



Federal Demonstration Partnership

Redefining the Government University Research Partnership

FEDERAL DEMONSTRATION PARTNERSHIP IV GENERAL TERMS AND CONDITIONS

April 1, 2005

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<p>____.1 Purpose. This Circular establishes uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. Federal awarding agencies shall not impose additional or inconsistent requirements, except as provided in Sections _____.4, and _____.14 or unless specifically required by Federal statute or executive order. Non-profit organizations that implement Federal programs for the States are also subject to State requirements.</p> <p>____.2 Definitions.</p> <p>(a) Accrued expenditures means the charges incurred by the recipient during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, subrecipients, and other payees; and, (3) other amounts becoming owed under programs for which no current services or performance is required.</p> <p>(b) Accrued income means the sum of: (1) earnings during a given period from (i) services performed by the recipient, and (ii) goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the recipient for which no current services or performance is required by the recipient.</p> <p>(c) Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.</p>	<p>1. Purpose. These Federal Demonstration Partnership (FDP) General Terms and Conditions incorporate the requirements of U. S. Office of Management and Budget Circulars as they apply to grants made by Federal awarding agencies to educational and non-profit organizations when each is a party to "Federal Demonstration Project Phase IV Agreement."</p> <p>2. Definitions. Terms used in these general terms and conditions have the meanings given in section _____.2 of OMB Circular A-110, with the following additions and clarifications:</p>

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<p>(d) Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.</p> <p>(e) Award means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.</p> <p>(f) Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.</p> <p>(g) Closeout means the process by which a Federal awarding agency determines that all applicable administrative actions and all required work of the award have been completed by the recipient and Federal awarding agency.</p> <p>(h) Contract means a procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.</p> <p>(i) Cost sharing or matching means that portion of project or program costs not borne by the Federal Government.</p> <p>(j) Date of completion means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which Federal sponsorship ends.</p> <p>(k) Disallowed costs means those charges to an award that the Federal awarding agency determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.</p>	<p>(a) In lieu of the definition given in paragraph ____.2(e), the term "award" means the award.</p>

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<p>(l) Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5000 or more per unit. However, consistent with recipient policy, lower limits may be established.</p> <p>(m) Excess property means property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.</p> <p>(n) Exempt property means tangible personal property acquired in whole or in part with Federal funds, where the Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.</p> <p>(o) Federal awarding agency means the Federal agency that provides an award to the recipient.</p> <p>(p) Federal funds authorized means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior s when permitted by agency regulations or agency implementing instructions.</p> <p>(q) Federal share of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.</p> <p>(r) Funding period means the period of time when Federal funding is available for obligation by the recipient.</p>	<p>(b) If the recipient establishes a lower limit than \$5,000 for “equipment,” as permitted by the definition in paragraph ____.2(l), then items with acquisition costs less than \$5,000 are included as equipment for the recipient’s purposes only. The Federal requirements for equipment, as specified in Article 33 or 34 of the award, apply only to items with acquisition costs of \$5,000 or more per unit.</p> <p>(c) “Federal awarding agency” as defined in ____.2(o) means the Federal agency that made the award.</p> <p>(d) “Funding period” has the meaning given in paragraph ____.2(r), with the additional clarification that the term includes any extension of the expiration date of the award, such as a no-cost extension authorized by</p>

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<p>property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.</p> <p>(y) Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.</p> <p>(z) Project period means the period established in the award document during which Federal sponsorship begins and ends.</p> <p>(aa) Property means, unless otherwise stated, real property, equipment, intangible property and debt instruments.</p> <p>(bb) Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.</p> <p>(cc) Recipient means an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term may include commercial organizations, foreign or international organizations (such as agencies of the United Nations) which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients at the discretion of the Federal awarding agency. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.</p>	<p>(f) The term “property” includes supplies in addition to other types of property identified in the definition in paragraph ____2(aa).</p> <p>(g) In lieu of the definition given at paragraph ____2(cc), the term “recipient” means the organization that received the award.</p>

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<p>(dd) Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.</p> <p>(ee) Small awards means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11) (currently \$25,000).</p> <p>(ff) Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award" in paragraph (e).</p> <p>(gg) Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations) at the discretion of the Federal awarding agency.</p> <p>(hh) Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a</p>	<p>(h) In lieu of the definition given in paragraph ____2(ff), the term "subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations</p> <p>(i) The term "subrecipient," as defined in paragraph ____2(gg) includes the types of organizations shown for the Federal awarding agency in the Appendix A to the FDP Operating Procedures, found at the website : http://www.nsf.gov/awards/managing/fed_dem_part.jsp.</p>

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<p>funding agreement ("subject inventions"), as defined in 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."</p> <p>(ii) Suspension means an action by a Federal awarding agency that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the Federal awarding agency. Suspension of an award is a separate action from suspension under Federal agency regulations implementing E.O.s 12549 and 12689, "Debarment and Suspension."</p> <p>(jj) Termination means the cancellation of Federal sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.</p> <p>(kk) Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.</p> <p>(ll) Unliquidated obligations, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.</p> <p>(mm) Unobligated balance means the portion of the funds authorized by the Federal awarding agency that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.</p> <p>(nn) Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.</p> <p>(oo) Working capital advance means a procedure where by funds are advanced to</p>	

<p style="text-align: center;">OMB CIRCULAR A-110</p> <p>the recipient to cover its estimated disbursement needs for a given initial period.</p> <p>____.3 Effect on other issuances.</p> <p>____.4 Deviations</p> <p>____.5 Subawards</p> <p>Unless sections of this Circular specifically exclude subrecipients from coverage, the provisions of this Circular shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of regulations implementing the grants management common rule, ``Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," published at 53 FR 8034 (3/11/88).</p> <p>SUBPART B – Pre-Award Requirements</p>	<p style="text-align: center;">FDP IMPLEMENTATION OF FEDERAL MANAGEMENT CIRCULARS</p> <p>3. Reserved</p> <p>4. Deviations. Any request by the recipient for waiver or deviation from any provision of either these general terms and conditions or the agency specific requirements shall be submitted to the awarding agency's designated representative identified on the signature page of the Demonstration Agreement. Any request by the recipient for a waiver or deviation from any special condition attached to the award shall be submitted to the cognizant awarding agency official for the award (usually the Grants Officer or Contracting Officer who signed the award on behalf of the awarding agency).</p> <p>5. Subawards. Section 5 of OMB Circular A-110 is incorporated herein with the following clarification: The applicable provisions for subawards are described in the Appendix A to the Federal Demonstration Partnership “Operating Procedures” found in the matrix at the following website: http://www.nsf.gov/awards/managing/fed_dem_part.jsp.</p> <p>II. PRE-AWARD REQUIREMENTS</p> <p>10. Purpose. The requirements in Sections ____ .10 through ____ .17 of OMB Circular A-110 are not incorporated into these General Terms and Conditions, except that Article 11 addresses national policy requirements.</p> <p>11. National Policy Requirements. By signing the agreement or accepting funds under the agreement, the recipient assures that it will comply with the applicable provisions for national policy requirements</p>
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<p>an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.</p> <p>(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.</p> <p>(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.</p> <p>(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.</p> <p>(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."</p> <p>(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.</p> <p>(7) Accounting records including cost accounting records that are supported by source documentation.</p> <p>(c) Where the Federal Government guarantees or insures the repayment of money</p>	

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<p>borrowed by the recipient, the Federal awarding agency, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.</p> <p>(d) The Federal awarding agency may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.</p> <p>(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."</p> <p>____.22 Payment.</p> <p>(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.</p> <p>(b) Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain:</p> <p>(1) written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient, and</p> <p>(2) financial management systems that meet the standards for fund control and accountability as established in Section _____.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or</p>	<p>22. Payment. Section _____.22 of OMB Circular A-110 governs the Federal awarding agency's and recipient's responsibilities concerning payments, with the following clarifications:</p> <p>(a) Payments will be made in advance, subject to the conditions described in paragraph (b) of section _____.22, unless the Federal awarding agency provides otherwise in the agency-specific terms and conditions or the award document.</p>

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<p>project costs and the proportionate share of any allowable indirect costs.</p> <p>(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the Federal awarding agency to the recipient.</p> <p>(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.</p> <p>(2) Advance payment mechanisms are subject to 31 CFR part 205.</p> <p>(3) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.</p> <p>(d) Requests for Treasury check advance payment shall be submitted on SF-270, "Request for Advance or Reimbursement," or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special Federal awarding agency instructions for electronic funds transfer.</p> <p>(e) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met. Federal awarding agencies may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.</p> <p>(1) When the reimbursement method is used, the Federal awarding agency shall make payment within 30 days after receipt of the billing, unless the billing is improper.</p> <p>(2) Recipients shall be authorized to submit request for reimbursement at least monthly when electronic funds transfers are not used.</p> <p>(f) If a recipient cannot meet the criteria for advance payments and the Federal</p>	

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<p>awarding agency has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, the Federal awarding agency may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, the Federal awarding agency shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.</p> <p>(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.</p> <p>(h) Unless otherwise required by statute, Federal awarding agencies shall not withhold payments for proper charges made by recipients at any time during the project period unless (1) or (2) apply.</p> <p>(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements.</p> <p>(2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A-129, "Managing Federal Credit Programs." Under such conditions, the Federal awarding agency may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.</p> <p>(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.</p> <p>(1) Except for situations described in paragraph (i)(2), Federal awarding agencies shall not require separate depository accounts for funds provided to a recipient or</p>	

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<p>establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.</p> <p>(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.</p> <p>(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women- owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).</p> <p>(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless (1), (2) or (3) apply.</p> <p>(1) The recipient receives less than \$120,000 in Federal awards per year.</p> <p>(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on Federal cash balances.</p> <p>(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.</p> <p>(l) For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to \$250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Federal awarding agency, it waives its right to recover the interest under CMIA.</p> <p>(m) Except as noted elsewhere in this Circular, only the following forms shall be</p>	<p>(b) With respect to paragraph (1) of section ____.22, the complete address for remitting checks for interest earned on Federal advances is Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852.</p> <p>(1) In keeping with Electronic Funds Transfer rules (31 CFR part 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIR Deposit System. Electronic remittances should be in the format and should include any data that are specified by the HHS as being necessary to facilitate direct deposit in HHS' account at the Department of the Treasury.</p> <p>(2) Recipients that do not have electronic remittance capability should send a check to the address in section (b) above.</p>

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<p>authorized for the recipients in requesting advances and reimbursements. Federal agencies shall not require more than an original and two copies of these forms.</p> <p>(1) SF-270, Request for Advance or Reimbursement. Each Federal awarding agency shall adopt the SF-270 as a standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. Federal awarding agencies, however, have the option of using this form for construction programs in lieu of the SF-271, "Outlay Report and Request for Reimbursement for Construction Programs."</p> <p>(2) SF-271, Outlay Report and Request for Reimbursement for Construction Programs. Each Federal awarding agency shall adopt the SF-271 as the standard form to be used for requesting reimbursement for construction programs. However, a Federal awarding agency may substitute the SF-270 when the Federal awarding agency determines that it provides adequate information to meet Federal needs.</p> <p>____.23 Cost sharing or matching.</p> <p>(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.</p> <p>(1) Are verifiable from the recipient's records.</p> <p>(2) Are not included as contributions for any other federally-assisted project or program.</p> <p>(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.</p> <p>(4) Are allowable under the applicable cost principles.</p> <p>(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.</p>	<p>23. Cost sharing or matching. Section ____ .23 of OMB Circular A-110 governs the allowability and valuation of third party in-kind and recipient contributions toward cost sharing or matching, with the following clarifications:</p> <p>(a) Should Section ____ .23 be amended to specify documentation requirements for different types of cost sharing (e.g., mandatory, voluntary, or excess voluntary), these documentation requirements are hereby incorporated into the FDP General Terms and Conditions</p> <p>(b) The recipient may include unrecovered indirect costs as part of cost sharing or matching.</p> <p>(c) Certain other costs or valuation methods require approval of the Federal awarding agency, in accordance with paragraphs (c) and (g) (2) of section ____ .23.</p> <p>(d) Full value of equipment or other capital assets and fair rental charges for land may be allowed, instead of only depreciation or use charges, provided that the Federal awarding agency has approved the charges.</p>

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<p>(6) Are provided for in the approved budget when required by the Federal awarding agency.</p> <p>(7) Conform to other provisions of this Circular, as applicable.</p> <p>(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of the Federal awarding agency.</p> <p>(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If a Federal awarding agency authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of (1) or (2).</p> <p>(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation.</p> <p>(2) The current fair market value. However, when there is sufficient justification, the Federal awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.</p> <p>(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.</p> <p>(e) When an employer other than the recipient furnishes the services of an employee,</p>	

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<p>these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.</p> <p>(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.</p> <p>(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if (1) or (2) apply.</p> <p>(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.</p> <p>(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the Federal awarding agency has approved the charges.</p> <p>(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.</p> <p>(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.</p> <p>(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.</p>	

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<p>(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.</p> <p>(4) The value of loaned equipment shall not exceed its fair rental value.</p> <p>(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.</p> <p>(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.</p> <p>(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.</p> <p>____.24 Program income.</p> <p>(a) Federal awarding agencies shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.</p> <p>(b) Except as provided in paragraph (h) below, program income earned during the project period shall be retained by the recipient and, in accordance with Federal awarding agency regulations or the terms and conditions of the award, shall be used in one or more of the ways listed in the following.</p> <p>(1) Added to funds committed to the project by the Federal awarding agency and recipient and used to further eligible project or program objectives.</p> <p>(2) Used to finance the non-Federal share of the project or program.</p> <p>(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.</p>	<p>24. Program income. The use and disposition of program income is governed by section ____24 of OMB Circular A-110. Unless the agency-specific requirements of the award specify otherwise:</p> <p>(a) The additive method of paragraph ____24(b)(1) will be used to dispose of program income, in accordance with paragraph ____24(d).</p> <p>(b) The recipient will have no obligation to the Federal Government for program income earned after the end of the project period, in accordance with paragraph ____24(e).</p> <p>(c) The recipient will have no obligation to the Federal Government for program income earned from license fees and royalties for copyrighted material, in accordance with paragraph ____24(h).</p>

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<p>(c) When an agency authorizes the disposition of program income as described in paragraphs (b)(1) or (b)(2), program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3).</p> <p>(d) In the event that the Federal awarding agency does not specify in its regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3) shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) shall apply automatically unless the awarding agency indicates in the terms and conditions another alternative on the award or the recipient is subject to special award conditions, as indicated in Section __.14.</p> <p>(e) Unless Federal awarding agency regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.</p> <p>(f) If authorized by Federal awarding agency regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.</p> <p>(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See Sections __.30 through __.37).</p> <p>(h) Unless Federal awarding agency regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.</p> <p>__.25 Revision of budget and program plans.</p>	<p>25. Revision of budget and program plans.</p>

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<p>(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon Federal awarding agency requirements. It shall be related to performance for program evaluation purposes whenever appropriate.</p> <p>(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.</p> <p>(c) For nonconstruction awards, recipients shall request prior approvals from Federal awarding agencies for one or more of the following program or budget related reasons.</p> <p>(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).</p> <p>(2) Change in a key person specified in the application or award document.</p> <p>(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.</p> <p>(4) The need for additional Federal funding.</p> <p>(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by the Federal awarding agency.</p> <p>(6) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with OMB Circular A-21, "Cost Principles for Educational Institutions," OMB Circular A-122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as</p>	<p>(a) The budget plan is the financial expression of the project or program as approved during the award process. The approved budget includes the Federal share of project costs and that portion of the non-Federal share of project costs, if any, that the recipient and the Federal awarding agency formally agree upon as cost sharing (see paragraph (a) of Article 23).</p> <p>(b) The recipient must obtain the prior written approval of the Federal awarding agency before making any of the following project changes:</p> <p>(1) <u>A change in scope or objectives</u> of the project as stated in the approved application or approved modifications thereto, such as a change in the phenomenon(a) under study, even if there is no associated budget revision.</p> <p>(2) <u>The absence or change of the Principal Investigator/Project Director (PI/PD)</u>. If the approved PI/PD severs his or her connection with the recipient or otherwise relinquishes active direction of the project (either permanently or for a continuous period of more than 3 months or a 25 percent reduction in time devoted to the project), then the recipient must either:</p> <p>(i) Appoint a replacement PI/PD with the approval of the awarding agency;</p> <p>(ii) Seek and receive prior approval from the awarding agency for the reduction of time devoted to the project; or</p> <p>(iii) Relinquish the award (in which case the award will be terminated by mutual agreement, in accordance with Article 61).</p> <p>(3) <u>The need for additional federal funding</u>. The maximum obligation of the Federal awarding agency to the recipient is the amount</p>

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<p>applicable.</p> <p>(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.</p> <p>(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.</p> <p>(d) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.</p> <p>(e) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this section, Federal awarding agencies are authorized, at their option, to waive cost-related and administrative prior written approvals required by this Circular and OMB Circulars A-21 and A-122. Such waivers may include authorizing recipients to do any one or more of the following.</p> <p>(1) Incur pre-award costs 90 calendar days prior to award or more than 90 calendar days with the prior approval of the Federal awarding agency. All pre-award costs are incurred at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).</p> <p>(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply. For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.</p> <p>(i) The terms and conditions of award prohibit the extension.</p>	<p>indicated in the award as obligated by that agency. Nothing in this Article or in the other requirements of the award requires the awarding agency to make any additional award of funds or limits its discretion with respect to the amount of funding to be provided for the same or any other purpose.</p> <p>(4) <u>The transfer, by contract or other means, of a significant part of the research or substantive programmatic effort</u>, unless described in the approved application or approved modifications to the award. The recipient must submit a justification, a description of the scientific/technical impact on the project, and a budget estimate to the cognizant Federal awarding agency official.</p> <p>(c) All prior approvals required in OMB Circulars A-21 and A-122 , except those waived in subparagraphs (1) – (6) of this Article, and in Article 27, must be obtained. The recipient is authorized to do any one or more of the following:</p> <p>(1) Incur pre-award costs 90 calendar days prior to award (or more than 90 calendar days with the prior approval of the Federal awarding agency). Pre-award expenditures prior to funding of an increment within a multiple-year project, including any optional years, are not subject to this limitation or approval requirement. All costs are incurred at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).</p> <p>(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions applies:</p> <p>(i) The agency-specific requirements of the award prohibit the extension</p>

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<p>(ii) The extension requires additional Federal funds.</p> <p>(iii) The extension involves any change in the approved objectives or scope of the project.</p> <p>(3) Carry forward unobligated balances to subsequent funding periods.</p> <p>(4) For awards that support research, unless the Federal awarding agency provides otherwise in the award or in the agency's regulations, the prior approval requirements described in paragraph (e) are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (e)(2) applies.</p> <p>(f) The Federal awarding agency may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency. No Federal awarding agency shall permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.</p> <p>(g) All other changes to nonconstruction budgets, except for the changes described in paragraph (j), do not require prior approval.</p> <p>(h) For construction awards, recipients shall request prior written approval promptly from Federal awarding agencies for budget revisions whenever (1), (2) or (3) apply.</p> <p>(1) The revision results from changes in the scope or the objective of the project or program.</p> <p>(2) The need arises for additional Federal funds to complete the project.</p> <p>(3) A revision is desired which involves specific costs for which prior written</p>	<p>(ii) The extension requires additional Federal funds.</p> <p>(iii) The extension involves any change in the approved objectives or scope of the project.</p> <p>(3) For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.</p> <p>(4) Carry forward unobligated balances to subsequent funding periods. Any unobligated balance of funds which remains at the end of any funding period, except the final funding period of the project, shall be carried over to the next funding period, and may be used to defray costs of any funding period of the project in addition to the current year's funding. Since the carryover of unobligated balances is automatic, no separate or specific awarding agency prior approval shall be required to authorize use of the funds.</p> <p>(5) <u>The inclusion of costs that require the Federal awarding agency's prior approval under the applicable cost principles.</u> Applicable cost principles depend upon the type of organization, as described in section __.27 of OMB Circular A-110. Note that the Federal awarding agency gives its approval for the inclusion of certain costs for which the agency's prior approval is required by the applicable cost principles, as detailed in Article 27.</p> <p>(6) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by the Federal awarding agency.</p> <p>(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.</p>

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<p>approval requirements may be imposed consistent with applicable OMB cost principles listed in Section ____27.</p> <p>(i) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.</p> <p>(j) When a Federal awarding agency makes an award that provides support for both construction and nonconstruction work, the Federal awarding agency may require the recipient to request prior approval from the Federal awarding agency before making any fund or budget transfers between the two types of work supported.</p> <p>(k) For both construction and nonconstruction awards, Federal awarding agencies shall require recipients to notify the Federal awarding agency in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than \$5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.</p> <p>(l) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the Federal awarding agency indicates a letter of request suffices.</p> <p>(m) Within 30 calendar days from the date of receipt of the request for budget revisions, Federal awarding agencies shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency shall inform the recipient in writing of the date when the recipient may expect the decision.</p> <p>____.26 Non-Federal audits.</p> <p>(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC</p>	<p>(d) The recipient must provide revised budget information to the Federal awarding agency if there are any significant changes in the size or scope of the project or in the originally negotiated total estimated cost for the project period.</p> <p>(1) To request approval for budget revisions, the recipient shall use the budget forms that were used in the application unless the Federal awarding agency states in its Agency-Specific Requirements that a letter of request suffices.</p> <p>(2) Within 30 calendar days from the date of receipt of the request for budget revisions, the Federal awarding agency shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency shall inform the recipient in writing of the date when the recipient may expect the decision.</p> <p>26. Non-Federal audits. The recipient will obtain audits and require subrecipients to obtain audits in accordance with section ____26 of OMB Circular A-110.</p>

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<p>7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."</p> <p>(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 USC 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."</p> <p>(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A-133 shall be subject to the audit requirements of the Federal awarding agencies.</p> <p>(d) Commercial organizations shall be subject to the audit requirements of the Federal awarding agency or the prime recipient as incorporated into the award document.</p> <p>____.27 Allowable costs. For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A-122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A-21, "Cost Principles for Educational Institutions." The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals." The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.</p>	<p>27. Allowable costs. This includes costs of the award and costs of subrecipients under subawards to the award. Allowable costs of the recipient and subrecipients are in accordance with the cost principles described in section ____27 of OMB Circular A-110, with the following clarifications:</p> <p>(a) <u>Educational institutions covered by OMB Circular A-21.</u></p> <p>(1) <u>Prior approvals.</u> The Federal awarding agency hereby approves the inclusion of certain costs for which the agency's prior approval is required by the cost principles for educational institutions, in OMB Circular A-21. Agency approval is granted for the recipient to:</p> <p>(i) Include charges for faculty consulting on sponsored agreements that exceed a faculty member's base salary, but only in unusual cases where:</p> <p>(a) consultation is across departmental lines or involves a separate or remote operation; and (b) the consulting work is in addition to the faculty member's regular departmental load [reference paragraph J.10.d.(1) of OMB Circular A-21].</p>

<p style="text-align: center;">OMB CIRCULAR A-110</p>	<p style="text-align: center;">FDP IMPLEMENTATION OF FEDERAL MANAGEMENT CIRCULARS</p> <p>(ii) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research, as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions [reference paragraphs J.18.b.(1) and (2) of OMB Circular A-21].</p> <p>(iii) Include as direct charges capital expenditures for improvements to equipment that materially increases the equipment’s value or useful life, but only if the equipment is primarily used in the actual conduct of the research [reference paragraph J.18.b.(3) of OMB Circular A-21].</p> <p>(iv) Include preagreement costs, to the extent described in paragraph 25.(c)(1) of Article 25 of these General Terms and Conditions [reference paragraph J.36. of OMB Circular A-21].</p> <p>(v) Include rearrangements and alteration costs under \$25,000 [reference paragraph J.40. of OMB Circular A-21], subject to the following conditions:</p> <ul style="list-style-type: none"> (A)The alteration or renovation must be essential to the project supported; (B) The facility to be altered or renovated must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required; (C) The space involved must actually be occupied by the project or program; (D) The space must be suitable for human occupancy before alteration or renovation work is started, except where the purpose of the alteration or renovation is to make the space suitable for some purpose other than human occupancy (e.g., storage); (E) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and
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<p style="text-align: center;">OMB CIRCULAR A-110</p>	<p style="text-align: center;">FDP IMPLEMENTATION OF FEDERAL MANAGEMENT CIRCULARS</p> <p style="text-align: center;">renovation proposed.</p> <p>(2) The following clarification applies to the standard in paragraph c.4.d. of OMB Circular A-21, which relates to allocation of costs for interrelated projects supported by multiple Federal awards: The interrelationship between or among projects does not have to be formally stipulated, but must be demonstrable on the basis of the following criteria. Either: (a) the theoretical approaches are interrelated; (b) studies of the same phenomena are conducted by the same or different techniques; or (c) studies of different phenomena are conducted by the same technique.</p> <p>(b) <u>Nonprofit organizations covered by OMB Circular A-122</u>. The Federal awarding agency hereby approves the inclusion of certain costs for which the agency's prior approval is required by the cost principles for nonprofit organizations, in OMB Circular A-122. Agency approval is granted for the recipient to:</p> <p>(1) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research, as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions [reference paragraphs 15.b.(1) and (2) of Attachment B to OMB Circular A-122].</p> <p>(2) Include as direct charges capital expenditures for improvements to equipment that materially increases the equipment's value or useful life, but only if the equipment is primarily used in the actual conduct of the research [reference paragraph 15.b.(3) of Attachment B to OMB Circular A-122].</p> <p>(3) Include participant support costs such as stipends, subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects [reference paragraph 33 of Attachment B to OMB Circular A-122.]</p>
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	<p>(4) Include pre-award costs incurred up to 90 days prior to the effective date of the award, as provided in Article 25.(c)(1) of these general terms and conditions [reference paragraph 36 of Attachment B to OMB Circular A-122.]</p> <p>(5) Include costs of rearrangements and alterations under \$25,000 [reference paragraph 39. of Attachment B to OMB Circular A-122], subject to the following conditions:</p> <ul style="list-style-type: none"> (i) The alteration or renovation must be essential to the project supported; (ii) The facility to be altered or renovated must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required; (iii) The space involved must actually be occupied by the project or program; (iv) The space must be suitable for human occupancy before alteration or renovation work is started, except where the purpose of the alteration or renovation is to make the space suitable for some purpose other than human occupancy (e.g., storage); (v) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and renovation proposed. <p>(6) Include costs for foreign travel outside of Canada and the United States and its territories and possessions [reference paragraph 51.e. of Attachment B to OMB Circular A-122.]</p> <p>(c) <u>Hospitals covered by 45 CFR 74, Appendix E.</u> The Federal awarding agencies hereby approve the inclusion of certain costs for which the agency's prior approval is required by the cost principles for hospitals, in 45 CFR 74, Appendix E. Agency approval is granted for the recipient to:</p> <ul style="list-style-type: none"> (1) Include as direct charges capital expenditures for general purpose

<p style="text-align: center;">OMB CIRCULAR A-110</p>	<p style="text-align: center;">FDP IMPLEMENTATION OF FEDERAL MANAGEMENT CIRCULARS</p> <p>equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research as stated in paragraph 34.,(c)of Article 34 of these General Terms and Conditions (reference paragraphs IX.B.4 & 12 of 45 CFR 74, Appendix E).</p> <p>(2) Include charges for non-hospital professional activities that exceed a staff member’s base salary, but only in unusual cases where (a) the non-hospital professional activities are across departmental lines or involve a separate or remote operation; and (b) the non-hospital professional work is in addition to the staff members regular departmental load (reference paragraph IX.B.7.f. of 45 CFR 74, Appendix E).</p> <p>(3) Include preagreement costs to the extent described in paragraph 25.3.1 of Article of these General Terms and Conditions (reference paragraph IX.B.27 of 45 CFR 74, Appendix E).</p> <p>(4) Rearrangement, alteration and reconversion costs under \$25,000 (reference paragraphs IX.B.32 & 33 of 45 CFR 74, Appendix E) subject to the following conditions:</p> <p>(i) The rearrangement or alteration must be essential to the project supported;</p> <p>(ii) The facility to be altered or rearranged must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required;</p> <p>(iii) The space involved must actually be occupied by the project or program;</p> <p>(iv) The space must be suitable for human occupancy before alteration or rearrangement work is started, except where the purpose of the alteration or rearrangement is to make the space suitable for some purpose other than human occupancy (e.g., storage);</p> <p>(v) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and rearrangement proposed.</p>
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<p>____.29 Conditional exemptions.</p> <p>(a) OMB authorizes conditional exemption from OMB administrative requirements and cost principles circulars for certain Federal programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the head of the Executive department or establishment. A Federal agency shall consult with OMB during its consideration of whether to grant such an exemption.</p> <p>(b) To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from all but the allocability of costs provisions of OMB Circulars A-87 (Attachment A, subsection C.3), "Cost Principles for State, Local, and Indian Tribal Governments," A-21 (Section C, subpart 4), "Cost Principles for Educational Institutions," and A-122 (Attachment A, subsection A.4), "Cost Principles for Non-Profit Organizations," and from all of the administrative requirements provisions of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and the agencies' grants management common rule.</p> <p>(a) When a Federal agency provides this flexibility, as a prerequisite to a State's exercising this option, a State must adopt its own written fiscal and</p>	<p>28. Period of availability of funds. The recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period specified, any pre-award costs authorized in accordance with paragraph (c) of Article 25 of these General Terms and Conditions, and costs incidental to the production of the final report.</p> <p>29. <u>Reserved</u></p>

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<p>administrative requirements for expending and accounting for all funds, which are consistent with the provisions of OMB Circular A-87, and extend such policies to all subrecipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs, and funds are not be used for general expenses required to carry out other responsibilities of a State or its subrecipients.</p> <p>Property Standards</p> <p>____.30 Purpose of property standards. Sections ____31 through ____37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. Federal awarding agencies shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of Sections ____31 through ____37.</p> <p>____.31 Insurance coverage. Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.</p> <p>____.32 Real property. Each Federal awarding agency shall prescribe requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards. Unless otherwise provided by statute, such requirements, at a minimum, shall contain the following.</p> <p>(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long</p>	<p>III.B. PROPERTY STANDARDS</p> <p>30. Purpose of property standards. Sections ____31 through ____37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award.</p> <p>31. Insurance coverage. Requirements for insuring real property or equipment under the award are as stated in section ____31 of OMB Circular A-110.</p> <p>32. Real property. The recipient may not acquire real property under the award without the prior approval of the Federal awarding agency, in accordance with paragraph J.18.b.(1) of OMB Circular A-21. Should approval be granted to do so, the Federal awarding agency will prescribe requirements for use and disposition of the property, in accordance with section ____32 of OMB Circular A-110.</p>

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<p>as it is needed and shall not encumber the property without approval of the Federal awarding agency.</p> <p>(b) The recipient shall obtain written approval by the Federal awarding agency for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the Federal awarding agency.</p> <p>(c) When the real property is no longer needed as provided in paragraphs (a) and (b), the recipient shall request disposition instructions from the Federal awarding agency or its successor Federal awarding agency. The Federal awarding agency shall observe one or more of the following disposition instructions.</p> <p>(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.</p> <p>(2) The recipient may be directed to sell the property under guidelines provided by the Federal awarding agency and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.</p> <p>(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.</p> <p>____.33 Federally-owned and exempt property.</p>	<p>33. Federally-owned and exempt property.</p>

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<p>(a) Federally-owned property.</p> <p>(1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the Federal awarding agency. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the Federal awarding agency for further Federal agency utilization.</p> <p>(2) If the Federal awarding agency has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless the Federal awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with E.O. 12821, "Improving Mathematics and Science Education in Support of the National Education Goals.") Appropriate instructions shall be issued to the recipient by the Federal awarding agency.</p> <p>(b) Exempt property. When statutory authority exists, the Federal awarding agency has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions the Federal awarding agency considers appropriate. Such property is "exempt property." Should a Federal awarding agency not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.</p> <p>____.34 Equipment.</p> <p>(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.</p> <p>(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal</p>	<p>(a) <u>Federally-owned property</u> includes: equipment or supplies that are furnished by the Federal Government; or equipment acquired by the recipient under a Federal award that specifies that title to the property vests upon acquisition in the Federal Government. The recipient:</p> <p>(1) Must submit annual and final reports for any Federally-owned property under the award, in accordance with paragraph (a)(1) of section ____33 of OMB Circular A-110.</p> <p>(2) May use Federally-owned equipment on other activities not sponsored by the Federal Government only if authorized by the Federal awarding agency. User charges must be treated as program income, in accordance with paragraph (d) of section ____34 of the Circular A-110.</p> <p>(3) Must administer Federally-owned equipment in accordance with paragraph (f) of section ____34.</p> <p>(b) <u>Exempt property</u>. All equipment and supplies acquired by the recipient under the award are "exempt property," as that term is defined in OMB Circular A-110. Articles 34 and 35 of these General Terms and Conditions address the requirements for equipment and supplies, respectively.</p> <p>34. Equipment.</p> <p>(a) Unless the agency-specific requirements provide otherwise, title to all equipment purchased or fabricated with Federal awarding agency or recipient cost sharing funds, as direct costs of the project or program, shall vest in the recipient upon acquisition without further obligation to the Federal Government, subject to the following conditions:</p>

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<p>statute, for as long as the Federal Government retains an interest in the equipment.</p> <p>(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of the Federal awarding agency. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority: (i) Activities sponsored by the Federal awarding agency which funded the original project, then (ii) activities sponsored by other Federal awarding agencies.</p> <p>(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal awarding agency that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal awarding agency. User charges shall be treated as program income.</p> <p>(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the Federal awarding agency.</p> <p>(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following.</p> <p>(1) Equipment records shall be maintained accurately and shall include the following information.</p> <p>(i) A description of the equipment.</p>	<p>(1) The Federal awarding agency may require that title be transferred to the Federal Government or a third party if the project or program for which the equipment was purchased is transferred to another recipient. In any such case, the Federal awarding agency will notify the recipient of the intent to transfer title within 120 days following the expiration or termination of the project and paragraph (g)(2) of section __.34 of OMB Circular A-110 then applies.</p> <p>(2) As long as the Federal Government continues to support the project or program for which the equipment was purchased, the recipient:</p> <p>(i) Must use the equipment in that project or program, unless it no longer is needed for that project or program. The recipient may not encumber the equipment without the approval of the Federal awarding agency.</p> <p>(ii) Must use the equipment in accordance with paragraphs (b) and (d) of section __.34 of OMB Circular A-110. In accordance with paragraph (b), the recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.</p> <p>(iii) May, when acquiring replacement equipment, use the equipment that is being replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment, as authorized by paragraph (e) of section __.34 of OMB Circular A-110.</p> <p>(3) The recipient must account for the equipment in accordance with paragraph (f) of section __.34. The recipient must continue to account for the equipment after the cessation of Federal support for</p>

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<p>(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.</p> <p>(iii) Source of the equipment, including the award number.</p> <p>(iv) Whether title vests in the recipient or the Federal Government.</p> <p>(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.</p> <p>(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).</p> <p>(vii) Location and condition of the equipment and the date the information was reported.</p> <p>(viii) Unit acquisition cost.</p> <p>(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal awarding agency for its share.</p> <p>(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.</p> <p>(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.</p>	<p>the project or program for which the equipment was purchased, in a manner that ensures that: (a) equipment purchased under the award is not later included as a contribution toward cost sharing under another Federal award; and (b) depreciation or use charges for the equipment are not later included in any proposal for Facilities and Administration costs.</p> <p>(b) The recipient shall specify in any cost-type subaward whether title to equipment purchased or fabricated under the subaward vests in the recipient or subrecipient. If title vests in the subrecipient, it must be subject to the conditions specified in paragraph 34 (a) of this article (modified appropriately if the subrecipient is not an institution of higher education or nonprofit organization and its property management standards are specified in a document other than OMB Circular A-110). The recipient shall also require each subrecipient to specify, in any lower-tier, cost-type subaward that the subrecipient awards, whether title to equipment purchased or fabricated under that lower-tier subaward vests in the subrecipient making the subaward or in the lower-tier subrecipient.</p> <p>(c) Expenditures for acquisition or improvement of special purpose and general purpose equipment, as defined in paragraphs J.18.a.(3) and (4) of OMB Circular A-21, are allowable as direct costs of the project in accordance with Article 27, Section (a)(1)(C).</p>

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<p>(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify the Federal awarding agency.</p> <p>(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.</p> <p>(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.</p> <p>(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of \$5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from the Federal awarding agency. The Federal awarding agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported to the General Services Administration by the Federal awarding agency to determine whether a requirement for the equipment exists in other Federal agencies. The Federal awarding agency shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.</p> <p>(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse the Federal awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for the recipient's selling and</p>	

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<p>handling expenses.</p> <p>(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.</p> <p>(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by the Federal awarding agency for such costs incurred in its disposition.</p> <p>(4) The Federal awarding agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.</p> <p>(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.</p> <p>(ii) The Federal awarding agency shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.</p> <p>(iii) When the Federal awarding agency exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.</p>	
<p>____.35 Supplies and other expendable property.</p> <p>(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding \$5000 in total aggregate value upon termination or completion of the project or program and</p>	<p>35. Supplies. Section ____35 of OMB Circular A-110 governs the vesting of title and requirements for use and disposition of supplies, with the following clarification:</p> <p>(a) Unless the agency-specific requirements provide otherwise, title to</p>

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<p>the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.</p> <p>(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.</p> <p>____.36 Intangible property.</p> <p>(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The Federal awarding agency(ies) reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.</p> <p>(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."</p> <p>(c) Unless waived by the Federal awarding agency, the Federal Government has the right to (1) and (2).</p> <p>(1) Obtain, reproduce, publish or otherwise use the data first produced under an award.</p> <p>(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.</p> <p>(d)(1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under an award that</p>	<p>supplies shall vest in the recipient upon acquisition unconditionally, without further obligation to the Federal Government.</p> <p>36. Intangible property. Section ____36 of OMB Circular A-110 specifies the Government's and recipient's rights and responsibilities concerning copyrights, patents and inventions, and data that are generated or acquired under the award, with the following clarifications:</p> <p>(a) The Federal awarding agency does not waive the Federal Government's rights concerning data first produced under the award, as described in paragraph ____36(c)(1) and (2).</p> <p>(b) The award shall be subject to the Patents Rights (Small Business Firms and Nonprofit Organizations) clause at 37 CFR 401.14 and the following:</p> <p>(1) In each instance where the term "contract" or "contractor" is used in the clause, those terms shall be read as "award" and "recipient," respectively.</p> <p>(2) In each instance where the term "Federal Agency," "agency," or "funding Federal agency" is used in the clause, the term shall be read to mean the awarding agency for the award.</p> <p>(3) Under paragraph (g) of the clause, the title shall read "Contracts and Subawards Under the Award" and, in that paragraph, "subcontract" and "subcontractor":shall be read as "contract" or "subaward."</p>

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<p>were used by the Federal Government in developing an agency action that has the force and effect of law, the Federal awarding agency shall request, and the recipient shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).</p> <p>(2) The following definitions apply for purposes of paragraph (d) of this section:</p> <p>(i) Research data is defined as the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (e.g., laboratory samples). Research data also do not include:</p> <p>(A) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and</p> <p>(B) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.</p> <p>(ii) Published is defined as either when:</p> <p>(A) Research findings are published in a peer-reviewed scientific or technical journal; or</p> <p>(B) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.</p> <p>(iii) Used by the Federal Government in developing an agency action that has the force and effect of law is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.</p> <p>(e) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of the Federal awarding agency. When no longer</p>	<p>(4) Under subparagraph (g)(2) of the clause, if a contract or subaward is to be made to any organization other than a non-profit organization or small business firm, as defined in paragraph (a) of the clause, the recipient shall contact the cognizant awarding agency official to ascertain the appropriate patent clause.</p> <p>(e) See the agency-specific requirements of the award for the point of contact for communications on matters relating to the clause.</p>

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<p>needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of paragraph __.34(g).</p> <p>__.37 Property trust relationship. Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. Agencies may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.</p> <p>Procurement Standards</p> <p>__.40 Purpose of procurement standards. Sections __.41 through __.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by the Federal awarding agencies upon recipients, unless specifically required by Federal statute or executive order or approved by OMB.</p> <p>__.41 Recipient responsibilities. The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to the Federal awarding agency, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.</p>	<p>37. Property trust relationship. Section __.37 of OMB Circular A-110 applies to real property, equipment and intangible property acquired or improved with Federal funds under the award. This Article imposes no additional requirements for notices of record over and above any described in Articles 32 through 36 of these general terms and conditions and the associated agency-specific requirements.</p> <p>Procurement Standards</p> <p>40. Procurement. The recipient shall maintain a procurement system that, at a minimum, meets the requirements of sections __.41 through __.48 of OMB Circular A-110, with the following clarifications:</p> <p>(a) In paragraphs (e)(2) through (5) of section __.44, section __.46, and paragraphs (a) and (b) of section __.48, the term “small purchase threshold” is replaced by “simplified acquisition threshold,” the term that now is defined at 41 U.S.C. 403(11). The simplified acquisition threshold currently is \$100,000.</p> <p>(b) In paragraph (e) of section __.48, the words “all contracts, including small purchases” is replaced by the words “all contracts, including those for amounts less than the simplified acquisition threshold.”</p> <p>(c) The reference in paragraph (e) of section __.48 to “Appendix A to this Circular” is replaced by a reference to Appendix A of these general terms and conditions.</p> <p>(d) The recipient shall give preference in its procurements using Federal funds to the purchase of recycled products pursuant to the EPA guidelines</p>

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<p>____.42 Codes of conduct. The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.</p> <p>____.43 Competition. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.</p> <p>____.44 Procurement procedures.</p> <p>(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that (1), (2) and (3) apply.</p>	<p>in 40 CFR parts 247-254 if it is a State or local institution of higher education, hospital, or non-profit organization to which the Resource Conservation and Recovery Act (RCRA) applies, in accordance with section____.16 of OMB Circular A-110.</p> <p>(e) The recipient’s procurement system, in its essential elements, shall remain as approved by the Office of Naval Research (ONR) and the ONR shall be notified of any major change(s) to the approved system, if the ONR has reviewed and approved the recipient’s procurement system for any of the following reasons:</p> <p>(1) The ONR is the cognizant Federal agency for the recipient or has reviewed the recipient’s procurement system at the request of another Federal awarding agency.</p> <p>(2) The recipient also receives Federal procurement contracts; the administrative contracting officer has determined that there is a need for a contractor’s purchasing system review, in accordance with 48 CFR 44.302 in the Federal Acquisition Regulation; and the ONR is the office responsible for conducting the review.</p>

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<p>(1) Recipients avoid purchasing unnecessary items.</p> <p>(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.</p> <p>(3) Solicitations for goods and services provide for all of the following.</p> <p>(i) 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.</p> <p>(ii) Requirements which the bidder/offeree must fulfill and all other factors to be used in evaluating bids or proposals.</p> <p>(iii) 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.</p> <p>(iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.</p> <p>(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.</p> <p>(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.</p> <p>(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal.</p> <p>(1) Ensure that small businesses, minority-owned firms, and women's business</p>	

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<p>enterprises are used to the fullest extent practicable.</p> <p>(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.</p> <p>(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.</p> <p>(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.</p> <p>(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority- owned firms and women's business enterprises.</p> <p>(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.</p> <p>(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.s 12549 and 12689, "Debarment and Suspension."</p>	

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<p>(e) Recipients shall, on request, make available for the Federal awarding agency, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.</p> <p>(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in the Federal awarding agency's implementation of this Circular.</p> <p>(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently \$25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.</p> <p>(3) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.</p> <p>(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.</p> <p>(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.</p> <p>____.45 Cost and price analysis. Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.</p> <p>____.46 Procurement records. Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum: (a) basis for contractor selection, (b) justification for lack of competition when competitive bids or offers are not obtained, and (c) basis for award cost or price.</p>	

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<p>____.47 Contract administration. A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.</p> <p>____.48 Contract provisions. The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.</p> <p>(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.</p> <p>(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.</p> <p>(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, the Federal awarding agency may accept the bonding policy and requirements of the recipient, provided the Federal awarding agency has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.</p> <p>(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The</p>	

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<p>"bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.</p> <p>(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.</p> <p>(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.</p> <p>(4) Where bonds are required in the situations described herein, the bonds shall 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."</p> <p>(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.</p> <p>(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this Circular, as applicable.</p>	
Reports and Records	Reports and Records

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<p>____.50 Purpose of reports and records. Sections _____.51 through _____.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.</p> <p>____.51 Monitoring and reporting program performance.</p> <p>(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in Section _____.26.</p> <p>(b) The Federal awarding agency shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph _____.51(f), performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The Federal awarding agency may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.</p> <p>(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.</p> <p>(d) When required, performance reports shall generally contain, for each award, brief information on each of the following.</p> <p>(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.</p>	<p>50. Purpose of reports and records. Sections _____.51 through _____.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.</p> <p>51. <u>Monitoring and reporting program performance.</u> The recipient's responsibilities for programmatic monitoring and reporting are as stated in paragraphs (a) through (g) of section _____.51 of OMB Circular A-110, with the following additions and clarifications:</p> <p>(a) <u>Publications.</u> The recipient is expected to publish or otherwise make publicly available the results of the work conducted under the award. An acknowledgment of awarding agency support must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:</p> <p>(1) The acknowledgment will be: "This material is based upon work supported by the [name of awarding agency(ies) under Award No. [recipient should enter the awarding agency(ies) award number(s)]."</p> <p>(2) For all materials, except scientific articles or papers published in scientific journals, the disclaimer will be: "Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the [name(s) of awarding agency(ies)]."</p> <p>(b) Technical reports.</p> <p>(1) The final technical report, in accordance with paragraphs (b) through (d) of section _____.51, is due 90 calendar days after the expiration or termination of the award, unless the agency-specific or award-specific terms and conditions state that a final report is not</p>

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<p>(2) Reasons why established goals were not met, if appropriate.</p> <p>(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.</p> <p>(e) Recipients shall not be required to submit more than the original and two copies of performance reports.</p> <p>(f) Recipients shall immediately notify the Federal awarding agency of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.</p> <p>(g) Federal awarding agencies may make site visits, as needed.</p> <p>(h) Federal awarding agencies shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.</p> <p>____.52 Financial reporting.</p> <p>(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients.</p> <p>(1) SF-269 or SF-269A, Financial Status Report.</p> <p>(i) Each Federal awarding agency shall require recipients to use the SF-269 or SF-269A to report the status of funds for all nonconstruction projects or programs. A Federal awarding agency may, however, have the option of not requiring the SF-269 or SF-269A when the SF-270, Request for Advance or Reimbursement, or SF-272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF-269 or SF-269A shall be required at the completion of the project when the SF-270 is used only for advances.</p>	<p>required.</p> <p>(2) The recipient is encouraged to submit technical reports in computer or electronic formats. When paper copies are submitted, the recipient shall provide an original and two copies, as provided in paragraph (e) of section ____51.</p> <p>(c) Site visits. With respect to paragraph (g) of section ____51, the Federal awarding agency's authorized representatives have the right to make site visits at all reasonable times to review project accomplishments and provide such technical assistance as may be required. All site visits and evaluations shall be performed in a manner that does not unduly interfere with or delay the work.</p> <p>52. Financial reporting. If payments are made in advance, in accordance with Article 22.(a) of these general terms and conditions, the Federal Cash Transactions Report (SF-272) or its electronic equivalent shall be submitted within 15 days following the end of each funding quarter.</p>

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<p>(ii) The Federal awarding agency shall prescribe whether the report shall be on a cash or accrual basis. If the Federal awarding agency requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.</p> <p>(iii) The Federal awarding agency shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.</p> <p>(iv) The Federal awarding agency shall require recipients to submit the SF-269 or SF-269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by the Federal awarding agency upon request of the recipient.</p> <p>(2) SF-272, Report of Federal Cash Transactions.</p> <p>(i) When funds are advanced to recipients the Federal awarding agency shall require each recipient to submit the SF-272 and, when necessary, its continuation sheet, SF-272a. The Federal awarding agency shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.</p> <p>(ii) Federal awarding agencies may require forecasts of Federal cash requirements in the "Remarks" section of the report.</p> <p>(iii) When practical and deemed necessary, Federal awarding agencies may require recipients to report in the "Remarks" section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of</p>	

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<p>actions taken to reduce the excess balances.</p> <p>(iv) Recipients shall be required to submit not more than the original and two copies of the SF-272 15 calendar days following the end of each quarter. The Federal awarding agencies may require a monthly report from those recipients receiving advances totaling \$1 million or more per year.</p> <p>(v) Federal awarding agencies may waive the requirement for submission of the SF-272 for any one of the following reasons: (1) When monthly advances do not exceed \$25,000 per recipient, provided that such advances are monitored through other forms contained in this section; (2) If, in the Federal awarding agency's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or, (3) When the electronic payment mechanisms provide adequate data.</p> <p>(b) When the Federal awarding agency needs additional information or more frequent reports, the following shall be observed.</p> <p>(1) When additional information is needed to comply with legislative requirements, Federal awarding agencies shall issue instructions to require recipients to submit such information under the "Remarks" section of the reports.</p> <p>(2) When a Federal awarding agency determines that a recipient's accounting system does not meet the standards in Section ____ .21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. The Federal awarding agency, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.</p> <p>(3) Federal awarding agencies are encouraged to shade out any line item on any report if not necessary.</p> <p>(4) Federal awarding agencies may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.</p>	

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<p>(5) Federal awarding agencies may provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.</p> <p>____.53 Retention and access requirements for records.</p> <p>(a) This section sets forth requirements for record retention and access to records for awards to recipients. Federal awarding agencies shall not impose any other record retention or access requirements upon recipients.</p> <p>(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Federal awarding agency. The only exceptions are the following.</p> <p>(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.</p> <p>(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.</p> <p>(3) When records are transferred to or maintained by the Federal awarding agency, the 3-year retention requirement is not applicable to the recipient.</p> <p>(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph ____53(g).</p> <p>(c) Copies of original records may be substituted for the original records if authorized by the Federal awarding agency.</p> <p>(d) The Federal awarding agency shall request transfer of certain records to its</p>	<p>53. Retention and access requirements for records. The rights and responsibilities of the recipient and Federal awarding agency are as stated in section ____53 of OMB Circular A-110, with the following clarifications:</p> <p>(a) With the exception of types of records described in paragraphs (b)(1) through (b)(4) of section ____53, the recipient must retain financial and programmatic records, supporting documents, statistical records, and all other records of a recipient that are required by the terms of a grant, or may reasonably be considered pertinent to a grant, for a period of 3 years from the date the Financial Status Report is submitted. Since NSF does not use the Financial Status Report, records for NSF grants must be kept of a period of 3 years from the date the final Federal Cash Transaction Report is submitted.</p> <p>(b) In accordance with paragraph (c) of section ____53, copies of original records, either in paper or in computer or electronic format, may be substituted for the original records.</p> <p>54 Reporting Potentially Classifiable Information</p> <p>a. This award is intended for unclassified, publicly releasable research. The recipient will not be granted access to classified information. The awarding agency does not expect that the results of the research project will involve classified information. Under certain circumstances, however, a classification review of information originated under the award may be required. The awarding agency may review research work generated under this award at any time to determine if it</p>

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<p>custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, a Federal awarding agency may make arrangements for recipients to retain any records that are continuously needed for joint use.</p> <p>(e) The Federal awarding agency, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.</p> <p>(f) Unless required by statute, no Federal awarding agency shall place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when the Federal awarding agency can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Federal awarding agency.</p> <p>(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).</p> <p>(1) If submitted for negotiation. If the recipient submits to the Federal awarding agency or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.</p> <p>(2) If not submitted for negotiation. If the recipient is not required to submit to the</p>	<p>requires classification.</p> <p>b. Executive Order 12958 (60 Fed. Reg. 19,825 (1995)), as amended by Executive Order 13292 (68 Fed. Reg. 15315 (2003)) states that basic scientific research information not clearly related to the national security shall not be classified. Nevertheless, some information concerning (among other things) scientific, technological, or economic matters relating to national security, which includes defense against transnational terrorism, or cryptology may require classification. If a recipient originates information during the course of this award that it believes requires classification under this Executive order, the recipient must promptly:</p> <ol style="list-style-type: none"> 1. Notify the awarding agency's program official or the person identified in the Agency Specific Requirements. 2. Submit the information for classification review as directed by the program official or by registered mail directly to the address specified in the Agency Specific Requirements. 3. Restrict access to the information to the maximum extent possible until the recipient is informed that the information is not classified, but no longer than thirty (30) days after receipt by the Federal agency performing the classification review. <p>c. If the agency performing the classification review determines any of the information requires classification, the recipient agrees that the awarding agency may terminate the award by mutual agreement in accordance with the termination provisions of the award, or otherwise amend it. All material deemed to be classified must be handled in accordance with agency instructions.</p> <p>d. If the agency performing the classification review does not respond within the specified time periods, the recipient is under no further</p>

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<p>Federal awarding agency or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.</p> <p>Termination and Enforcement</p> <p>____.60 Purpose of termination and enforcement. Sections _____.61 and _____.62 set forth uniform suspension, termination and enforcement procedures.</p> <p>____.61 Termination.</p> <p>(a) Awards may be terminated in whole or in part only if (1), (2) or (3) apply.</p> <p>(1) By the Federal awarding agency, if a recipient materially fails to comply with the terms and conditions of an award.</p> <p>(2) By the Federal awarding agency with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.</p> <p>(3) By the recipient upon sending to the Federal awarding agency written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraphs (a)(1) or (2).</p> <p>(b) If costs are allowed under an award, the responsibilities of the recipient referred to in paragraph _____.71(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.</p>	<p>obligation to restrict access to the information.</p> <p>Termination and Enforcement</p> <p>61. Termination.</p> <p>(a) Paragraph (a) of section _____.61 of OMB Circular A-110 states the conditions under which the recipient and/or the Federal awarding agency may terminate the award before the date of completion specified in the award document and any amendments thereto.</p> <p>(b) The recipient and Federal awarding agency are responsible for the closeout of the terminated award, as described in Article 71 of these terms and conditions.</p> <p>(c) After the termination, the recipient and the Federal awarding agency continue to have the rights and responsibilities described in Article 72 of these terms and conditions.</p>

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<p>____.62 Enforcement.</p> <p>(a) Remedies for noncompliance. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the Federal awarding agency may, in addition to imposing any of the special conditions outlined in Section _____.14, take one or more of the following actions, as appropriate in the circumstances.</p> <p>(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the Federal awarding agency.</p> <p>(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.</p> <p>(3) Wholly or partly suspend or terminate the current award.</p> <p>(4) Withhold further awards for the project or program.</p> <p>(5) Take other remedies that may be legally available.</p> <p>(b) Hearings and appeals. In taking an enforcement action, the awarding agency shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.</p> <p>(c) Effects of suspension and termination. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if (1) and (2) apply.</p> <p>(1) The costs result from obligations which were properly incurred by the recipient</p>	<p>62. Enforcement. Section _____.62 of OMB Circular A-110 specifies the remedies available to the Federal awarding agency when the recipient materially fails to comply with the terms and conditions of the award. Section _____.62 also states the rights and responsibilities of the recipient and the Federal awarding agency related to any enforcement action.</p>

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<p>before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.</p> <p>(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.</p> <p>(d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under E.O.s 12549 and 12689 and the Federal awarding agency implementing regulations (see Section ____13).</p> <p>SUBPART D - After-the-Award Requirements</p> <p>____.70 Purpose. Sections ____71 through ____73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.</p> <p>____.71 Closeout procedures.</p> <p>(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. The Federal awarding agency may approve extensions when requested by the recipient.</p> <p>(b) Unless the Federal awarding agency authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.</p> <p>(c) The Federal awarding agency shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.</p> <p>(d) The recipient shall promptly refund any balances of unobligated cash that the Federal awarding agency has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A-129 governs</p>	<p>IV. AFTER-THE-AWARD REQUIREMENTS</p> <p>71. Closeout procedures. The rights and responsibilities of the recipient and the Federal awarding agency are as stated in section ____71 of OMB Circular A-110, with the following clarifications:</p> <p>(a) The Federal awarding agency shall make downward adjustments to the Federal share of costs, as described in paragraph (e) of section ____71, if the amount expended by the recipient on project costs is less than the amount stated in the award and any amendments thereto.</p>

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<p>unreturned amounts that become delinquent debts.</p> <p>(e) When authorized by the terms and conditions of the award, the Federal awarding agency shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.</p> <p>(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with Sections _____.31 through _____.37.</p> <p>(g) In the event a final audit has not been performed prior to the closeout of an award, the Federal awarding agency shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.</p> <p>_____.72 Subsequent adjustments and continuing responsibilities.</p> <p>(a) The closeout of an award does not affect any of the following.</p> <p>(1) The right of the Federal awarding agency to disallow costs and recover funds on the basis of a later audit or other review.</p> <p>(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.</p> <p>(3) Audit requirements in Section _____.26.</p> <p>(4) Property management requirements in Sections _____.31 through _____.37.</p> <p>(5) Records retention as required in Section _____.53.</p> <p>(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the Federal awarding agency and the recipient, provided the responsibilities of the recipient referred to in</p>	<p>72. Subsequent adjustments and continuing responsibilities.</p> <p>(a) The continuing rights of the Federal awarding agency and responsibilities of the recipient after closeout of the award are as stated in paragraph (a) of section _____.72 of OMB Circular A-110.</p> <p>(b) After closeout of the award, the recipient and the Federal awarding agency may modify or end those continuing rights and responsibilities by mutual agreement, as described in paragraph (b) of section _____.72, provided that the responsibilities of the recipient referred to in paragraph (a) of section _____.72 are considered and provisions made for continuing responsibilities of the recipient, as appropriate.</p>

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<p>paragraph ____73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.</p> <p>____73 Collection of amounts due.</p> <p>(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the Federal awarding agency may reduce the debt by (1), (2) or (3).</p> <p>(1) Making an administrative offset against other requests for reimbursements.</p> <p>(2) Withholding advance payments otherwise due to the recipient.</p> <p>(3) Taking other action permitted by statute.</p> <p>(b) Except as otherwise provided by law, the Federal awarding agency shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."</p>	<p>73. Collection of amounts due. The Federal awarding agency's rights and responsibilities for debt collection are as stated in section ____73 of OMB Circular A-110.</p>
<p>Appendix A</p> <p style="text-align: center;">Contract Provisions</p> <p>All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:</p> <p>1. Equal Employment Opportunity - All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."</p>	<p>Appendix A</p> <p style="text-align: center;">Contract Provisions</p> <p>All contracts awarded by a recipient, including those for amounts less than the simplified acquisition threshold, shall contain the provisions described in paragraphs 1 through 8 in Appendix A of OMB Circular A-110, as applicable, with the following clarifications:</p> <p>A.1. Equal Employment Opportunity. The reference to "40 CFR part 60" in paragraph 1 of the Appendix in OMB Circular A-110 is replaced by "40 CFR chapter 60." The text of Executive Order 11246 may be found at 3 CFR, 1964-1965 Comp., p.339, and that of Executive Order 11375 may</p>

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<p>2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts and subgrants in excess of \$2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.</p> <p>3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required 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, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.</p> <p>4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under</p>	<p>be found at 3 CFR, 1966-1970 Comp., p. 684.</p> <p>A.2. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). In paragraph 4 of the Appendix in OMB Circular A-110, the words "all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers" are replaced by "all contracts awarded by recipients in excess of \$100,000 for construction or other purposes that involve the employment of mechanics or laborers."</p> <p>A.3. Debarment and Suspension (E.O.s 12549 and 12689). Paragraph 8 of the Appendix in OMB Circular A-110 applies to contract awards that exceed the simplified acquisition threshold and certain other contract awards described in the Federal awarding agency's codification of the Governmentwide rule implementing Executive Order 12549 (3 CFR, 1986 Comp., p. 189) and Executive Order 12689 (3 CFR, 1989 Comp., p. 235). The reference to the "small purchase threshold" in the final sentence of paragraph 8 is replaced by "simplified acquisition threshold" (currently \$100,000).</p>

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<p>Section 102 of the Act, each contractor shall be required 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 work week is permissible provided that 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 work week. 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 which 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.</p> <p>5. Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.</p> <p>6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the 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.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).</p> <p>7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining</p>	

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<p>any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.</p> <p>8. Debarment and Suspension (E.O.s 12549 and 12689) - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.</p>	