount of the contract as follows:

Contracts \leq \$100,000. A Recipient may follow its own policy relating to bonding requirements for construction or facility improvement contracts; i.e. bid guarantees, performance bonds, and payment bonds.

Contracts $>$ \$100,000. A Recipient may follow its own policy relating to bonding requirements for construction or facility improvement contracts if the Federal or State awarding agency determines that such a policy is sufficient to adequately protect the Federal and/or State government's interest. If no such determination is made, the bidder must at a minimum, provide a bid guarantee equivalent to five percent of the bid price, a performance bond for 100 percent of the contract price, or a payment bond for 100 percent of the contract price.

Entity Specific Considerations:

Non-governmental Entities. OMB Circular A-110, which is applicable to nongovernmental entities, requires that where bonds are required, such bonds must be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223, "Surety Companies Doing Business with the United States."

Authority:

- OMB Circular A-110 §___.48(c)
- 29 CFR §97.36(h)
- 45 CFR §92.36(h)
- 7 CFR §3015.180
- 2 CFR §200.325
- ORD-11:078

11.22

Contract Types

The appropriate type of contract must be used, and shall not include cost plus a percentage of cost or percentage of construction cost contracts.

The cost plus a percentage of cost and percentage of construction cost methods of contracting are prohibited. Additionally, time and material type contracts may only be used after determining that no other type of contract is suitable, and if the sub-recipient exceeds the contract-ceiling price, if included, it does so at its own risk.

Contracting requirements are provided in Chapter 12 of this manual. In addition, optional supplemental guidance on determining the appropriate type of contract may be found at 48 CFR Part 16, as indicated below. The guidance is based on the Federal Acquisition Regulation (FAR). The FAR sets forth procurement regulations that apply to Federal agencies. Recipients are not subject to compliance with FAR. However, because of similarities between the FAR and grant procurement standards, FAR policies can be a useful aid to Recipients, and may be incorporated into the Recipient's local policies and procedures at the Recipient's discretion, unless such provisions are otherwise required by or in conflict with applicable Federal, State, and/or agency requirements. In such cases, compliance with applicable Federal, State, and/or Agency requirements must be maintained.

- Fixed price contracts (48 CFR §§16.201-207-3)
- Cost-reimbursement contracts (48 CFR §§16.301-307)
- Incentive contracts (48 CFR §§16.401-406)
- Indefinite-delivery contracts (48 CFR §§16.500-506)
- Time-and-Materials, Labor-Hour, and Letter Contracts (48 CFR §§16.601-603-4)

Entity Specific Considerations:

Non-governmental Entities. OMB Circular A-110, which applies to non-governmental entities, includes additional language that the type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) must be determined by the Recipient, but must be appropriate for the particular procurement and promote the best interest of the program involved.

Authority:

- OMB Circular A-110 §__44(c)
- 29 CFR §97.36(b)(10) and (f)(4)
- 45 CFR §92.36(b)(10) and (f)(4)
- 7 CFR §3015.180
- 2 CFR §200.332
- ORD-11:078

11.23

Attachment: Bidders & Vendors Lists

Recipients and Sub-recipients can use bidders and vendors lists in the procurement of goods and services.

Bidder's List. A bidders list is a list of entities, the entities' contact information, and product(s) or service(s) offered by those entities, from which mailing lists are compiled and used to promote competition by notifying potential bidders of bid/procurement opportunities. Where public advertisement is required — i.e., under the sealed bid method (Section 13.11 of this manual) and competitive proposal method (Section 13.12 of this manual) — such notifications can supplement but generally do not substitute for public advertisement. (See Public Advertisement in Section 13.11 of this manual.) Additionally, use of a bidders list must not prevent historically underutilized businesses from having an opportunity to compete, and be selected for award of subcontracts as discussed in Section 13.5 of this manual. Procurement documentation must be maintained in accordance with this Chapter.

The bidders list can be developed through a survey of the open market. Efforts to fortify the list occur through market advertising and other means designed to enroll the greatest number of potential bidders. The list requires periodic maintenance to keep it current.

Vendors List. A vendors list is a list of persons, firms, or products that the Recipient or Subrecipient has procured, and which it uses to purchase goods and services. A vendors list is developed in anticipation of circumstances that involve occasional and often unpredictable access to specific goods and services, which when the need arises, may require almost immediate acquisition.

Development of the vendors list requires issuance of an invitation for bids, request for proposals, or small purchase solicitation, depending on the aggregate cost and nature of the need. Selection of vendors to be included on the list results from a technical evaluation and the issuance of an instrument of understanding with the vendors, which includes procedures and potential deadlines for eventual selection and contract execution

A vendors list assures that those included on the list have undergone a full technical evaluation for the specific goods or services on the list. At the time of acquisition, the Recipient or Sub-recipient must notify all entities willing to provide the goods or services required of the intent to procure. The notice shall provide specifics of the purchase, and (as prescribed in the instrument of understanding) a deadline for cost estimate submission. The Recipient and Sub-recipient shall conduct a cost/price analysis and shall select a vendor(s) for award.

Entity Specific Considerations:

Non-governmental Entities. OMB Circular A-110, which is applicable to non-governmental entities, does not provide any specific requirements for using bidders or vendors lists. However, this does not preclude such entities from developing and using bidders and vendors lists in a manner that is consistent with the standards in this Chapter.

11.24

Attachment: Cooperative Purchases

Participation in purchasing agreements and cooperatives is encouraged to foster greater economy and efficiency in the procurement of common goods and services. A number of cooperative purchasing opportunities are available to Recipients and Sub-recipient, as discussed below.

Purchasing Cooperatives. Purchases made through a purchasing cooperative or purchasing network satisfy the procurement requirements of this Chapter if:

- The Recipient is eligible to participate under the rules of the particular cooperative or network
- The procurement procedures used by the cooperative or network satisfy the procurement requirements of this manual, e.g. full and open competition, requirements for small purchase, competitive proposal, and sealed bid requirements, conflicts of interest, Federal debarment, etc.

Where a Recipient or Sub-recipient determines that it has met these requirements, it shall retain documentation: (1) that supports its eligibility to participate in the cooperative or network; and (2) of its assessment of the purchasing procedures used by the cooperative or network. In making its assessment, it is recommended that the Recipient contact the cooperative or network directly to discuss and gain an understanding of the procurement procedures used, rather than rely solely on a description provide on the Internet or other literature.

Chapter 12. CONTRACTS

12.1

Introduction

Supreme Court decisions have upheld the validity of four essential components of a contract, as published by the American Law Institute. These four elements are: 1) manifestation of mutual assent, 2) consideration, 3) legality of object, and 4) capacity of the parties. Though not specifically required by Federal regulations, each of these components must be present for the existence of a valid contract. The Federal, State and Granting agency requirements for contracts of Federal or State funds are compiled in this chapter. In the event of conflict between these standards and Federal statute or regulation, Federal statute or regulation will apply.

Record retention and access requirements are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

12.2

Contract Types

The cost plus a percentage of cost and cost plus a percentage of construction methods shall not be used in contracting of Federal or State funds. The type of contract used should coincide with 1) the degree and timing of responsibility assumed by the subrecipient for costs, and 2) the amount and nature of the profit incentive offered for achieving or exceeding specified standards or goals (if applicable).

Recipients may choose from a wide variety of contracts to acquire goods and services. This section conforms to the Federal Acquisition Regulation in that it groups these contracts into two broad categories: fixed price and cost reimbursement contracts. Specific contract types within these categories range from firm-fixed-price to cost-plus-fixed-fee contracts. These two broad categories also include incentive type contracts.

With the exception of fixed unit price performance based contracts and fixed unit price non-performance base contracts, this manual does not describe the specific types of contracts that fall within these two broad categories. Instead, it addresses general requirements applicable to these two categories of contracts.

12.3

Cost Reimbursement Contracts

Under a cost reimbursement contract, the Recipient compensates its Sub-recipient for performing at a certain level of effort, regardless of the level of output achieved. Since compensation is made on a level of effort basis, payments are earned based on actual allowable costs incurred and reported by the Sub-recipient (up to a negotiated ceiling; i.e., budget). Compensating a Sub-recipient at cost does not provide an incentive for the Sub-recipient to control costs or to provide goods or services in the most effective manner. Thus, the Recipient, as the paying entity, bears the primary risk under this type of contract. Types of cost reimbursement contracts include: cost contracts, cost sharing contracts, cost-plus-incentive-fee contracts, cost-plus-award-fee contracts, and cost-plus-fixed-fee contracts.

The Granting Agency requires that cost reimbursement contracts be used for contracts between units of State and local governments, and contracts between a Recipient and their administrative entity. A cost reimbursement contract may also be used with other types of Sub-recipients. In general, a cost reimbursement contract is used:

- When the work desired cannot be precisely detailed as to permit the expectation of a common understanding of results
- Where it might be considered unwise to attempt to characterize or prescribe details of an outcome (such as research and development tasks or work experience programs)

The Granting Agency requires that cost reimbursement contracts identify the number of participants covered by the agreement, if applicable; and include a line-item budget showing the

planned costs by cost category. In satisfying the budget requirement, the resources (i.e. personnel, space, travel, etc.) needed to undertake the work are to be listed, priced, and allocated among applicable cost categories. The contract may include the line item budget that was submitted in the selected proposal or bid by reference to that proposal or bid, if it was not changed by contract negotiations. However, if changes were negotiated from the budget that was in the proposal or bid, the budget should be revised to reflect the changes and should be included in the contract.

Where cost reimbursement contracts are used, the Sub-recipient's accounting system must be adequate for determining costs applicable to the contract. Monitoring performed by the Recipient during the contract period should provide reasonable assurance that efficient methods along with effective cost controls are used by the Sub-recipient. A cost reimbursement contract is not suitable for the purchase of commercial items.

Authority:

- 2 CFR §200.201
- 2 CFR §200.207
- 2 CFR Appendix II to Part 200
- ORD-11:078

12.4

Fixed Price

Under a fixed price contract, the price of the contract is not subject to change as a result of a difference between the Sub-recipient's planned and actual costs. Responsibility for costs and the resulting profit or loss is the full responsibility of the Sub-recipient. Thus, a fixed price contract provides a built-in incentive for the recipient to control costs and to perform effectively under the award. A fixed price contract may be used in conjunction with an award-fee incentive and performance or delivery incentives when the award fee or incentive is based solely on factors other than cost. A fixed price contract is suitable for the purchase of commercial items.

Two types of fixed price contracts that are commonly used in the provision of workforce related services are fixed unit price non-performance based contracts and fixed unit price performance based contracts. These types of contracts are described further below.

Fixed Unit Price Non-Performance Based Contracts. These contracts are used when the output can be clearly defined, such as the completion of an educational or training course. Fixed unit price non-performance based contracts are typically used for tuition and child care.

In contracts involving tuition, the provider of the service normally provides no guarantee of outcome. In a fixed unit price non-performance based contract, the training provider earns compensation for the training it provides, regardless of whether the participant fails tests, completes the course or semester, or is subsequently employed. Thus, the risk is primarily with the paying entity, in terms of receiving an ultimate benefit and achieving reasonable pricing.

The Agency requires that the following elements are present in fixed unit price non-performance based contracts:

- The contract must relate to the goals and target groups developed by the Recipient.
- The reasonableness of cost/price standards applied to the contract must be in terms of other contracts let, the local market, and contract specifications.
- A line item budget must be included if the price is not based on standard fees published in a catalog.
- If the Subrecipient is a governmental entity, educational institution, or non-profit organization, the contract must include language on program income which is sufficiently clear and procedurally adequate to communicate the Sub-recipient's responsibilities in relation to program income.
- If the contract authorizes interim payments, cost data must establish that payments do not exceed the cost incurred to date.

Fixed unit price non-performance based contracts may be used for:

- Individual referrals
- Purchases of merchandise, including training software packages
- Child care services
- Insurance services
- Equipment maintenance
- Leases
- Assessment services

Fixed Unit Price Performance Based Contracts. These contracts require the Sub-recipient to successfully meet measurable performance standards or provide specified deliverables. Unless there is satisfactory delivery of the predetermined outcome or result (i.e. performance of a deliverable), compensation is not earned. Thus, the risk is primarily with the Sub-recipient or service provider.

The Granting Agency requires that the price valuation must be reasonable, and that the contract costs must be allocated across applicable cost categories when the Recipient bills or reports expenditures to the Granting Agency. The Granting Agency also requires that all services purchased under fixed unit price, performance based contracts, including education and/or training services, must require documentation of measurable achievements or completed deliverables before payments are made. The requirement for verification of delivery must be Stated clearly and consistently within the contract's other sections.

In addition to the requirements above, fixed unit price, performance based contracts for education and/or training services must also meet the following Granting Agency requirements:

- The contract shall not provide for earned payments simply on the basis of enrollment or the time the participant has remained in the training program, or without regard for demonstrated participant achievement.

- The contract must provide for tiered payments, payment points, or a method to reduce payment in cases where individuals do not complete the training but are placed successfully in an occupation specified, or complete the training but are placed below the specified wage level.
- If using payment points, they must be defined both by requirements for demonstrated participant achievement and by standard time requirements to achieve participant performance levels.
- The contract must describe curriculum components, curriculum length, specific skill acquisition standards referenced to payment points, and the tests/measures criteria by which participant achievement will be determined.
- The contract shall not provide for payment of the full completion price without participants demonstrating contractually required achievement. Proxies, such as placement, shall not be used to justify completion payments short of full performance.
- Payment reductions allowed for less than full success (low wage, non-completion) must be reasonable in proportion to the value lost by the Recipient.
- The contract shall not allow placement payments based on an average of all participant wages.
- The contract must provide for appropriate control of the selection of program participants to avoid Subrecipient selection of trainees who already have the required skills.

The Granting Agency may also recommend that all fixed unit price, performance based contracts contain a description of the nature of the work and results to be obtained with sufficient precision to evaluate the Subrecipient's performance. The Granting Agency also recommends that fixed unit price, performance-based contracts for services including education and training services, contain standard benchmark payment terms, which take into consideration the total length of the program and the costs projected to be incurred by the Subrecipient to reach that benchmark point.

Authority:

- OMB Circular A-110 §__.44(c)
- 45 CFR §92.36(f)(4)
- 29 CFR §97.36(f)(4)
- 7 CFR §3015.102(b)(3)
- 2 CFR §200.201
- 2 CFR §200.202
- ORD-11:078

12.5

Contract Elements

All contracts must contain necessary elements to ensure that all parties understand the terms of the agreement.

Agreements must satisfy the legal requirements that create contractual relationships: 1) manifestation of mutual assent, 2) consideration, 3) legality of object, and 4) capacity of the parties. All subcontracted services must be secured by a written contract. Larger contracts containing multiple sections should include a table of contents to ensure nothing is omitted. The Granting Agency requires that contract instruments contain the structural elements described below, as appropriate. In addition, the Granting Agency recommends that all Recipients and Subrecipients implement a contract review process and procedures to ensure that all contracts include required provisions and assurances.

12.6

Signature or Cover Page

All contracts, including modifications, must be written and properly signed by authorized representatives of the contracting parties. At a minimum, the signature or cover page must include the following elements:

- A purpose Statement
- Names, titles and addresses of the responsible parties to the contract
- Beginning and ending dates for the contract
- Type of contract (i.e. cost reimbursement or fixed unit price)
- Total obligated dollar amount of the contract
- Funding source(s)
- Federal ID number
- Signatures and date blocks, including typed names and titles

12.7

Definition of Key Terms

This section must define terms, conditions, acronyms and terminology used throughout the contract. These terms may be general or specific to the funding agency or award.

12.8

Statement of Work or Deliverables

Each contract must contain an adequate narrative description of the quantity and quality of work to be performed or goods to be received under the contract. This clause may refer to a negotiated Statement of work or deliverables, based on the selected proposal or bid. At a minimum, the Statement of work or deliverables must contain the following, as applicable:

- A specific description of services or goods to be provided, the dates the contracted work is to begin and end, start and ending date of merchandise delivery, start-up and closeout dates
- Key elements of service package (services only), for example, assessment, case management, counseling, placement, frequency of client contact, follow-up, etc.
- Length of service activities (services only), for example, curriculum must include subject areas and number of hours/weeks of attendance, and defined number and dates of each training/education cycle
- Expected outcome(s) (services only) and description of how the outcome will be measured and documented
- List of barriers (training and education services only) to be addressed, participant selection criteria, and methods of removing barriers, if applicable
- Expenditure schedule
- Requirement to maintain records of participant information
- Performance standards defining the minimum levels of performance according to the type of contract, with such minimum performance levels must be quantifiable and stated in unambiguous terms.

Authority:

- 2 CFR §200.326
- 2 CFR §200.330
- 2 CFR Appendix II to Part 200
- ORD-11:078

12.9

Payment Provisions

This section must outline when and how payments will be made to the Sub-recipient based on satisfactory program implementation or delivery of items/goods. These provisions must include, at a minimum, the:

- Maximum amount payable
- Methods of payment and/or payment schedule
- Definition of the types of payments and invoicing procedures, such as format and due dates according to the type of contract
- Provisions for advancing of funds, if relevant
- Liquidation of advances and recovery in the event of nonperformance

12.10

Compliance with Laws and Regulations

The contract must include clauses or statements that require compliance with applicable laws and regulations. Note, such clauses or statements alone are not sufficient to protect the Recipient in a legal dispute. The contract should outline the conditions and manner under which the contract may be terminated and the basis for settlement. The following provisions must be included in all contracts as applicable.

- Termination for Default — gives both parties the right to terminate the contract for either party's failure to perform its obligations under the contract. For example, if the Sub-recipient does not perform the services required, the Recipient may terminate; or if the Recipient does not pay the Sub-recipient, the Sub-recipient may terminate. This provision must be included in all contracts in excess of \$10,000 for contracts administered by governmental entities, and all contracts in excess of the simplified acquisition threshold for contracts administered by nongovernmental entities.

As both situations represent breaches of contract, this section must describe the administrative, contractual, or legal remedies available to the parties, including possible sanctions and penalties as may be appropriate. This provision may be excluded from contracts resulting from small purchase procurements.

[See OMB Circular A-110 §__.48(a)-(b), 29 CFR §97.36(i)(1)-(2), 45 CFR §92.36(i)(1)-(2), and 7 CFR §3015.124(a)]

- Termination for Convenience — allows the Recipient or Sub-recipient to terminate the contract unilaterally without becoming liable for breach. It sets forth the procedures to be followed by the Sub-recipient upon receipt of the notice of termination and provides a right of appeal to an administrative board or other cure process. Inclusion of any appeal or cure process does not prevent a unilateral termination settlement by the contracting authority if the parties cannot negotiate a settlement pursuant to the dispute process. This provision must be included in all contracts in excess of \$10,000 for contracts administered by governmental entities, and all contracts in excess of the small purchase threshold for contracts administered by nongovernmental entities.

[See OMB Circular A-110 Subpart C §__.48(b), 29 CFR §97.36(i)(2), 45 CFR §92.36(i)(2), and 7 CFR §3015.124(b).]

- Change/Modifications — the Granting Agency requires this provision, which describes the methods and circumstances required for contract modifications. At a minimum, this clause should describe a process for changing the contract in the event of funding increases or reductions.
- Access to Records — requires the Recipient or Sub-recipient to provide access to records in accordance with applicable administrative requirements (see Appendix E to this manual). This provision must be included in all contracts awarded by a governmental entity. Nongovernmental entities are not required to include the provision in contracts that are less than the small purchase threshold.

[See OMB Circular A-110 §__.48(d), 29 CFR §97.36(i)(10), 45 CFR §92.36(i)(10), and 7 CFR §3015.183(c).]

- Record Retention — requires compliance with applicable record retention requirements. See Appendix E to this manual for more information on record retention. This provision must be included in all contracts.

[See 29 CFR §97.36(i)(11), 45 CFR §92.36(i)(11), and 7 CFR §3015.183(b).]

- Provision against Assignment — the Granting Agency requires a provision against assignment to ensure that the Sub-recipient will not assign its interest in the contract to another party without prior written approval from the Recipient. Prior to granting written approval, the Recipient is responsible for performing an analysis to evaluate the Sub-recipient’s ability to perform successfully under the terms and conditions of the contract. Approval for assignment shall not be given if the Recipient determines that the Sub-recipient is unable to perform successfully under the terms and conditions of the contract.
- Program Income — the Granting Agency requires a provision requiring that program income earned from publicly funded programs will be reported and used in accordance with the contract, and Federal and State laws and regulations.
- Disputes/Claims — the Granting Agency requires a provision that describes how disputes and/or claims between the Recipient and the Sub-recipient may be resolved. Applicable State and local requirements should also be included in this element.
- Duplicate Funding — the Granting Agency requires this provision which requires the Subrecipient to allocate costs among benefited funding sources, and prohibits the Subrecipient from charging the contract for costs that are charged to other funding sources. The Subrecipient should inform the Recipient if it receives funds that affect the cost or performance of work. The Recipient may want to insert a clause that would give them the right to renegotiate the contract relative to changed costs.
- Subcontracting — the Granting Agency requires this provision to define the circumstances, if any, under which the Sub-recipient may subcontract program activities, services, or responsibilities. If subcontracting is permitted, the clause should, at a minimum, require prior written approval from the Recipient.
- Conflict of Interest — the Granting Agency requires a provision that no employee, officer or agency of the Sub-recipient shall participate in the award, or administration of a contract supported by public funds if a conflict of interest or apparent conflict of interest would be involved. The statement should also require the Sub-recipient to notify the Recipient when any potential or actual conflict of interest situation exists.

[See 24 CFR §570.611, and 2 CFR §200.112.]

- Reporting — details the appropriate reporting requirements, such as proper format and due dates.

[See 29 CFR §97.36(i)(7), 45 CFR §92.36(i)(7), and 7 CFR §3015.61(a).]

- Patent, Copyrights and Rights in Data — allows the Recipient to retain the entire right, title and interest to each invention developed under the project, except that the Federal and/or State government shall be granted a “nonexclusive, nontransferable, irrevocable, paid-up license” to use the invention. This clause should be included in all award agreements.

[See OMB Circular A-110, Appendix A, (5), 2 CFR §200.213, 29 CFR §97.36(i)(8, 9), and 45 CFR §92.36(i)(8, 9).]

- Debarment and Suspension Certification — requires Recipients to certify, in accordance with the regulatory citations, that they are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs. Certification is required for subcontracts exceeding the small purchase threshold or for persons having critical influence over the contract.

[See OMB Circular A-110, Appendix A, (8) and 2 CFR Appendix II to Part 200.]

- Drug-Free Workplace Certification — the Drug-Free Workplace Act (Public Law 100-690, Subtitle D codified at 41 U.S.C §§701-707) requires Recipients to certify that they will provide a drug-free workplace as a precondition of receiving an award. Granting Agency policies require the completion of this certification for all contracts exceeding the small purchase threshold. Although not required, Recipients are encouraged to develop local policies requiring Drug-Free Certification for various categories of Sub-recipients.

[See Drug Free Workplace Act, Public Law 100-690 (41 U.S.C. §§701-707) and 2 CFR Appendix II to Part 200.]

- Anti-Lobbying — requires compliance with the requirements of certification and disclosure imposed by the appropriate citation. This clause prohibits the Recipient and Sub-recipient from using public funds to attempt to influence a politician to favor or oppose any Federal, State or local legislation or appropriation. Nongovernmental organizations are specifically required to include a provision for compliance with the Byrd Anti-Lobbying Amendment (13 U.S.C. §1352).

[See OMB Circular A-110, Appendix A, (7) and 7 CFR §3015.205(b)(17).]

Exhibit 15.2-1: Regulatory Citations for Federal Certifications

| Regulation | Agriculture | Labor | Education | Health and Human Services |
|-------------------------------|-------------|--------------|-----------|---------------------------|
| Drug-Free Workplace | 7 CFR 3017 | 29 CFR 98 34 | CFR 85 | 45 CFR 76 |
| Debarment / Suspension | 7 CFR 3017 | 29 CFR 98 34 | CFR 84 | 45 CFR 76 |
| Lobbying | 7 CFR 3018 | 29 CFR 93 34 | CFR 82 | 45 CFR 93 |

- Audit Rights and Requirements — the Granting Agency requires this provision on the basis of State statute and Granting Agency policies, which gives the Recipient, the Granting Agency, and others with statutory audit rights reasonable access to examine documents pertaining to contract performance during normal business hours.
- Equal Employment Opportunity — requires compliance with Executive Order (EO) 11246 of September 24, 1965 entitled “Equal Employment Opportunity,” as amended by EO 11375 of October 13, 1967 and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60). This provision must be included in all construction

contracts awarded in excess of \$10,000 that are administered by governmental entities, and in all contracts administered by nongovernmental entities.

[See OMB Circular A-110, Appendix A, (1), 29 CFR §97.36(i)(3), 45 CFR §92.36(i)(3), 7 CFR §3015.184 and 2 CFR Appendix II to Part 200.]

- Copeland Anti-Kickback Act — requires compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. §874) as supplemented in U.S. Department of Labor regulations (29 CFR Part 3). This provision must be included in all contracts and sub-grants for construction or repair that are administered by governmental entities, and all contracts in excess of \$2,000 for construction or repair that are administered by nongovernmental entities.

[See OMB Circular A-110 Appendix A, (2), 29 CFR §97.36(i)(4), 45 CFR §92.36(i)(4), and 2 CFR Appendix II to Part 200.]

Authority:

- See authorities specifically identified in this Section.
- 24 CFR §570.503
- 24 CFR §85.1

12.11

Assurances

The contracting entity must ensure that all applicable assurances are included and that the legal instrument is consistent with the standards in this section.

Federal and State laws require a number of assurances from applicants for Federal pass-through or other State-appropriated funds. The following assurances will not all be required for any one contract or grant; however, all applicable assurances must be included in contracts either in their entirety or by reference.

- Contract Work Hours and Safety Standards Act. Must be included in all construction contracts that exceed \$2,000 and in all other contracts involving the employment of mechanics or laborers that exceed \$2,500. The provision requires compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-330) as supplemented by U.S. Department of Labor Regulations at 29 CFR Part 5. The Contract Work Hours and Safety Standards Act requires Recipients and Sub-recipients to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard workweek is permissible if the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles

ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

[See OMB Circular A-110 Appendix A, (4), 29 CFR §97.36(i)(6), 45 CFR §92.36(i)(6), and 2 CFR Appendix II to Part 200.]

- Davis-Bacon Act. Must be included in all construction contracts that exceed \$2,000 when required by Federal grant program legislation. The provision requires compliance with the Davis-Bacon Act (40 U.S.C. §276a to a-7) as supplemented by U.S. Department of Labor regulations at 29 CFR Part 5. The Davis-Bacon Act requires Recipients and Sub-recipients to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, Recipients and Sub-recipients are required to pay wages not less than once a week. The Recipient or Sub-recipient must include a copy of the current prevailing wage determination issued by the U.S. Department of Labor in each solicitation and the award of a contract must be conditioned upon the acceptance of the wage determination. The Recipient and Sub-recipients must report all suspected or reported violations to the Federal awarding agency.

[See OMB Circular A-110 Appendix A, (3), 29 CFR §97.36(i)(5), 45 CFR §92.36(i)(5), 2 CFR Appendix II to Part 200, Ark. Code Ann. §11-10-110 and Ark. Code Ann. §16-21-108.]

- Child Support. Requires compliance in accordance with Federal and State laws and regulations.

- Federal statutes relating to nondiscrimination. These include but are not limited to:
 - Title VI of the Civil Rights Act of 1964 (Public Law 88-352) which prohibits discrimination on the basis of race, color or national origin
 - Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex
 - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps and the Americans With Disabilities Act of 1990
 - The Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age
 - The Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255), as amended, relating to nondiscrimination on the basis of drug abuse
 - The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Public Law 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism
 - §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records
 - Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing

- Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made
- The requirements of any other nondiscrimination statute(s) which may apply

[See 7 CFR §3015.205(b)(6), (13)-(15) and [2 CFR Appendix II to Part 200](#).]

- Minimum Wage and Maximum Hours. Recipients and Subrecipients must comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.
- Hatch Political Activity Act (5 U.S.C. §7321-29). Limits the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.
- Environmental Standards. Requires the Recipient and Sub-recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act 42 U.S.C. §§7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§1251 et seq.). The Recipient and Sub-recipient will notify the Federal granting agency of the receipt of any communication from the Director of the Environmental Protection Agency (EPA) Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA (EO 11738). This provision must be included in all contracts in excess of \$100,000.

[See OMB Circular A-110 Appendix A, (6), 29 CFR §97.36(i)(12), (14), 2 CFR Appendix II to Part 200, and 45 CFR §92.36(i)(12), (14).]

- Flood Disaster Protection Act of 1973 (Public Law 93-234). Recipients and Subrecipients must comply with the flood insurance purchase requirements of §102(a) of the Flood Disaster Protection Act of 1973. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the U.S. Department of Housing and Urban Development as an area having special flood hazards.

[See 24 CFR §570.608 and Arkansas Lead-Based Paint-Hazard Act of 2011.]

- Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.). Prohibits the use of lead-based paint in construction or rehabilitation of residential structures.

[See Arkansas Clean Indoor Air Act of 2006.]

- Pro-Children Act of 1994 (Public Law 103-277). Prohibits smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act of 1994.
- Tax Laws. Recipients and Sub-recipients will comply with all Federal tax laws and are solely responsible for filing all required State and Federal tax forms.

- Laws and Regulations. Recipients and Sub-recipients will comply with all applicable requirements of Federal and State laws, executive orders, regulations and policies.

[See Arkansas Energy Reorganization and Policy Act of 1981.]

- Energy Policy and Conservation Act. Requires compliance with mandatory standards and policies relating to efficiency which are contained in the State energy plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

[See [29 CFR §97.36\(i\)\(13\)](#), [45 CFR §92.36\(i\)\(13\)](#) and [2 CFR Appendix II to Part 200](#).]

Authority:

- See authorities specifically identified in this Section
- Davis-Bacon Act of 1931 (40 U.S.C.A §§276(a) to 276(a)-5)

CHAPTER 13 MONITORING

13.1

Introduction

This chapter compiles the applicable Federal, State and agency requirements for monitoring funds administered by the Granting Agency. Monitoring activities by the Granting Agency should ensure that programs achieve intended results, resources are efficiently and effectively used for authorized purposes, and resources are protected from waste, fraud, and abuse. In the event of conflict between these standards and Federal statute or regulations, Federal statute or regulation will apply.

Note that these requirements are applicable to the Recipients' (and Recipient's sub-recipients) monitoring functions. They do not describe the Granting Agency's monitoring function or its resolution procedures.

Record retention and access requirements are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

13.2

General

Programs, functions or activities supported by Federal and/or State funds administered by the Agency must be monitored on a regular basis to assure compliance with applicable Federal and/or State requirements.

Recipients and Sub-recipients that receive Federal and/or State funds administered by the Granting Agency must conduct regular fiscal and program monitoring of their activities and those of their sub-recipients. The monitoring must cover all programs, functions, or activities supported by Federal and/or State funds administered by the Granting Agency, and are sufficient to accomplish the following objectives:

- Determine that expenditures have been charged to the cost categories and within the cost limitations specified in the applicable laws and regulations
- Determine whether or not there is compliance with provisions of applicable laws and regulations, contract provisions, uniform administrative requirements for grants and agreements as promulgated in the circulars or rules of the Office of Management and Budget, and official directives including
 - U.S. Department of Labor Training and Employment Guidance Letters (TEGLs)
 - U.S. Department of Labor Training and Employment Informational Notices (TEINs)
 - U.S. Department of Health and Human Services Guidance Letters
- Provide technical assistance as necessary and appropriate

Monitoring must include the development and implementation of a risk assessment tool (Section 18.2 of this manual), monitoring plan (Section 18.3 of this manual), monitoring program (as part of its monitoring controls) (Section 18.4 of this manual), and reporting and resolution process (Section 18.5 of this manual). Written policies and procedures that describe and support the monitoring process must be developed and implemented.

Entity Specific Considerations:

Faith-based Organizations. If a charitable or faith-based organization who is a sub-recipient to a Recipient or Granting Agency under any grant or program contract establishes a separate account for the government funds provided through the grant or program contract, then only the services and activities supported by those funds will be subject to audit.

Authority:

- 20 CFR §§667.400(c)(1) and 667.410(a)
- OMB Circular A-110 §__.51(a)
- 29 CFR §97.40(a)
- 45 CFR §92.40(a)
- 2 CFR §§200.327 and 200.328
- 2 CFR §§200.330 and 200.331
- 24 CFR §570.503

13.3

Risk Assessment

A risk assessment tool must be developed and used in accordance with the requirements of Federal and State laws.

The risk assessment tool must identify both high-risk sub-recipients, and areas of high risk within an individual sub-recipient's operations. The Recipient is responsible for determining what constitutes high risk or an area of high risk.

Recipients must establish monitoring schedules and monitoring programs that best utilize monitoring resources based on the risk assessment tool's outcomes. Recipients must quantify, as much as possible, and document areas of risk identified for assessment.

13.4

Monitoring Plan

A local-level monitoring plan must be developed using the results of the risk assessment. The plan must include the information required by Federal and State Laws.

The monitoring plan must incorporate the following:

- A schedule or timetable for monitoring Granting Agency funded activities, and sub-recipients based upon risk assessment results
- Identification of the type of review planned for each sub-recipient, such as on-site review, comparative financial analysis, desk review, staff analysis, or other type of appropriate review
- The estimated time budgeted to perform each review

Recipients may perform monitoring reviews either formally or informally, but must incorporate the risk assessment results in scheduling decisions.

13.5

Monitoring Controls

Monitoring controls must be implemented to ensure that comprehensive and effective monitoring is achieved.

To ensure comprehensive and effective monitoring, Recipients and their sub-recipients must:

- Require periodic reports from their sub-recipients outlining monitoring reviews, noncompliance issues, and the status of corrective actions
- Ensure that a briefing regarding monitoring activities and findings is provided to the Board or appropriate Board subcommittee at regularly scheduled meetings
- Require an annual evaluation of the monitoring function to determine its effectiveness, by a person or entity independent of the monitoring function

- Develop a written monitoring procedure to be used in monitoring both program and fiscal operations

13.6

Reporting & Resolution

Monitoring reports must identify instances of noncompliance with Federal and/or State requirements, and provide recommendations for corrective action and program quality enhancements.

Monitoring reports must identify instances of noncompliance with Federal, State and Agency requirements, and provide recommendations for corrective action and program quality enhancements.

A Recipient's sub-recipient must establish timelines for the completion of corrective action plans that are based on the severity of the deficiency. The Recipient and sub-recipient must coordinate to ensure implementation of corrective actions. Each Recipient has local flexibility in establishing a resolution process for coordinating the implementation of the plans with the sub-recipient, but may at its discretion, model such process after the rules at Ark. Code Ann. §19-1-607.

Monitoring reports must be provided to the Granting Agency. Upon request, copies must be provided to the Federal awarding agency.

Chapter 14 SINGLE AUDIT

14.1

Introduction

This chapter compiles the applicable Federal, State and awarding agency audit requirements for entities that receive funds administered by the Recipient.

Record retention and access requirements are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

14.2

General

States, local governments, and non-profit organizations that expend \$750,000 or more (\$300,000 or more for fiscal years ending on or before December 26, 2013) in Federal and/or State awards in that entity's fiscal year must have a single or program-specific audit performed by an independent auditor.

States, local governments, and non-profit organizations that receive Federal and/or State funds must comply with the audit requirements in OMB Circular A-133 and 2 CFR §§200, as applicable. Unless otherwise required, for-profit/commercial entities are not subject to these requirements (see Program Specific Considerations). Contracts with for-profit/commercial entities should establish audit requirements that may include pre- and post- audits, and contract monitoring.

Audit Frequency. Audits must be conducted annually in accordance with OMB Circular A-133 and 2 CFR §200.504 unless otherwise required by the constitution, charter, ordinance or statute. Otherwise, a biennial audit that covers both years within the biennial period must be performed.

Basis for Expenditure Determination. The determination of when an award is expended should be based on when the related activity occurs. The basis for determining Federal and/or State awards expended is described in OMB Circular A-133 §__.205 and 2 CFR §200.502. Generally, expenditures relating to events that must comply with laws, regulations, and contract provisions or grant agreements are counted toward the \$750,000 (\$300,000 for fiscal years ending on or before December 26, 2013) expenditure level.

Single or Program Specific Audit. States, local governments, and non-profit organizations that expend \$750,000 or more (\$300,000 or more for fiscal years ending on or before December 19, 2014) in that entity's fiscal year in Federal funds must have a single audit conducted. Entities that expend Federal and/or State awards under only one program, and who are not required by law, regulation, or grant agreement to have a financial audit, may have a program-specific audit performed in accordance with OMB Circular A-133 §__.235 and 2 CFR §200.507

Vendor and Sub-recipient Determination. Recipients that meet the definition of "sub-recipient" are subject to the audit requirements in OMB Circular A-133 and 2 CFR §200.331, but Recipients that meet the definition of "vendor" are not. The following guidance should be used for determining whether an entity is a vendor or a sub-recipient. If unusual circumstances or exceptions exist, judgment must be exercised in making the determination. In making the determination of whether a sub-recipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement.

A sub-recipient:

- Determines who is eligible to receive what financial assistance
- Has its performance measured against whether the objectives of the program are met
- Is responsible for programmatic decision making

- Is responsible for adherence to applicable Federal and State program compliance requirements
- Uses funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity

A vendor:

- Provides the goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the Federal or State program
- Is not subject to compliance requirements of the Granting Agency program

Relation to Other Audit Requirements. Generally, an audit performed in accordance with OMB Circular A-133 and 2 CFR §200.503 will be accepted under Federal and/or State awards. If an awarding entity imposes audit requirements that are additional to OMB Circular A-133 and 2 CFR §200.503, the additional audit work must build upon the work performed by other auditors. Funding for the additional work must be arranged by the entity requesting the additional audit.

Audit Costs. Unless prohibited by law, the cost of audits made in accordance with the provisions of OMB Circular A-133 and 2 CFR §200.425 are allowable charges to Federal and/or State awards as a direct or indirect costs. The Recipient's share of the allowable audit cost may be reimbursed to audited entities if:

- Funding is available and reimbursement is permitted by applicable funding sources
- The audit is found to be acceptable upon review by the Granting Agency
- The audit and reimbursement request follow Recipient and/or Granting Agency policies and procedures

The costs of audits that are not conducted in accordance with OMB Circular A-133 and 2 CFR Subpart F to Part 200 requirements are not allowable under Federal awards.

Authority:

- 20 CFR §667.200(b)(2)
- OMB Circular A-133 §§__.200-__.235
- 29 CFR §97.26
- 29 CFR §95.26
- 24 CFR §85.1
- 2 CFR Subpart F to Part 200

14.3

Reporting Package

The Single Audit reporting package must be submitted to the oversight entity within the earlier of 30 days after receipt of the auditor's report(s) or nine months after the end of the audit period, unless a longer period is agreed to in advance by the oversight entity. At least one copy of the reporting package must be submitted to the entity that has oversight responsibility; however, additional copies may be required as necessary. The reporting package must include the elements described below.

- Financial Statements. The entity being audited must prepare financial Statements that reflect its financial position, results of operations or changes in net assets, and where appropriate, cash flows for the fiscal year audited. When applicable, the financial Statements must be prepared in accordance with Governmental Accounting Standards Board (GASB) Statement 34, and other relevant GASB Statements. The financial Statements must be for the same organizational unit and fiscal year that is being audited. Organization-wide financial Statements may also include departments, agencies, and other organization units that have separate audits and prepare separate financial Statements.
- Schedule(s) of Expenditures of Federal and/or State Awards. The entity being audited must prepare a Schedule of Expenditures of Federal Awards and/or Schedule of Expenditures of State Awards for the period covered by its financial Statements. The schedules may, but are not required to, include additional information requested by the awarding entities that make the schedules easier to use. At a minimum, the schedules must:
 - Show State awards expended separate from Federal awards expended (even if the State funds are awarded within the Federal funds as one program)
 - List individual Federal and/or State programs by Federal and/or State agency. For programs that are included in a cluster of programs, list individual programs within each cluster of programs
 - For awards received as a sub-recipient, the name of the pass-through entity and identifying number assigned by the pass-through entity must be included. For Local Government contracts, the identifying number is the Local Government's contract number
 - Provide total Federal and/or State awards expended for each individual program, the program name, the program number if a number is used, Catalog of Federal Domestic
 - Assistance (CFDA) title and number (if used to identify the program), or other relevant identifier when the program or CFDA information is not available
 - Include notes describing the significant accounting policies used in preparing the schedule
 - To the extent practical, if the entity being audited serves as a pass-through entity, identify the total amount provided to sub-recipients from each program
 - Include, in the schedule or as a note, the value of the Federal and/or State awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and outstanding loans or loan guarantees at year-end
- Summary Schedule of Prior Audit Findings. The entity being audited must prepare a Summary Schedule of Prior Audit Findings showing the status of all audit findings included in the prior audit's Schedule of Findings and Questioned Costs relative to

Federal and/or State awards. The schedule should include the reference numbers the auditor assigns to audit findings and the fiscal year in which the finding initially occurred. It must also include audit findings reported in the prior audit's Summary Schedule of Prior Audit Findings except audit findings listed as corrected, or no longer valid or not warranting further action. Additionally:

- When audit findings were fully corrected, the summary schedule need only list the audit findings and State that corrective action was taken.
- When the audit findings were not corrected or were only partially corrected, the summary schedule must describe the planned corrective action and any partial corrective action taken.
- When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the management decision, the summary schedule must provide an explanation.
- When the entity that is being audited believes the audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. Valid reasons are listed at OMB Circular A-133 §__.315(b)(4) and 2 CFR §200.511.
- Auditor's Report. The audit report must state that the audit was conducted in accordance with OMB Circular A-133 and 2 CFR §200.515, and it must include the following:
 - An opinion or disclaimer of opinion as to whether the financial Statements are presented fairly in all material respects in conformity with Generally Accepted Accounting Principles (GAAP), and an opinion or disclaimer of opinion as to whether the Schedule(s) of Expenditures of Federal and/or State Awards are presented fairly in all material respects in relation to the financial Statements as a whole
 - A report on internal controls related to the financial Statements and major Federal and/or State programs that describes the scope and results of testing of internal controls, and if applicable, refers to the Schedule of Findings and Questioned Costs
 - A report on compliance with laws, regulations, and the provisions of contracts or grant requirements which could have a material effect on the financial Statements, including an opinion or disclaimer of opinion as to whether the entity that is being audited complied with laws, regulations, and the provisions of contracts or grant agreements that could have direct and material effect on each major Federal and/or State program, and where applicable, refer to the separate Schedule of Findings and Questioned Costs
 - A Schedule of Findings and Questioned Costs which includes the following items as described in OMB Circular A-133, §__.505 and 2 CFR §200.515:
 - A summary of the auditor's results
 - Findings relating to the financial Statements which are required to be reported in accordance with generally accepted governmental auditing standards (GAGAS)
 - Findings and questioned costs for Federal and/or State awards
- Corrective Action Plan. The entity being audited must prepare a Corrective Action Plan for current year audit findings that includes the reference numbers the auditor assigns to audit findings. The corrective action plan must provide the name(s) of the contact

person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the entity that is being audited does not agree with the audit findings or believes corrective action is not required, the Corrective Action Plan must include an explanation and specific reasons.

NOTE: Entities that are audited to comply with the audit requirements of OMB Circular A-133 and 2 CFR Subpart F to Part 200 are also required to submit a copy of the reporting package along with the data collection form described in OMB Circular A-133 §__.320 and 2 CFR §200.512 to the Federal clearinghouse designated by the OMB. This submission requirement is in addition to the requirement to submit a copy of the reporting package to the oversight entity. (The data collection form is only required to be submitted to the Federal clearinghouse, not to the oversight entity.) The same timeframes that apply to the submission of the reporting package to the oversight entity also apply when submitting the required documents to the Federal clearinghouse. The audited entity is responsible for submitting the data collection form and a copy of the reporting package to the Federal clearinghouse within required timeframes.

Authority:

- OMB Circular A-133 §§__.310, __.315(b)-(c), __.320(c), and __.505
- 2 CFR §§200.510 to 200.516

14.4

Oversight Responsibilities

An entity that passes Federal and/or State funds through to a sub-recipient to carry out a Federal and/or State program must assume oversight responsibilities for those funds.

A State, local government, or non-profit organization that expends Federal and/or State funds to carry out a Federal and/or State program must submit audits required by OMB Circular A-133 and 2 CFR Subpart F to Part 200 to the entity's Federal cognizant agency for audit, State single audit coordinating agency, or State oversight agency for single audit, as applicable. If a State, local government, or non-profit organization that receives Federal and/or State funds passes such funds through to an entity, that meets the definition of a sub-recipient, to carry out a Federal and/or State program, the pass-through entity must assume the following responsibilities for the awards it makes:

- Inform each sub-recipient of the following:
 - CFDA title and number (if used to identify Federal programs)
 - Award name and number
 - Award year
 - If the award is for Research and Development (R&D) (for Federal programs only)
 - The name of the Federal or State agency

When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal and/or State award.

- Advise sub-recipients of requirements imposed on them by Federal and/or State laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity. For State awards, the requirements must either be stated or included by specific reference in the contracts or grant agreements.
- Monitor the activities of sub-recipients as necessary to ensure that performance goals are achieved and Federal and/or State awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreement.
- Ensure sub-recipients expending \$750,000 or more (\$300,000 or more for fiscal years ending before December 26, 2013) in Federal and/or State awards during the subrecipient's fiscal year have met the audit requirements of OMB Circular A-133 and the 2 CFR Subpart F to Part 200 for that fiscal year.
- Issue a management decision on audit findings within six months after receipt of the sub-recipient's audit report and ensure that the sub-recipient takes appropriate and timely corrective action.
- Consider whether sub-recipient audits necessitate adjustment of the pass-through entity's own records.
- Require each sub-recipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with OMB Circular A-133 and the 2 CFR Subpart F to Part 200.
- When State awards are made with Federal awards to a sub-recipient, as required match, inform the sub-recipient of the proportion of Federal and State funds disbursed to the sub-recipient to facilitate the sub-recipient's separate calculations of expenditures of Federal awards and State awards for its fiscal year.
- When State awards are made to a sub-recipient to supplement Federal awards, the State awards are not used to meet a Federal matching requirement, and requirements of the State award differ from the requirements of the Federal award (e.g., different activities are allowed or disallowed, or different allowable costs or cost principles are used), the pass through entity shall also provide information as to the amount of each award to the recipient at the time the award is made to facilitate the sub-recipient's accounting for and compliance with the requirements of each award during the term of such award.

Each entity with oversight responsibility may establish a sanction policy that includes the option to impose sanctions on an audited entity for the failure to resolve administrative issues, audit findings, or questioned costs within specified timeframes. Each entity has local flexibility in establishing a sanction policy.

Authority:

- OMB Circular A-133 §__.400(d)
- 2 CFR §200.508

14.5

Management Decision

Within six months of the date that the entity with oversight responsibility receives the audit reporting package, a Management Decision must be issued to the audited entity.

The audited entity should initiate corrective action within six months of the date that it receives the audit report and proceed as rapidly as possible to correct administrative issues, findings, and questioned costs. While the audited entity takes corrective action, the entity with oversight responsibility must conduct a desk review of the report and may request additional information or documentation.

Upon completion of the desk review, a Management Decision must be issued. The Management Decision must be issued within six months of the date that the entity with oversight responsibility received the audit. The Management Decision must include the reference numbers the auditor assigned to each audit finding and clearly state:

- Whether each audit finding is sustained
- The reasons for the decision
- A requirement to repay disallowed costs, make financial adjustments, or take other action

If corrective action has not been completed as of the issue date of the Management Decision letter, a timetable for follow-up should be given. The Management Decision letter should describe an appeal process available to the audited entity.

Recipients with oversight responsibilities have local flexibility in the establishment of their own procedures as long as they meet the requirements above.

Prior Notice Letter. Remind the sub-recipient that an audit report package must be submitted to the oversight entity by a specified date. It is sent to sub-recipients prior to the audit reporting package due date.

Delinquent Letter. Notifies the sub-recipient that its audit reporting package was not received by the oversight entity by the due date and that, if not received within 60 days from the due date of the audit, sanctions may be imposed.

Extension Request Letter. Notifies the sub-recipient that its request for an extension for single audit submission has been granted or denied.

Initial Resolution Letter. Initiates resolution of administrative issues, findings, and questioned costs for which corrective action has not yet been taken, and requires that specified information be submitted to the oversight entity within 30 days of the date of the Initial Resolution Letter.

No Response Letter. Notifies the sub-recipient that the oversight entity has not received a response to an Initial Resolution Letter, and sanctions may be imposed if a response or explanation for the delay is not received within fifteen days of the date of letter.

Follow-up Letter. Notifies the sub-recipient that the oversight entity has received a response to the Initial Resolution Letter and requires additional information and/or documentation be submitted to the oversight entity within 15 days of the date of the letter.

The letters above relate to the receipt and review of the audit and occur within the six-month timeframe prior to the release of a Management Decision. The following three letters that may be used by the oversight entity, relate to the Management Decision and to unresolved administrative issues, findings, and questioned costs that remain outstanding after the six-month period.

Acceptance Letter (Management Decision). Notifies the sub-recipient that the oversight entity has accepted the audit report and the audit file is closed.

Initial Determination Letter. Notifies the sub-recipient that questioned costs in a specified amount have not been resolved within the six-month time period and allows the sub-recipient thirty days from the date of the Initial Determination Letter to informally resolve the questioned costs.

Final Determination Letter. Establishes a debt against the sub-recipient for questioned costs that were not resolved as a result of the Initial Determination Letter and notifies the sub-recipient of appeal procedures. If the determination is not appealed within ten days of receipt of the Final Determination Letter, the debt must be paid to the oversight entity using non-Federal and/or non-State funds.

Recipients with oversight responsibilities should develop local procedures for the prompt collection of debts. Cash is the preferred method of recovery; however, debt may also be settled by withholding amounts due or use of stand-in costs. Stand-in costs are discussed below under Other Special Considerations.

Other Special Considerations:

Stand-in Costs. Stand-in costs are non-Federal, non-State costs that may be substituted for disallowed grant costs when certain conditions are met. In order to be considered stand-in costs, the proposed stand-in costs must meet the following criteria:

- Must have been allowable costs incurred under the grant, but not charged to the Federal program (or any other program administered by the Granting Agency)
- Must have been included within the scope of the audit
- Must have been accounted for in the auditee's financial system
- May include cash match (expenditures of the organization used as match) that exceeds match requirements under the grant
- Must come from the same year as the costs that were proposed to be replaced
- Must not cause costs to exceed administrative or other cost limitations

Stand-in costs do not include in-kind match; uncompensated overtime; unbilled premises costs associated with fully depreciated publicly owned buildings; allocated costs derived from an improper allocation methodology; or discounts, refunds or rebates.

Authority:

- One-Stop Comprehensive Financial Management Technical Assistance Guide, Chapter II-12
- OMB Circular A-133 §__.405
- 2 CFR §200.521

CHAPTER 15. ENFORCEMENTS, APPEALS AND TERMINATION

15.1

Introduction

This chapter compiles the applicable Federal, State and agency requirements for the enforcement, sanction, and termination of awards made by Recipients to subrecipients using funds administered by the Granting Agency.

In the event of conflict between these standards and Federal statute or regulations, the Federal statute or regulations will apply.

Record retention and access requirements are provided in Appendix E to this manual. All financial and programmatic records, supporting documents, statistical records, and other records pertaining to an award of Federal or State funds must be retained and made available to authorized entities or their representatives in accordance with applicable administrative requirements.

15.2

Enforcement, Appeals & Sanction

A Recipient's enforcement policies must not conflict with Federal or State requirements.

Each Recipient has discretion in developing its own enforcement policies to the extent that such policies do not conflict with Federal and/or State provisions as provided below, in this chapter, or as otherwise required.

Remedies. Enforcement may be accomplished by taking one or more of the following remedies, or by imposing other sanctions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency by sub-recipient or more severe enforcement action by the Recipient

- Disallow (deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance (see also Program Specific Considerations)
- Wholly or partly suspend or terminate the current award for the subrecipient's program
- Withhold further awards for the program
- Place the sub-recipient on a corrective action plan
- Take other remedies that may be legally available

Costs Incurred During Suspension or After Termination. Unless expressly authorized in the notice of suspension or termination, or subsequently, costs from obligations incurred while an award is suspended or after it is terminated are unallowable. Other costs that are necessary and not reasonably avoidable are allowable if all of the following criteria are true:

- The costs result from obligations that were properly incurred before the effective date of the suspension or termination
- The costs were not incurred in anticipation of suspension or termination
- In the case of termination, the costs are non-cancellable
- The costs would be allowable if the award was not suspended or it expired normally at the end of the funding period in which the termination takes effect

Debarment and Suspension. Recipients and sub-recipients may also be subject to "Debarment and Suspension" under Executive Order (E.O.) 12549, which prohibits awards to any parties that have been debarred or suspended, or that are otherwise excluded from or ineligible to participate in Federal assistance programs.

Authority:

- OMB Circular A-110 §__.62(a) and (c)-(d)
- 29 CFR §97.43(a) and (c)-(d)
- 45 CFR §92.43(a) and (c)-(d)
- 7 CFR §§3015.122-3015.123
- 24 CFR §§570.910 – 570.513

15.3

Appeals

The Recipient must provide the sub-recipient, against which enforcement action is being taken, with an opportunity for a hearing, appeal, or other administrative proceeding as entitled by statute or regulation applicable to the action involved.

Each Recipient has discretion in developing its own appeals policies to the extent that such policies do not conflict with Federal and/or State provisions as provided in this chapter, or as otherwise required.

Authority:

- OMB Circular A-110 §__.62(b)
- 29 CFR §97.43(b)
- 45 CFR §92.43(b)
- 24 CFR §570.495
- 2 CFR §200.341

15.4

Termination

If the Recipient or sub-recipient elects to terminate an award, closeout and other settlement requirements must be considered in the termination of the award.

Under uniform administrative requirements a Recipient may terminate an award for cause or convenience subject to the conditions below. The requirements also provide that a subrecipient may terminate an award for convenience as provided below.

Termination for Cause. A Recipient may terminate an award for cause as an enforcement remedy if the sub-recipient materially fails to comply with the terms and conditions of the award. “Cause” refers to a sub-recipient’s material failure to comply with the terms of an award. (This does not preclude a sub-recipient for terminating an award for cause; however, such provisions are not specifically made in Federal or State regulations.)

Termination for Convenience. A Recipient or sub-recipient may terminate an award for its convenience. “Convenience” refers to termination for reasons other than cause. Termination for convenience must be conducted as follows:

Initiation by Recipient. If the Recipient initiates the termination for its convenience, the sub-recipient must consent to:

- The termination conditions, including the effective date
- In the case of partial termination, the portion to be terminated

Consent may be obtained through the sub-recipient’s acceptance of the termination conditions within a contract. For example, a sub-recipient’s signature on a contract that contains a provision allowing the Recipient to cancel the contract without the consent of the sub-recipient indicates the sub-recipient’s acceptance of and consent to those termination conditions.

Initiation by sub-recipient. If the Recipient’s sub-recipient initiates the termination for its convenience, it must do so by providing written notification to the Recipient. The written notification must include:

- The reasons for such termination
- The effective date of the termination
- In the case of partial termination, the portion to be terminated

If a sub-recipient initiates a partial termination, and the Recipient determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the Recipient may wholly terminate the award for cause or convenience.

Termination Settlements, Closeout, and Other Responsibilities. A sub-recipient may have certain responsibilities relating to closeout and other continuing responsibilities after termination, as follows.

Settlements. When an award is terminated, the sub-recipient must cancel as many outstanding obligations as possible. Generally, any obligations for the terminated portion of the award that are incurred after the effective date of the termination are not allowable costs. However, full credit will be allowed by the Recipient for the Federal share of any non-cancellable obligations that were properly incurred by the sub-recipient prior to termination.

Closeout and Other Responsibilities. Closeout requirements, including those relating to property, must be considered in the termination of the award. Additionally, a provision for the continuing responsibilities of the sub-recipient after termination must be made, as appropriate. Such responsibilities should include applicable audit requirements and record retention.

Authority:

- OMB Circular A-110 §__.61
- 29 CFR §97.44
- 45 CFR §92.44
- 7 CFR §3015.124
- 24 CFR §85.1
- 2 CFR §200.339
- 2 CFR §200.340

Appendices

B: Internal Control Matrix

C: List of Applicable Administrative Standards

D: List of Applicable Cost Principles

E: Record and Retention & Access Requisition

F: Indirect Cost Rates

G: Accounting and Procurement Procedures

H: Information Technology Internal Controls and User Procedures

Financial Manual for Grants & Contracts Appendix B: Internal Control Matrix

- Introduction
- Activities Allowed or Unallowable & Allowable Costs
- Cash Management
- Davis-Bacon Act
- Eligibility
- Equipment & Real Property Management
- Matching, Level of Effort, Earmarking
- Period of Availability
- Procurement, Suspension & Debarment
- Program Income
- Real Property Acquisition & Relocation Assistance
- Reporting
- Sub-recipient Monitoring

Introduction

The OMB Circular A-133 Compliance Supplement, Part 6, provides auditees and auditors with guidance to obtain an understanding of and evaluate the adequacy of internal control. These characteristics are described for 13 of the 14 types of compliance requirements identified in Part 3 of the Compliance Supplement (See Chapter 2 for additional detail). In using the following characteristics Part 6 of the Supplement provides:

"This Part 6 is intended to assist non-Federal entities and their auditors in complying with these [testing requirements of OMB Circular A-133] by describing, for each type of compliance requirement, the objectives of internal control, and certain characteristics of internal controls that, when present and operating effectively, may ensure compliance with program requirements. However, the categorizations reflected in this Part 6 may not necessarily reflect how an entity considers and implements internal control [i.e., depending on the organization's structure, functions, etc.]. Also, this part is not a checklist of required internal control characteristics. Non-Federal entities could have adequate internal control even though some or all of the characteristics included in Part 6 are not present. Further, non-Federal entities could have other appropriate internal controls operating effectively that have not been included in this Part 6. Non-Federal entities and their auditors will need to exercise judgment in determining the most cost effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with Federal [or State] program requirements."

The characteristics in Part 6 of the OMB Circular A-133 Compliance Supplement are carried into the Financial Manual for Grants and Contracts in this Appendix for the purpose of providing

Recipients and monitors with guidelines for evaluating internal control. This Appendix organizes the 13 types of compliance requirements for which characteristics of internal control are discussed as shown below, retaining the same format as used in the Compliance Supplement.

Activities Allowed or Unallowable & Allowable Costs

Control Objectives – To provide reasonable assurance that Federal awards are expended only for allowable activities and that the costs of goods and services charged to Federal awards are allowable and in accordance with the applicable cost principles.

Control Environment

- Management sets reasonable budgets for Federal and non-Federal programs so that no incentive exists to miscode expenditures
- Management enforces appropriate penalties for misappropriation or misuse of funds
- Organization-wide cognizance of need for separate identification of allowable Federal costs
- Management provides personnel approving and pre-auditing expenditures with a list of allowable and unallowable expenditures

Risk Assessment

- Process for assessing risks resulting from changes to cost accounting systems
- Key manager has a sufficient understanding of staff, processes, and controls to identify where unallowable activities or costs could be charged to a Federal program and not be detected

Control Activities

- Accountability provided for charges and costs between Federal and non-Federal activities
- Process in place for timely updating of procedures for changes in activities allowed and cost principles
- Computations checked for accuracy
- Supporting documentation compared to list of allowable and unallowable expenditures
- Adjustments to unallowable costs made where appropriate and follow-up action taken to determine the cause
- Adequate segregation of duties in review and authorization of costs
- Accountability for authorization is fixed in an individual who is knowledgeable of the requirements for determining activities allowed and allowable costs

Information & Communication

- Reports, such as a comparison of budget to actual provided to appropriate management for review on a timely basis

- Establishment of internal and external communication channels on activities and costs allowed
- Training programs, both formal and informal, provide knowledge and skills necessary to determine activities and costs allowed
- Interaction between management and staff regarding questionable costs
- Grant agreements (including referenced program laws, regulations, handbooks, etc.) and cost principles circulars available to staff responsible for determining activities allowed and allowable costs under Federal awards

Monitoring

- Management reviews supporting documentation of allowable cost information
- Flow of information from Federal agency to appropriate management personnel
- Comparisons made with budget and expectations of allowable costs
- Analytic reviews (e.g., comparison of budget to actual or prior year to current year) and audits performed

Cash Management

Control Objectives – To provide reasonable assurance that the drawdown of Federal cash is only for immediate needs and recipients limit payments to sub-recipients to immediate cash needs.

Control Environment

- Appropriate assignment of responsibility for approval of cash draw downs and payments to sub-recipients
- Budgets for draw downs are consistent with realistic cash needs

Risk Assessment

- Mechanisms exist to anticipate, identify, and react to routine events that affect cash needs
- Routine assessment of adequacy of sub-recipient cash needs
- Management has identified programs that receive cash advances and is aware of cash management requirements

Control Activities

- Cash flow Statements by program are prepared to determine essential cash flow needs
- Accounting system is capable of scheduling payments for accounts payable and requests for funds from Treasury to avoid time lapse between draw down of funds and actual disbursements of funds
- Appropriate level of supervisory review of cash management activities
- Written policy that provides:
 - Procedures for requesting cash advances as close as is administratively possible to actual cash outlays

- Monitoring of cash management activities
- Repayment of excess interest earnings where required

Information & Communication

- Variance reporting of expected versus actual cash disbursements of Federal awards and draw downs of Federal funds
- Established channel of communication between pass-through entity and subrecipients regarding cash needs

Monitoring

- Periodic independent evaluation (e.g. by internal audit, top management) of entity cash management, budget and actual results, repayment of excess interest earnings, and Federal draw down activities
- Sub-recipients' requests for Federal funds are evaluated
- Review of compliance with Treasury-State agreements

Davis-Bacon Act

Control Objectives – To provide reasonable assurance that recipients and sub-recipients were properly notified of the Davis-Bacon Act requirements and the required certified payrolls were submitted to the non-Federal entity.

Control Environment

- Management understands and communicates to staff, recipients, and sub-recipients the requirements to pay wages in accordance with the Davis-Bacon Act
- Management understands its responsibility for monitoring compliance

Risk Assessment

- Mechanisms in place to identify recipients and sub-recipients most at risk of non-compliance
- Management identified how compliance will be monitored and the related risks of failure to monitor for compliance with Davis-Bacon Act

Control Activities

- Recipients informed in the procurement documents of the requirements for prevailing wage rates
- Recipients and sub-recipients are required by contract to submit certifications and copies of payrolls
- Recipients' and sub-recipients' payrolls monitored to ensure certified payrolls are submitted

Information & Communication

- Prevailing wage rates requirements are appropriately communicated
- Reports provide sufficient information to determine if requirements are being met
- Channels are established for staff to report non-compliance

Monitoring

- Management reviews to ensure that recipients and sub-recipients are properly notified of the Davis-Bacon Act requirements
- Management reviews to ensure that certified payrolls are properly received

Eligibility

Control Objectives – To provide reasonable assurance that only eligible individuals and organizations receive assistance under Federal award programs, which sub-awards are made only to eligible sub-recipients, and that amounts provided to or on behalf of eligible's were calculated in accordance with program requirements.

Control Environment

- Staff size and competence provides for proper making of eligibility determinations
- Realistic caseload/performance targets established for eligibility determinations
- Lines of authority clear for determining eligibility

Risk Assessment

- Identification of risk that eligibility information prepared internally or received from external sources could be incorrect
- Conflict-of-interest Statements are maintained for individuals who determine eligibility
- Process for assessing risks resulting from changes to eligibility determination systems

Control Activities

- Written policies provide direction for making and documenting eligibility determinations
- Procedures to calculate eligibility amounts consistent with program requirements
- Eligibility objectives and procedures clearly communicated to employees
- Authorized signatures (manual or electronic) on eligibility documents periodically reviewed
- Access to eligibility records limited to appropriate persons
- Manual criteria checklists or automated process used in making eligibility determinations
- Process for periodic eligibility re-determinations in accordance with program requirements
- Verification of accuracy of information used in eligibility determinations

- Procedures to ensure the accuracy and completeness of data used to determine eligibility requirements

Information & Communication

- Information system meets needs of eligibility decision-makers and program management
- Processing of eligibility information subject to edit checks and balancing procedures
- Training programs inform employees of eligibility requirements
- Channels of communication exist for people to report suspected eligibility improprieties
- Management receptive to suggestions to strengthen eligibility determination process
- Documentation of eligibility determinations in accordance with program requirements

Monitoring

- Periodic analytical reviews of eligibility determinations performed by management
- Program quality control procedures performed
- Periodic audits of detailed transactions

Equipment & Real Property Management

Control Objectives – To provide reasonable assurance that proper records are maintained for equipment acquired with Federal awards, equipment is adequately safeguarded and maintained, disposition or encumbrance of any equipment or real property is in accordance with Federal requirements, and the Federal awarding agency is appropriately compensated for its share of any property sold or converted to non-Federal use.

Control Environment

- Management committed to providing proper stewardship for property acquired with Federal awards
- No incentives exist to under-value assets at time of disposition
- Sufficient accountability exists to discourage temptation of misuse of Federal assets

Risk Assessment

- Procedures to identify risk of misappropriation or improper disposition of property acquired with Federal awards
- Management understands requirements and operations sufficiently to identify potential areas of noncompliance (e.g., decentralized locations, departments with budget constraints, transfers of assets between departments)

Control Activities

- Accurate records maintained on all acquisitions and dispositions of property acquired with Federal awards

- Property tags are placed on equipment
- A physical inventory of equipment is periodically taken and compared to property records
- Property records contain description (including serial number or other identification number), source, who holds title, acquisition date and cost, percentage of Federal participation in the cost, location, condition, and disposition data
- Procedures established to ensure that the Federal awarding agency is appropriately reimbursed for dispositions of property acquired with Federal awards
- Policies and procedures in place for responsibilities of recordkeeping and authorities for disposition

Information & Communication

- Accounting system provides for separate identification of property acquired wholly or partly with Federal funds and with non-Federal funds
- A channel of communication exists for people to report suspected improprieties in the use or disposition of equipment
- Program managers are provided with applicable requirements and guidelines

Monitoring

- Management reviews the results of periodic inventories and follows up on inventory discrepancies
- Management reviews dispositions of property to ensure appropriate valuation and reimbursement to Federal awarding agencies

Matching, Level of Effort, Earmarking

Control Objectives – To provide reasonable assurance that matching, level of effort, or earmarking requirements are met using only allowable funds or costs which are properly calculated and valued.

Control Environment

- Commitment from management to meet matching, level of effort, and earmarking requirements (e.g., adequate budget resources to meet a specified matching requirement or maintain a required level of effort)
- Budgeting process addresses/provides adequate resources to meet matching, level of effort, or earmarking goals
- Official written policy exists outlining:
 - Responsibilities for determining required amounts or limits for matching, level of effort, or earmarking

- Methods of valuing matching requirements, e.g., “in-kind” contributions of property and services, calculations of levels of effort
- Allowable costs that may be claimed for matching, level of effort, or earmarking
- Methods of accounting for and documenting amounts used to calculate amounts claimed for matching, level of effort, or earmarking

Risk Assessment

- Identification of areas where estimated values will be used for matching, level of effort, or earmarking
- Management has sufficient understanding of the accounting system to identify potential recording problems

Control Activities

- Evidence obtained such as a certification from the donor, or other procedures performed to identify whether matching contributions:
 - Are from non-Federal sources
 - Involve Federal funding, directly or indirectly
 - Were used for another Federally-assisted program
 - Note: Generally, matching contributions must be from a non-Federal source and may not involve Federal funding or be used for another Federally assisted program
- Adequate review of monthly cost reports and adjusting entries

Information & Communication

- Accounting system capable of:
 - Separately accounting for data used to support matching, level of effort, or earmarking amounts or limits or calculations
 - Ensuring that expenditures or expenses, refunds, and cash receipts or revenues are properly classified and recorded only once as to their effect on matching, level of effort, or earmarking
 - Documenting the value of “in-kind” contributions of property or services, including:
 - Basis for local labor market rates for valuing volunteer services
 - Payroll records or confirmation from other organizations for services provided by their employees
 - Quotes, published prices, or independent appraisals used as the basis for donated equipment, supplies, land, buildings, or use of space

Monitoring

- Supervisory review of matching, level of effort, or earmarking activities performed to assess the accuracy and allowability of transactions and determinations, e.g., at the time reports on Federal awards are prepared

Period of Availability

Control Objectives – To provide reasonable assurance that Federal funds are used only during the authorized period of availability.

Control Environment

- Management understands and is committed to complying with period of availability requirements
- Entity's operations are such that it is unlikely there will be Federal funds remaining at the end of the period of availability

Risk Assessment

- The budgetary process considers period of availability of Federal funds as to both obligation and disbursement
- Identification and communication of period of availability cut-off requirements as to both obligation and disbursement

Control Activities

- Accounting system prevents obligation or expenditure of Federal funds outside of the period of availability
- Review of disbursements by person knowledgeable of period of availability of funds
- End of grant period cut-offs are met by such mechanisms as advising program managers of impending cut-off dates and review of expenditures just before and after cut-off date
- Cancellation of unliquidated commitments at the end of the period of availability

Information & Communication

- Timely communication of period of availability requirements and expenditure deadlines to individuals responsible for program expenditure, including automated notifications of pending deadlines
- Periodic reporting of un-liquidated balances to appropriate levels of management and follow up

Monitoring

- Periodic review of expenditures before and after cut-off date to ensure compliance with period of availability requirements
- Review by management of reports showing budget and actual for period

Procurement, Suspension & Debarment

Control Objectives – To provide reasonable assurance that procurement of goods and services are made in compliance with the provisions of the A-102 Common Rule or OMB Circular A-110 and 2 CFR Part 180, as applicable, and that covered transactions (as defined in the suspension and debarment common rule) are not made with a debarred or suspended party.

Control Environment

- Existence and implementation of codes of conduct and other policies regarding acceptable practice, conflicts-of-interest, or expected standards of ethical and moral behavior for making procurements
- Procurement manual that incorporated Federal requirements
- Absence of pressure to meet unrealistic procurement performance targets
- Management’s prohibition against intervention or overriding established procurement controls
- Board or governing body oversight required for high dollar, lengthy, or other sensitive procurement contracts
- Adequate knowledge and experience of key procurement managers in light of responsibilities for procurements for Federal awards
- Clear assignment of authority for issuing purchasing orders and contracting for goods and services

Risk Assessment

- Procedures to identify risks arising from vendor inadequacy, e.g., quality of goods and services, delivery schedules, warranty assurances, user support
- Procedures established to identify risks arising from conflicts-of-interest, e.g., kickbacks, related party transactions, bribery
- Management understands the requirements for procurement and suspension and debarment, and, given the organization’s staff, departments, and processes, has identified where noncompliance could likely occur
- Conflict-of-interest Statements are maintained for individuals with responsibility for procurement of goods or services

Control Activities

- Job descriptions or other means of defining tasks that comprise particular procurement jobs

- Recipient's performance with the terms, conditions, and specifications of the contract is monitored and documented
- Establish segregation of duties between employees responsible for contracting and accounts payable and cash disbursing
- Procurement actions appropriately documented in the procurement files
- Supervisors review procurement and contracting decisions for compliance with Federal procurement policies
- Procedures established to verify that vendors providing goods and services under the award have not been suspended or debarred by the Federal government
- Official written policy for procurement and contracts establishing:
 - Contract files that document significant procurement history
 - Methods of procurement, authorized including selection of contract type, recipient selection or rejection, and the basis of contract price
 - Verification that procurements provide full and open competition
 - Requirements for cost or price analysis, including for contract modifications
 - Obtaining and reacting to suspension and debarment certifications
 - Other applicable requirements for procurements under Federal awards are followed
- Official written policy for suspension and debarment that:
 - Contains or references the Federal requirements
 - Prohibits the award of a sub-award, covered contract, or any other covered agreement for program administration, goods, services, or any other program purpose with any suspended or debarred party
 - Before November 26, 2003, requires staff to obtain certifications from entities receiving sub-awards of any value and procurement contracts equal to or exceeding \$100,000, certifying that the organization and its principals are not suspended or debarred. As of November 26, 2003, requires staff to determine that entities receiving sub-awards of any value and procurement contracts equal to or exceeding \$25,000 and their principals are not suspended or debarred, and specifies the means that will be used to make that determination, i.e., checking the Excluded Parties Listing System (EPLS), which is maintained by the General Services Administration; obtaining a certification; or inserting a clause in the agreement.

Information & Communication

- A system in place to assure that procurement documentation is retained for the time period required by the A-102 Common Rule, OMB Circular A-110, 2 CFR §200.333, award agreements, contracts, and program regulations. Documentation includes:
 - The basis for recipient selection
 - Justification for lack of competition when competitive bids or offers are not obtained
 - The basis for award cost or price
- Employees' procurement duties and control responsibilities are effectively communicated
- Procurement staff are provided a current hard-copy EPLS or have on-line access

- Channels of communication are provided for people to report suspected procurement and contracting improprieties

Monitoring

- Management periodically conducts independent reviews of procurements and contracting activities to determine whether policies and procedures are being followed as intended

Program Income

Control Objectives – To provide reasonable assurance that program income is correctly earned, recorded, and used in accordance with the program requirements.

Control Environment

- Management recognizes its responsibilities for program income
- Management’s prohibition against intervention or overriding controls over program income
- Realistic performance targets for the generation of program income

Risk Assessment

- Mechanisms in place to identify the risk of unrecorded or miscoded program income
- Variances between expected and actual income analyzed

Control Activities

- Pricing and collection policies procedures clearly communicated to personnel responsible for program income
- Mechanism in place to ensure that program income is properly recorded as earned and deposited in the bank as collected
- Policies and procedures provide for correct use of program income in accordance with Federal program requirements

Information & Communication

- Information systems identify program income collections and usage
- A channel of communication for people to report suspected improprieties in the collection or use of program income

Monitoring

- Internal audit of program income
- Management compares program income to budget and investigates significant differences

Real Property Acquisition & Relocation Assistance

Control Objectives – To provide reasonable assurance of compliance with the real property acquisition, appraisal, negotiation, and relocation requirements.

Control Environment

- Management committed to ensuring compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 24 CFR part 570 and 24 CFR part 42, as amended (URA)
- Written policies exist for handling relocation assistance and real property acquisition

Risk Assessment

- Identification of risk that relocation will not be conducted in accordance with the URA, e.g., improper payments will be made to individuals or businesses that relocate

Control Activities

- Employees handling relocation assistance and real property acquisition have been trained in the requirements of the URA
- Review of expenditures pertaining to real property acquisition and relocation assistance by employees knowledgeable in the URA

Information & Communication

- A system is in place to adequately document relocation assistance and real property acquisition

Monitoring

- Management monitors relocation assistance and real property acquisition for compliance with the URA

Reporting

Control Objectives – To provide reasonable assurance that reports of Federal awards submitted to the Federal awarding agency or pass-through entity include all activity of the reporting period, are supported by underlying accounting or performance records, and are fairly presented in accordance with program requirements.

Control Environment

- Persons preparing, reviewing, and approving the reports possess the required knowledge, skills, and abilities
- Management’s attitude toward reporting promotes accurate and fair presentation
- Appropriate assignment of responsibility and delegation of authority for reporting decisions

Risk Management

- Mechanisms exist to identify risks of faulty reporting caused by such items as lack of current knowledge of, inconsistent application of, or carelessness or disregard for standards and reporting requirements of Federal awards
- Identification of underlying source data or analysis for performance or special reporting that may not be reliable

Control Activities

- Written policy exists that establishes responsibility and provides the procedures for periodic monitoring, verification, and reporting of program progress and accomplishments
- Tracking system which reminds staff when reports are due
- The general ledger or other reliable records are the basis for the reports
- Supervisory review of reports performed to assure accuracy and completeness of data and information included in the reports
- The required accounting method is used (e.g., cash or accrual)

Information & Communication

- An accounting or information system that provides for the reliable processing of financial and performance information for Federal awards

Monitoring

- Communications from external parties corroborate information included in the reports for Federal awards
- Periodic comparison of reports to supporting records

Sub-recipient Monitoring

Control Objectives – To provide reasonable assurance that Federal award information and compliance requirements are identified to sub-recipients, sub-recipient activities are monitored, sub-recipient audit findings are resolved, and the impact of any sub-recipient noncompliance on the pass-through entity is evaluated. Also, the pass-through entity should perform procedures to provide reasonable assurance that the sub-recipient obtained required audits and takes appropriate corrective action on audit findings.

Control Environment

- Establishment of “tone at the top” of management’s commitment to monitoring sub-recipients
- Management’s intolerance of overriding established procedures to monitor sub-recipients
- Entity’s organizational structure and its ability to provide the necessary information flow to monitor sub-recipients are adequate
- Sufficient resources dedicated to sub-recipient monitoring
- Knowledge, skills, and abilities needed to accomplish sub-recipient monitoring tasks defined
- Individuals performing sub-recipient monitoring possess knowledge, skills, and abilities required
- Sub-recipients demonstrate that:
 - They are willing and able to comply with the requirements of the award
 - They have accounting systems, including the use of applicable cost principles, and internal control systems adequate to administer the award
 - Appropriate sanctions taken for sub-recipient noncompliance

Risk Assessment

- Key managers understand the sub-recipient’s environment, systems, and controls sufficient to identify the level and methods of monitoring required
- Mechanisms exist to identify risks arising from external sources affecting sub-recipients, such as risks related to:
 - Economic conditions
 - Political conditions
 - Regulatory changes
 - Unreliable information
- Mechanisms exist to identify and react to changes in sub-recipients, such as:
 - Financial problems that could lead to diversion of grant funds
 - Loss of essential personnel
 - Loss of license or accreditation to operate program
 - Rapid growth
 - New activities, products, or services
 - Organizational restructuring

Control Activities

- Identify to sub-recipients the Federal award information (e.g., CFDA title and number, award name, name of Federal agency, amount of award) and applicable compliance requirements
- Include in agreements with sub-recipients the requirement to comply with the compliance requirements applicable to the Federal program, including the audit requirements of OMB Circular A-133 and 2 CFR part 200
- Sub-recipients' compliance with audit requirements monitored using techniques such as the following:
 - Determining by inquiry and discussions whether sub-recipient met thresholds requiring an audit under OMB Circular A-133 and 2 CFR part 200
 - If an audit is required, assuring that the sub-recipient submits the report, report package or the documents required by OMB circulars and/or recipient's requirements
 - If a sub-recipient was required to obtain an audit in accordance with OMB Circular A-133 and 2 CFR part 200 but did not do so, following up with the sub-recipient until the audit is completed. Taking appropriate actions such as withholding further funding until the sub-recipient meets the audit requirements.
- Sub-recipient's compliance with Federal program requirements monitored using such techniques as the following:
 - Issuing timely management decisions for audit and monitoring findings to inform the sub-recipient whether the corrective action planned is acceptable
 - Maintain a system to track and following-up on reported deficiencies related to programs funded by the recipient and ensure that timely corrective action is taken
 - Regular contacts with sub-recipients and appropriate inquiries concerning the Federal program
 - Reviewing sub-recipient reports and following-up on areas of concern
 - Monitoring sub-recipient budgets
 - Performing site visits to sub-recipient to review financial and programmatic records and observe operations
 - Offering sub-recipients technical assistance where needed
- Official written policies and procedures exist establishing:
 - Communication of Federal award requirements to sub-recipients
 - Responsibilities for monitoring sub-recipients
 - Process and procedures for monitoring
 - Methodology for resolving findings of sub-recipient noncompliance or weaknesses in internal control
 - Requirements for and processing of sub-recipient audits, including appropriate adjustment of pass-through entity's accounts

Information & Communication

- Standard award documents used by the non-Federal entity contain:

- A listing of Federal requirements that the sub-recipient must follow. Items can be specifically listed in the award document, attached as an exhibit to the document, or incorporated by reference to specific criteria.
- The description and program number for each program as Stated in the CFDA. If the program funds include pass-through funds from another recipient, the pass-through program information should also be identified.
- A Statement signed by an official of the sub-recipient, stating that the sub-recipient was informed of, understands, and agrees to comply with the applicable compliance requirements.
- A recordkeeping system is in place to assure that documentation is retained for the time period required by the recipient
- Procedures are in place to provide channels for sub-recipients to communicate concerns to the pass-through entity

Monitoring

- Establish a tracking system to assure timely submission of required reporting, such as: financial reports, performance reports, audit reports, onsite monitoring reviews of sub-recipients, and timely resolution of audit findings
- Supervisory reviews performed to determine the adequacy of sub-recipient monitoring

Financial Manual for Grants & Contracts Appendix C: List of Applicable Administrative Standards

- General
- Codification of the Common Rule

General

Administrative standards applicable to Federally funded grants and subgrants are set forth in the grants management common rule (Common Rule) and Office of Management and Budget (OMB) Circulars. In summary:

- Federally funded grants and sub-grants awarded to State, local and Indian tribal governments are subject to the administrative standards set forth in the Common Rule and OMB Circular A-102 and 2 CFR part 200. The codification of the Common Rule is provided below.

Codification of the Common Rule

The City receives Federal funds from the following agencies. These Federal Departments codify the Common Rule, described above, as follows.

- U.S. Department of Agriculture, codified at 7 CFR Part 3016
- U.S. Department of Housing and Urban Development, codified at 24 CFR Part 85
- U.S. Department of Health & Human Services, codified at 45 CFR Part 92
- U.S. Department of Transportation, codified at 49 CFR Parts 200-1499

Source: OMB Circular A-102 and 2 CFR part 200

Financial Manual for Grants & Contracts Appendix D: List of Applicable Cost Principles

Cost principles applicable to Federally funded grants and sub-grants are set forth in Office of Management and Budget (OMB) Circulars and Code of Federal Regulations as follows:

- OMB Circular A-21, entitled “Cost Principles for Educational Institutions”
- OMB Circular A-87, entitled “Cost Principles for State, Local and Indian Tribal Governments”
- OMB Circular A-122, entitled “Cost Principles for Non-Profit Organizations”
- 48 CFR Part 31, entitled “Contract Cost Principles and Procedures”
- 2 CFR Part 200, entitled “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”

Financial Manual for Grants & Contracts Appendix E: Record Retention & Access Requirements

- General
- Record Retention
- Access to Records

General

The requirements in Appendix K to this manual apply to all records of Recipients that are either 1) expressly required to be maintained by these requirements, program regulation or the grant agreement, or 2) that are otherwise reasonably considered as being pertinent to program regulations or the grant agreement. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records in fulfilling these requirements.

Record Retention

In general, records must be retained for 3 (three) years from the starting date shown in the matrix below. Two exceptions exist:

- If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.
- If an awarding agency has made special arrangements for a Recipient to transfer to the awarding agency any records that are continuously needed for joint use (to avoid duplicate recordkeeping), the three-year requirement is not applicable to the Recipient.

Table E-1 Record Retention Start Date

| Record Type | Start Date |
|---|--|
| All financial and programmatic records, supporting documents, statistical records, and other records of recipients or subrecipients, except as otherwise indicated in this matrix. | Date recipient or subrecipient submits to the awarding agency its single or last audit report for that period unless the circumstances in footnote 1 exist. |
| Real property and equipment. | Date of the disposition or replacement, or transfer at the direction of the awarding agency. |
| Records for income transactions after grant or sub-grant support (in cases where Recipients must report income after the period of grant support). | End of the recipient’s fiscal year in which the income is earned. |
| Indirect cost rate proposals, cost allocations plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, and their supporting records. | If submitted for negotiation: date the plan/proposal is submitted for negotiation. If not submitted for negotiation: end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation. |

Footnote 1: When grant support is continued or renewed at annual or other intervals, the retention period for the records for each funding period starts on the day the recipient or subrecipient submits to the awarding agency its single or last audit report for that period. However, if grant support is renewed quarterly, the retention period for each year's records starts on the day the recipient submits its expenditure report for the last quarter of the Federal, State, or other designated fiscal year. In all other cases, the retention period starts on the day the recipient submits its final audit report. If an expenditure or audit report has been waived, the retention period starts on the day the report would have been due.

Access to Records

The entities listed below have the right to access any pertinent books, documents, papers, or other records that are pertinent to the grant in order to make audits, examinations, excerpts and transcripts. This right lasts as long as the records are retained.

- Federal funding source, as applicable, including:
 - The U.S. Department of Transportation
 - The U.S. Department of Health and Human Services
 - The U.S. Department of Housing and Urban Development
 - The U.S. Department of Agriculture
 - The U.S. Department of Justice
 - The U.S. Department of Homeland Security
- Inspector General
- Comptroller General of the United States
- Governmental Accounting Office
- Arkansas State Auditor
- Other State and Federal auditing agencies
- Any duly authorized representative of the above named agencies as deemed appropriate by the City

Unlike the parties above, public access to records is restricted. Recipients are not required to permit public access to their records unless required by Federal, State, or local law.

Authority:

- OMB Circular A-110 §__.53
- 29 CFR §97.42
- 45 CFR §92.42
- 7 CFR §§3015.20-25
- 2 CPR Part 200

Financial Manual for Grants & Contracts Appendix F: Indirect Cost Rates

- Cost Principles for Indirect Cost Rates of Non-Profit Organizations – Multiple Rate Method

Cost Principles for Indirect Cost Rates of Non-Profit Organizations – Multiple Rate Method

Note: A sample indirect cost rate proposal using the multiple rate method is shown in Illustration 6-3 of ASMB C-10, which is the implementation guide for OMB Circular A-87 and 2 CFR §200.414 that was issued by the Assistant Secretary for Management and Budget (ASMB) for the U.S. Department of Health and Human Services' (DHHS) at <https://rates.psc.gov/fms/dca/asmb%20c-10.pdf>.

Step 1: Identify Total Costs

Identify organization's total costs, regardless of funding source.

Step 2: Classify Total Costs

Classify total costs for base period as direct or indirect costs. See §12.3, Step 2.

Step 3: Pool Indirect Costs

Pool indirect costs into prescribed cost groupings.

Depreciation and Use Allowances — costs of buildings, capital improvements to land and buildings, and equipment. Depreciation and use allowances on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings must be assigned directly to that function.

Interest—interest on debt associated with certain buildings, equipment and capital improvements.

Operation and Maintenance Expenses — expenses incurred for the administration, operation, maintenance, preservation, and protection of the organization's physical plant, e.g. security; janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; maintenance and operation of buildings and other plant facilities; property, liability and other insurance relating to property; and space and capital leasing. This category must also include its allocable share of fringe benefit costs, depreciation and use allowances, and interest costs.

General Administration and General Expenses — expenses incurred for the overall general executive and administrative offices of the organization and other expenses of a general nature that do not relate solely to any major function of the organization, e.g. the director's office; office of finance, business services, and budget and planning; personnel; general counsel; and management information systems. This category also includes its allocable share of fringe benefit costs, operation and maintenance expenses, depreciation and use allowances, and interest costs.

Step 4: Distribute Cost Groupings

Distribute each cost grouping to major functions using the prescribed base, unless the organization can demonstrate that: (1) a different base would result in a more equitable allocation of costs; 2) a more readily available base would not increase the costs charged to the sponsored awards.

Depreciation and Use Allowances — base varies according the costs being allocated as follows:

- Buildings, and capital improvements and equipment used in such buildings — usable square feet of space, excluding common areas, e.g. hallways, stairwells, and restrooms
- Buildings, and capital improvements and equipment related space, e.g. individual rooms and laboratories — full-time equivalents that use the space; salaries and wages of individual functions benefiting from the use of that space; or organization-wide employee FTEs, or salaries and wages, applicable to the benefiting functions of the organization
- Certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings — FTE basis for user categories; salaries and wages of all employees applicable to each function for distribution to major functions

Interest/Operation and Maintenance Expenses — same as used for depreciation and use allowances on buildings, equipment and capital improvements to which the cost relates.

General Administration and General Expenses — modified total direct costs.

Step 5: Identify Major Functions

Identify the organization's major functions; create a separate cost pool for each major function. Allocate cost groupings to major functions using the distribution bases identified in Step 4. Allocate in the prescribed order.

- Cost groupings are to be distributed among major functions in the following order: 1) depreciation and use allowances; 2) interest; 3) operation and maintenance; and 4) general administration and general expenses.
- Any other cost groupings may be allocated in the order determined to be most appropriate by the organization.
- If cross allocation is used, the order of distribution does not apply. If cross allocation is used, the composition of the indirect cost categories must be modified to include the allocations to and from other categories.

Step 6: Distribute to Awards

After cost groupings have been distributed to major functions, distribute the costs in the cost pool for each major function to the respective awards within that function. Use modified total direct costs as the distribution base.

Step 7: Calculate Indirect Cost Rate

Calculate the overall indirect cost rate for each major function. Also present the overall rate in terms of "Facilities" and "Administration" categories.

Calculate Overall Rate for each major function — Divide total indirect costs assigned to each major function by modified total direct costs for that function. Express result as a percentage.

Calculate "Facilities" Rate for each major function — For each major function, add the indirect costs that are "Facilities" costs and divide by modified total direct costs for that function. "Facilities" costs are:

- Depreciation and use allowances
- Interest
- Operation and maintenance expenses

Calculate "Administration" Rate for each major function — For each major function, add the indirect costs that are "Administration" costs and divide by modified total direct costs for that function. "Administration" costs are general administration and general expenses.

Step 8: Apply Indirect Cost Rate

Apply the indirect cost rate established for each function to all awards within that function.

Financial Manual for Grants & Contracts Appendix G: Accounting and Procurement Procedures

The City of Jonesboro Grants and Community Development Department utilizes an accounting system called Springbrook. All grant funds are placed in restricted accounts in our accounting system this includes the bank accounts that the drawdowns are credited. The CDBG funds are restricted in the accounting system (10-165-00) and all expenses are posted in that account after all expenses have been reviewed and deemed allowable expenses for the program (2 CFR §200.302). All Federal grants have been placed in restricted accounts and all reimbursements are received and deposited within that fund in the accounting system and the separate bank account from the City's general funds.

Accounting and Procurement Procedures

It is the responsibility of the department head (Grants Administrator) to ensure that accounting and procurement policies are followed according to Federal, State and local regulations and ordinances. Any regulations or ordinances from Federal, State or local that are more stringent will be followed but if any regulations or ordinances are contrary to Federal regulations, then the Federal regulations will be followed. The department head has authorization to expend up to \$1,000 without additional approvals and quotes. If the item is not in the budget, then the CFO and Mayor must grant approval prior to purchasing. At least, three written quotes must be received for anything \$1,000 to \$20,000 without requiring formal bid process. Anything over \$20,000, it will warrant a formal bidding process, unless the grantor permits the use of State of Arkansas Contracts.

*For CDBG funded homeowner rehabilitation and demolition projects, the formal bidding process is used to ensure all vendors including minority and women-owned business enterprises are provided every opportunity to all federally funded projects. The formal bidding process for CDBG funded homeowner rehabilitation and demolition assistance projects is to ensure transparency and accountability for the bidding process with all contractors and grants staff involved in the specified programs as a part of CDBG. See **Policies and Procedures for Homeowner Rehabilitation Assistance Program and Policies and Procedures for Demolition Assistance Program** for exact responsibilities and timelines on this process. The Project Coordinator is responsible for implementation and the Grants Administrator is responsible or oversight of this program. It should be noted that in the case of an emergency homeowner rehabilitation project, certain exceptions might apply in the process – see **Homeowner Rehabilitation Assistance Program Policies and Procedures**.*

In the Grants and Community Development Department, there are several levels of procurement responsibility for internal controls.

1. Coordinators and the Community Development Manager submit the requisitions for program activities to the Finance Manager in the Grants Department
2. The Finance Manager reviews all requisitions for sufficient funds in the accounts and assigns the grant fund number for approval.
3. The Grants Administrator reviews the requisitions for compliance and reasonableness of cost for the project or activity.

4. Once the Grants Administrator approves the requisitions, then all documentation will be scanned and filed in the Grants Department for expense justification.
5. The requisitions are sent to the Purchasing Manager, who then, creates a purchase orders or a request for bids based on the dollar amount of the requisitions.
6. The purchase orders or bids are sent to the CFO and Mayor for their approvals before the purchasing process begins.
7. After the approval process has occurred, then the purchasing begins or the request for bids is advertised for seeking of proposals.
8. If the requisition does not require a bid request, the item(s) will be purchased and once the item(s) are delivered, the Finance Manager in the Grants Department will be received through the accounting system for payment. The Grants Administrator will commit the items through the accounting system for check issuance to the vendor.
 - a. All items over \$1,000 or computers will be placed on inventory and tagged for securing assets of the City and all Federal funded grants.
 - b. All equipment and items over \$1,000 has been entered in a database for tracking and reporting purposes.
9. If the purchase order must go out for formal bid process, the Purchase Manager sends the bid request with specifications and regulatory requirements to the Grants Administrator for review and approval of advertising; this includes the timeframe for the running of the ad in the newspapers and State of Arkansas Websites.
 - a. After the ad has run for the specified period, the Grants Administrator will schedule to the opening of sealed bids for determination of the winner of the contract. The Grants Administrator selects the members to review the selection of the vendor based on the specifications and cost of project. The winner of the contract will be announced during the opening of the sealed bids.
 - b. Any project over \$20,000, the contractor and the contract must go before the City Council through a resolution for the Mayor to sign the agreement.
 - c. Once the resolution has been approved and the Mayor has executed the contract, the vendor will receive a notice to proceed and may begin on the work, he/she was contracted to perform.
 - d. The contractor submits the invoices based on the contract for payment to the Grants Finance Manager, who then, checks the invoice to the contract requirements and monitors to the grant funds for availability.
 - e. The Grants Administrator reviews the invoice for compliance of regulations and reasonableness of the cost pertaining to that project. The invoice must be approved prior to submission to Accounts Payable for payment.
 - f. Finally, after the work has been completed this includes all change orders, the contract will be closed in the accounting system and all documentation will be stored in the financial database (R2M) and on the Grants Department electronic file on the City server. (See IT procedures for storage of records Appendix H)

When the Grants Department submits for reimbursements from any Federal, state, or private funding agencies, we comply with the prescribed procedures provided through the grant agreement. There are several levels of internal controls for the reimbursement of grant funds.

1. The City uses two methods, they are monthly and quarterly reimbursement cycles to draw on grant funds from the grantor. These methods are based on the signed agreements with the entities.
2. Once the expenses have been posted to the accounting system and the payments have been disbursed, the Grants Finance Manager pulls the expense reports from every grant then review and submit the payment transmittals to the Grants Administrator for approval.
3. The Grant Administrator reviews the grant transmittals and approves them; either electronic or paper form prior to submission to the entities.
4. The Grants Finance Manager scans the payment transmittals for support documentation and sends the originals to the grantor and to the City Collector for receipt purposes for deposit.
5. The City Collector receipts all electronic deposits and the City Accountant reviews all deposits for accuracy and proper posting of funds. After this process, the City Collector sends the Grants Finance Manager a copy of the deposit for the Grants Department for their records.
6. If payments are in check form the same process occurs except the a collections technician opens the mail and receipts the check, then check and receipt is provided to the City Collector for deposit in the bank account, and finally the copy of the check is provided along with the deposit slip to the Grants Department.

The reporting of the accounting and procurement procedures have been duplicated in the format and databases required by the grantor. This process ensures the City has complied will all grant requirements and is transparent and accountable for all Federal, state and private funding sources.

**Financial Manual for Grants & Contracts Appendix H: Information
Technology Back-Up Systems Policy**

**City of Jonesboro
Information System's
Back Up Policy**

Produced by: Dennis Trinidad
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1. Introduction

The Information Systems Department is responsible under the Disaster Recovery Policy for ensuring that all critical data is recoverable in the event of accidental loss or damage. The policy was last reviewed on 1/12/2016 and will be reviewed again on 6/15/2016 by the Information Systems Disaster Recovery Team.

2. Frequency and Timing of Backups

A full backup of all data is taken every Friday at each location. Incremental backups are taken Monday thru Thursday. Animal Control also does an Incremental Backup. The backups are scheduled to run automatically at 5:00 PM daily. Monthly Backups are taken last day of month unless it falls on a weekly backup then it is moved after that backup has finished.

3. Backup Rotation

The Backup Operator and an *assigned end-user at each location is responsible for:

- A. *Changing tapes: inserting tape at close of day and removal of tape first thing in the morning, from the backup unit
- B. *Storing the backup tapes
- C. Checking to ensure the backup has been successful
- D. Managing a backup failure

The rotation should include clear deputizing arrangements for cover in the event of staff absence (both planned and unplanned).

*The staff responsible for the Backup Operation will explain the Daily and Monthly procedures in changing out the tape to the assigned end-user at each of the locations.

4. Servers and Locations

Parks Administration - 3009 Dan Av Jonesboro AR 72401

Backup Server - JBDANFS

JBDANFS

Daily Backups - to disk are performed on the F: drive of the JBDANFS server using CA Brightstor Software on the JBDANFS server.

Weekly Backups – to F: drive on JBCHFCB

*Monthly Backups - to disk are performed on the F: drive of JBCHISCSI server using CA Brightstor Software on the last day of the month.

Rectrac - The Rectrac database which is on the JBCHREC server is being incorporated into the city tape backup job.

City Hall – 300 South Church, Jonesboro, AR 72401

Backup Server - JBCHFCB

- *SQL_Backups
- JBCHSQL
- JBCHNET
- JBCHSIGNAL
- SVRSQLRPS: RPS, RMD, R2M, COMMSYS, FDEVEHICLES (Relativity)
- ROUTEMATCH
- TRENDMICRO
- NUMBERS
- *JBACDC (Animal Control)
- *JBF1FS (Fire Department)
- AltJustice
- JBCHFS1
- JBCHSB
- JBJCAVL
- JBJCROUTE
- JBCHAPP
- SVR03ISCSI
- JBCHITAPPS
- SVR_NT_JPD
- JBCHDC1
- JBCHENG
- JBPWFS WEEKLY
- JBCHMEDIA
- SVR03SQL

Daily Backup

- *SQL databases are sent/backed-up to the SQL_Backups folder in the "City Backup" folder on the JBCHFCB server on a daily basis using the SQL Studio software on the SQL servers.
- *JBACDC files are sent/backed-up to the Animal Control folder in the "City Backup" folder on the JBCHFCB server on a daily basis using a scheduled task which runs a batch file with the xcopy command on a daily basis.
- *JBF1FS is backed up to the FireBackup folder in the "City Backup" folder on the JBCHFCB server using the Brightstor Software/ Job Name: Fire Backup Incremental; (Incremental Monday - Thursday; Full backup on FRIDAY)
- The rest of the servers listed are backed up to tape on a daily basis using CA Brightstor Software/ Job Name: City DAILY, ENGINEER DAILY, FIRE BACKUP.

Weekly Backups to tape are performed every Friday. The process backs up all files stored in the "City Backup" folder using CA Brightstor Software/ Job Name: City Weekly Backup, JETS WEEKLY, Engineering daily

Monthly Backups to tape are performed in the same manner as the Weekly Backups but are done on the last day of the month using CA Brightstor Software/ Job Name: CITY MONTHLY AND ENGINEER MONTHLY

A customer Rotation is used for backing up the F drive on JBPWFS. Friday is a Full Backup and it uses the job Jets Weekly. This backup is backing up to shares to \\jbchfcb\d\$\Jets & Streets Wkly Backup folder.

Public Works / JETS - 2630 Lacy Drive Jonesboro, AR 72401

Backup Server - JBPWFS

JBPWFS- Located at the Public Works Admin building

Daily Backups – Five-day weekly incremental backup, full backup on Friday
Backs up to disk on JBPWFS F: DRIVE

Monthly Backups - to shared folder performed on the F: drive of the JBCHISCSI server by using CA Brightstor Software on the JBPWFS server on the last day of the month.
(Tape run to this location is not needed because the fact that it is weekly backup is stored to offsite on hard drive at \\jbchfcb\Jets & Streets Wkly Backup.)

Backup Server – JBPDDC

JBPDDC– Located at Police Admin

JBPDFS- Located at Police Admin

Daily Backups – to tape performs full backup Mon-Thurs on the F: drive of the JBPDDC and JBPDFS server by using CA Brightstor Software on the JBPDDC server.

Weekly Backups – to tape performs full backup on Friday and backups the F: drive of the JBPDDC and JBPDFS server by using CA Brightstor Software on the JBPDDC server.

Monthly Backups- to tape performs full backup on the last day of the month and backups the F: drive of the JBPDDC and JBPDFS server by using CA Brightstor Software on the JBPDDC server.

5. Verification of Backup Status

The staff responsible must check the backup status and logs on the system first thing each morning.

6. House-keeping of the Backup System

Regular maintenance of the backup device is performed to ensure it is kept in good working order. Cleaning tapes are used in accordance with manufacturer’s instructions. Tape drives should be cleaned monthly or more often if the cleaning light is illuminated.

7. Managing Backup Failure

In the event of an unsuccessful backup, the staff responsible for checking the backup must immediately:

- a. Note any messages / information on the server monitor
- b. Clean the tape drive using the manufacturer's recommended cleaning cartridge
- c. Check the age of the tape used. Destroy tape and replace if near or over its age limit
- d. Contact the [system supplier] to report the failure if necessary
- e. If the backup fails repeatedly, it may be necessary to perform a manual backup until system is restored/replaced
- f. The job will be started again after the errors have been corrected.

8. Storage of Backup Tapes

The Weekly Backup tape when removed from *each location is stored securely in a locked fire-proof media safe at the Central Fire Department. Every Monday the Weekly Backup tapes at City Hall (300 South Church St. Jonesboro, AR 72401) from server JBCHFCB is taken off-site when removed from the server and stored in a fireproof safe at the Central Fire Department (3215 E Johnson Ave Jonesboro, AR 72401). At the same time, the tape deposited the previous week will be collected and returned to City Hall for reuse the following week. A copy of the combination for the safe is saved here: `jbchfs1\root\InfoSys\INVENTORY`.

9. Management of Tapes

Tapes are clearly labeled with a number or day of the week and used in strict rotation to ensure even wear and immediate identification of any problems with a specific tape.

An example of a typical backup cycle:

All data is backed up to tape on a daily basis overnight Monday to Friday. A cycle of two complete weeks tapes are used in rotation (10 tapes). Each month one tape is removed from the cycle and kept for a period of twelve months (12 tapes). This means twenty-two tapes are required for this backup cycle.

Tapes must be replaced at the first sign of deterioration. Old tapes are reformatted or physically disrupted so to render any data on them unrecoverable.

10. CA Brightstor Software

Original copies of CA Brightstor software and licensing agreements are stored in the fireproof media safe in the IS Storage room. There is also a copy of the license saved here: `jbchfs1\root\InfoSys\Documentation-Software`.

System Suppliers

Overland Storage - Summary of Tape Pickup Locations

Weekly tapes will be replaced at these locations:

City Hall
Fire Station 1
Police Admin

The route taken:

City Hall to Station 1
Station 1 to Police admin
Police to Station 1
Station 1 to City Hall

Information Technology Internal Controls Procedures

Internal Process controls for establishing new user accounts, rights and deletion recovery

During Employee's orientation, the employee is required to sign the COJ's computer policy

- a. User account is made by IT once Departmental Supervisor has submitted a request to the help desk.
- b. Departmental Supervisor will define departmental folder, sub-folders and documents right contained within each.
- c. IT will verify with Human resources that new employee has signed the computer policy and employees "legal name" before establishing a network account.
- d. Once verified, permissions are given and user account is defined by the appropriate group.
- e. User access by a mapped drive by mapping manually to share or by group policy.
- f. Administrator access – only IT staff has domain administrator and domain admin access.
- g. All users have local admin access to their workstation.
- h. Users have person mapped drives specified to only the user.
- i. Only owner and admin have access to folders and documents.
- j. User requests recovery of deleted items by submitting request to the help-desk.
- k. Recover of recycle bin using undelete on the server that the share resides.
- l. If unsuccessful recovery tape is initiated
- m. Incremental backups performed Monday-Thursday, full back up performed on Fridays.
- n. Four hour incremental backups are performed daily. Data is stored within the DR site.