

Chapter 3:

Guide to U.S. Department of Health and Human Services Regulations



GUIDE

Cover photo: In Lobito, Angola, participants show their certificates of participation in a training of trainers, which prepared them to train partner staff and local community-based trainers. Photo by Melita Sawyer/CRS.

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228 West Lexington Street
Baltimore, MD 21201 – USA
pqsrequests@crs.org

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ACRONYMS

ADR	Alternative Dispute Resolution
CFR	Code of Federal Regulations
EO	Executive Order
GAAP	Generally Accepted Accounting Principles
GMO	Grant Management Officer
GPS	Grant Policy Statement
HHS	Department of Health and Human Services
HRSA	Health Resources and Services Administration
NGO	Non-Governmental Organization
NoA	Notice of Award
OGAM	Office of Grants and Acquisition Management
OMB	Office of Management and Budget
OPDIVs	Operating Divisions
PD	Program or Project Director
PI	Principal Investigator
PMS	Payment Management System
POS	Point of Service
USA	United States of America
USG	United States Government

CHAPTER 3: GUIDE TO U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATIONS



KIM BURGO/IPS

Brazilian children living
in a camp for landless people.

PURPOSE OF THIS GUIDE

Organizations receiving United States government (USG) awards are required to follow specific regulations in carrying out the activities of the award. The awards are granted through different agencies of the government. Each USG agency has specific regulations for the administration of awards that they issue.

This guide is meant to help recipients in the administration of USG Department of Health and Human Services (HHS) awards. The regulations cover the general provisions and the pre-award, post-award and after-the-award requirements for USG awards. These regulations have a flow-down effect on the sub-recipients of the HHS awards.

In this guide, key regulations applicable to HHS awards have been outlined. Users of this guide are reminded that the guide does not comprehensively cover all the requirements, and are encouraged to make references to the respective regulations for more details. The applicable regulations are annexed to this guide.

WHAT FUNCTION DOES THIS HHS GUIDE SERVE?

The guide provides an overview and key highlights of the specific regulations applicable to HHS awards, as well as references for further reading.

Compliance with award regulations is important to having sustainable working relations with the USG awarding agencies for continued support in carrying out activities under their assistance programs.

SUMMARY OF THIS HHS GUIDE

This guide provides highlights of the USG regulations applicable to awards by HHS. It summarizes key requirements during the pre-award, post-award and after-the-award phases of the HHS award. The key regulations applicable to HHS awards include the following:

1. 45CFR74 – Uniform Administrative Requirements for Awards and Sub Awards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations and Commercial Organizations and Certain Agreements with States, Local Governments and Indian Tribal Governments.
2. 2CFR230 (Circular A-122) – Cost Principles for Non-Profit Organizations
3. HHS Grant Policy Statement
4. Circular A-133 – Audit Guidelines

Non-compliance with these regulations may result in disallowed costs, suspension, and/or termination of awards to the recipient organization by the Department of Health and Human Services. This may compromise relations with other USG awarding agencies in regard to future applications or proposals by the recipient organization.

Users of this guide should pay attention to the regulations that apply to them either as recipients or sub-recipients. Further reading on the regulations is available in the regulations and USG websites provided at the end of this guide. Any requirements that are specific to the award will be included in a Notice of Award issued by the operating division (OPDIV).

KEY PRINCIPLES

- **Compliance with all regulatory requirements** – Recipients shall undertake project activities in compliance with all regulatory requirements applicable to USG HSS awards.
- **Good stewardship of resources** – In meeting the goals of the project, recipients shall demonstrate good stewardship of resources available to them under the award.

Structure of HHS

The leadership of the department of Health and Human Services is provided by the US Office of the Secretary. As a federal grantor agency, it is responsible for carrying out its mission in a cost-effective manner and in compliance with applicable requirements. HHS activities are carried out under grants and cooperative agreements.

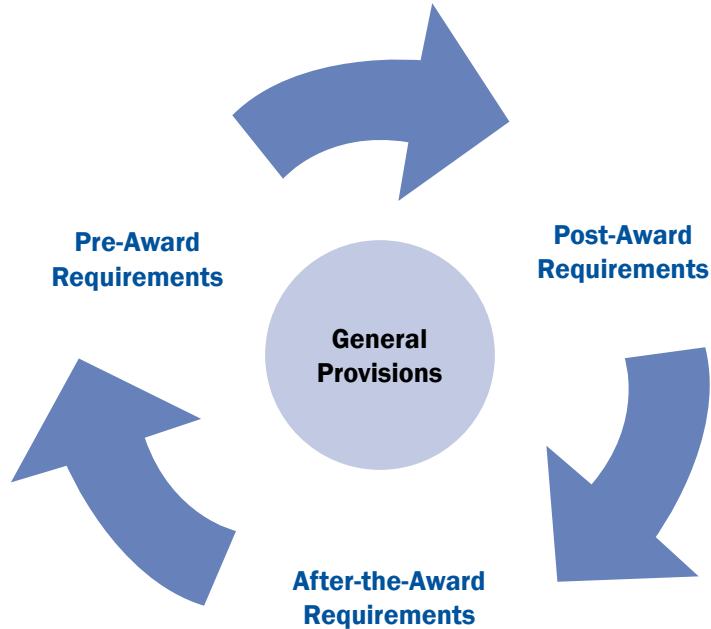
HHS grant programs are the responsibility of 12 operating divisions, including the Health Resources and Service Administration (HRSA) and the Centers for Disease Control (CDC) (HHS Grant Policy Statement - Appendix 3).



DAVID SNYDER FOR CRS

In Lesotho, a local resident ties food bags, provided as part of a feeding program through the Bobete Clinic, to the back of a donkey for transport into the surrounding mountains. CRS supports the clinic and the surrounding community with a range of projects.

USG-HHS REGULATORY FRAMEWORK



OVERVIEW OF THE REGULATIONS

HHS Grant Policy Statement

This is intended to make available in a single document the general terms and conditions of HHS discretionary grant and cooperative agreement awards, common across all HHS OPDIVs.

The regulations apply to all recipients and sub-recipients of HHS grants and agreements.

The HHS GPS has four parts and an appendix as follows:

- Part I: HHS Grants Process
- Part II: Terms and Conditions of HHS Grant Awards
- Part III: Points of Contact
- Part IV: OPDIV-Specific Information and Terms and Conditions

45 CFR74 – Uniform Administrative Requirements

This document establishes uniform administrative requirements for HHS grants and agreements awarded to institutions of higher education, hospitals, and non-profit organizations. The regulations apply to all recipients and sub-recipients of HHS grants and agreements. HHS may not impose additional requirements unless specifically required by federal statute or executive order.

The 45 CFR74 has six Sub Parts and Appendices A–H as follows:

- Sub Part A: General

- Sub Part B: Pre-Award Requirements
- Sub Part C: Post-Award Requirements
- Sub Part D: After-the-Award Requirements
- Sub Part E: Special Provisions for Awards to Commercial Organizations
- Sub Part F: Disputes

2 CFR 230 (Circular A-122) Cost Principles

This circular establishes principles for determining costs of grants, contracts, and other agreements with non-profit organizations. It does not apply to colleges and universities, which are covered by Office of Management and Budget (OMB) Circular A-21, "Cost Principles for Educational Institutions;" state, local, and federally-recognized Indian tribal governments, which are covered by OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments;" or hospitals.

The principles are designed to provide that the federal government bears its fair share of costs except where restricted or prohibited by law.

2 CFR230 (Circular A-122) has three attachments as follows:

- Attachment A: General Principles
- Attachment B: Selected Items of Cost
- Attachment C: Non-Profit Organizations Not Subject to this Circular

General Provisions

- Purpose and applicability, definitions and effect on other issuances

Deviations (45CFR74.4; HHS GPS Part II)

- HHS Office of Grants and Acquisition Management (OGAM) may grant exceptions to HSS awarding agencies for classes of awards or recipients subject to the requirements of this part unless such exemptions are prohibited by statute.
- HSS awarding agencies may apply more restrictive requirements to a class of awards or recipients when approved by the OGAM in consultation with OMB.
- HSS awarding agencies may apply less restrictive requirements without approval by the OGAM when making small awards (up to \$100,000) except for those requirements that are statutory.
- Deviations are considered if they will facilitate comprehensive or integrated service delivery, or multiple-source consolidated awards.
- Deviations may not be granted if they would impair the integrity of the program.



Deported migrants arrive in Honduras and proceed to a deportation processing area where migrants arriving from the United States receive services such as transportation, communication to their families, health care and other support.

Sub-Awards (45CFR74.5; HHS GPS Part II)

Requirements in 45 CFR Part 74 (except for sections 74.12 and 74.22) apply to sub-awards unless inconsistent with statutory requirements.

PRE-AWARD REQUIREMENTS

Pre-Award Policies (45CFR74.11)

- A grant or co-operative agreement is used only when the principal reason for a transaction is to accomplish a public purpose of support or stimulation authorized by federal statute.
- For co-operative agreements, substantial involvement is expected between the executive agency and the state or local government, or other recipient when carrying out the activity outlined in the agreement.
- A contract is used when the principal purpose is acquisition of property or services for the direct benefit or use of the HHS awarding agency.

APPLICATION PROCESS (HHS GPS PART I)

Types of Applications and Letters of Intent

Project Period System – a project may be approved for a multi-year period funded in annual increments known as “budget periods.” This system provides the recipient with an indication of the OPDIV’s intent to non-competitively fund the project during the approved project period as long as required information is submitted, funds are available, and certain criteria are met.

HHS uses the following types of applications and requests for funding under the project period system:

- 1. New Application** – a request for financial assistance for a project or activity that is not currently receiving support, which must compete for support unless justified as a single-source application.
- 2. Competing Continuation Application** – a request for funding to renew, by one or more additional budget periods (described as a “competitive segment”), a project period that would otherwise expire. This type of application is sometimes referred to as “renewal.” These applications must compete for support in the same manner as new applications.
- 3. Supplemental Application** – a request for an increase in support in a current budget period for expansion of the scope of the approved project or program or to meet an unforeseen increase in costs. The request may specify budgetary changes required for the remainder of the project period as well as for the current budget period.

Supplemental applications requesting a programmatic expansion (change in scope) must undergo objective review and generally are required to compete for support; requests for administrative supplements may be awarded without objective review or competition.

- 4. Revised (Amended) Application** – an unfunded application that the applicant has modified following objective review and resubmitted for a subsequent review cycle.
- 5. Non-Competing Continuation Application** – a request for funding, whether the OPDIV terms the request an application or a progress or performance report, for funding the second or subsequent budget period within an approved competitive segment. A non-competing continuation application does not compete with other applications for support.

HHS funding opportunity announcements will invite the submission of full applications at the outset.

Forms for Applying for HHS Financial Assistance (45CFR74.12; HHS GPS Part I Exhibit 2)

- HHS awarding agencies use the Standard Form 424 (SF-424) series and its program narrative whenever possible.
- HHS awarding agencies that do not use the SF-424 form will indicate on the application form they prescribe whether the application is subject to review by the State under E.O. 12372.
- This section does not apply to sub-recipients.

Debarment and Suspension (45CFR74.13; HHS GPS Part I)

Recipients are restricted from entering into sub-awards and contracts with certain parties that are debarred, suspended, excluded from, or ineligible for participation in federal assistance programs or activities.

Special Award Conditions (45CFR74.14; HHS GPS Part I)

- Circumstances under which an HHS awarding agency may impose additional requirements on an applicant or recipient as needed, without regard to Sec. 74.4, include situations in which the applicant:
 - has a history of poor performance;
 - is not financially stable;
 - has a management system that does not meet the standards prescribed in this part;
 - has not conformed to the terms and conditions of a previous award;
 - or
 - is otherwise not responsible.

- Additional requirements must be communicated to the recipient in writing.
- The HHS awarding agency will promptly remove any additional requirements once the conditions have been corrected.

Certifications and Representations (45CFR74.17; HHS GPS Part II)

- Recipients must submit annual certifications and representations to the HHS awarding agency if they have ongoing and continuing relationships with the HHS awarding agency.
- These certifications and representations must be signed by an authorized official to ensure the recipient's compliance with the pertinent requirements.

POST-AWARD REQUIREMENTS

Financial and Program Management

Financial and program management allows for smooth implementation of project activities. It includes establishment of standards for financial management systems; methods for making payments; and rules for satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, audits, determining which costs are allowable, and establishing fund availability.

Standards for Financial Management Systems (45CFR74.21; HHS GPS Part II)

The systems should relate financial data to performance and provide the following:

- Accurate, current, and complete disclosure of the financial results of each HHS-sponsored project or program
- Records that adequately identify the source and application of funds for HHS-sponsored activities
- Effective control over and accountability for all funds, property, and other assets
- Comparison of outlays with budget amounts for each award
- Written procedures to minimize the amount of time between the transfer of funds to the recipient from the U.S. Treasury and the issuance for program purposes by the recipient
- Written procedures for determining whether costs are reasonable, properly allocated, and allowed in accordance with the provisions of the applicable federal cost principles and the terms and conditions of the award
- Accounting records, including cost accounting records supported by source documentation

Financial and program management allows for smooth implementation of project activities.

Payment Methods (45CFR 74.22; HHS GPS Part I)

Payment methods should minimize the amount of time between the transfer of funds from the U.S. Treasury and the issuance of checks or payment by other means by the recipients. Recipients will be paid in advance provided they maintain or demonstrate the willingness to maintain written procedures that minimize the amount of time between the transfer and disbursement of funds and financial management systems that meet the standards for fund control and accountability. Reimbursement is the preferred method when the requirements above cannot be met. If the recipient doesn't meet the requirements for advance payment and is not qualified for reimbursement due to a lack of sufficient working capital, then HHS may provide cash on a working capital basis.

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. Whenever possible, advances will be consolidated to cover anticipated cash needs for all awards made by all HHS awarding agencies to the recipient.

The HHS awarding agency will not withhold payments for proper charges made by recipients at any time during the project period except under the following circumstances:

- The recipient has failed to comply with the project objectives, the terms and conditions of the award, or the HHS awarding agency's reporting requirements.
- The recipient or sub-recipient is delinquent in a debt to the United States.

Except for circumstances in which the recipient is delinquent as stated above, HHS will not require separate depository accounts for funds provided to a recipient or 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.

Advances of federal funds shall be deposited and maintained in insured accounts whenever possible. Recipients shall also maintain advances of federal funds in interest-bearing accounts unless one or more of the following conditions apply:

- The recipient receives less than \$120,000 in federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
- 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.

Cost Sharing or Matching (45 CFR 74.23; HHS GPS Part II)

“Cost sharing” and “matching” are often used interchangeably. “Matching” refers to a statutorily specified percentage, whether as a fixed or minimum percentage of non-federal participation, that must be contributed by a recipient in order to be eligible for federal funding. “Cost sharing” refers to any situation in which the recipient shares in the costs of a project other than matching as statutorily required.

Criteria for cost sharing or matching contributions include the following:

- Should be verifiable from the recipient's records
- Should not be included as contributions for any other federally-assisted project or program
- Should be necessary and reasonable for proper and efficient accomplishment of project or program objectives
- Should be allowable under the applicable cost principles
- Should not be paid by the federal government under another award, except where authorized by federal statute to be used for cost sharing or matching
- Should be provided for in the approved budget
- Should conform to other provisions of 45 CFR 74, as applicable

Program Income (45 CFR 74.24; HHS GPS Part II)

Program income refers to gross income earned by a recipient, sub recipient, or a contractor under a grant. It is directly generated by the grant-supported activity or earned as a result of the award. Program income earned during the project period shall be retained by the recipient. In accordance with the terms and conditions of the award, the income may be used in one or more of the following ways:

1. Added to funds committed to the project or program and used to further eligible project or program objectives
2. Used to finance the non-federal share of the project or program
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.

When the HHS awarding agency authorizes the disposition of program income as described in option 1 or option 2 as above, program income in excess of any limits stipulated shall be used in accordance with option 3 above. In the event that the HHS awarding agency does not specify in the terms and conditions of the award how program income is to be used, option 3 above shall apply automatically to all projects or programs except research.

Unless the terms and conditions for the award provide otherwise, recipients shall have no obligation to HHS with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions made under an award.

Revision of Budget and Program Plans (45CFR 74.25; HHS GPS Part II)

Budgets may include either the sum of the federal and non-federal shares, or only the federal share, depending upon HHS awarding agency requirements.



ARIEL BLETH

As part of the CRS-led Great Lakes Cassava Initiative, field agents use computer-based modules (developed with the help of Cornell University) to facilitate field trainings for farmers, tailoring discussions based on farmers' existing knowledge and interests.

They should be related to performance for program evaluation purposes whenever appropriate. Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions. HHS awarding agencies may not impose other prior approval requirements for specific items.

Situations requiring recipients to obtain prior approvals from the HHS awarding agency include the following:

1. Change in the scope or the objective of the project or program
2. Change in the key persons specified in the application or award document
3. The absence for more than three months of, or a 25 percent reduction in time devoted to the project by, the approved key personnel of the project
4. The need for additional federal funding
5. The inclusion, unless waived by the HHS awarding agency, of costs that require prior approval in accordance with OMB Circulars
6. The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense
7. Transfer or contracting out of any work under an award unless approved by the awarding agency
8. The inclusion of research patient care costs in research awards made for the performance of research work

Except for 1 and 4 above the HHS awarding agency is authorized, at its option, to waive cost-related and administrative prior written approvals required by this part and its appendixes. Additional waivers may be granted according to recipients' needs and requests. All approvals granted in keeping with the provisions of this section shall not be valid unless they are in writing and signed by responsible HHS officials.

Audit Requirements (45CFR 74.26; HHS GPS Part II)

An audit is a systematic review or appraisal made to determine whether internal accounting and other control systems provide reasonable assurance of the following:

- Financial operations are properly conducted.
- Financial reports are timely, fair, and accurate.
- The entity has complied with applicable laws, regulations, and terms and conditions of the award.
- Resources are managed and used economically and efficiently.
- Desired results and objectives are being achieved effectively.

Recipients (other than federal institutions) and sub-recipients are subject to the audit requirements of OMB Circular A-133, as implemented by 45 CFR 74.26 or the audit requirements stated in 45 CFR 74.26(d) and in the HHS GPS (for types of organizations to which OMB Circular A-133 does not directly apply). In general, OMB Circular A-133 requires a non-profit organization (including institutions of higher education) that expends \$500,000 or more per year under federal grants, cooperative agreements, and/or procurement contracts to have an annual audit. The audit must meet the standards specified in generally accepted government auditing standards (GAGAS).

For-profit organizations are required to have a non-federal audit if, during their fiscal years, they expended a total of \$500,000 or more under one or more HHS awards as a direct recipient and/or as a sub-recipient.

Foreign recipients are subject to the same audit requirements as for-profit organizations specified in 45 CFR 74.26(d).

For each kind of recipient, there is a particular set of federal principles that applies in determining allowable costs.

Allowable Costs (45CFR 74.27; HHS GPS Part II; 2CFR230 Attachment B)

For each kind of recipient, there is a particular set of federal principles that applies in determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs.

Period of Availability of Funds (45CFR 74.28; HHS GPS Part I)

When a funding period is specified, a recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the HHS awarding agency.

Property Standards

These set forth the uniform standards governing management and disposition of property furnished by HHS or whose cost was charged directly to a project supported by an HHS award.

Insurance Coverage (45CFR 74.31; HHS GPS Part II)

At minimum, recipients should provide the equivalent insurance coverage for real property and equipment acquired with HHS funds as provided to other property owned by the recipient.

Real Property (45CFR74.32; HHS GPS Part II)

Title to real property (defined as land including land improvements and structures but excluding movable machinery and equipment) vests in the recipient subject to the condition that the recipient shall use the real property

for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the HHS awarding agency.

The recipient shall obtain written approval from the HHS 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 federally-sponsored projects. When the real property is no longer needed for project purposes, the recipient shall request disposition instructions from the HHS awarding agency or its successor.

Federally Owned and Exempt Property (45 CFR74.33; HHS GPS Part II)

Title of federally owned property remains vested in the federal government. Recipients submit annually to the HHS awarding agency an inventory listing of federally owned property in their custody. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the HHS awarding agency for further agency utilization.

Equipment (45 CFR74.34; HHS GPS Part II)

Title to equipment (defined as tangible nonexpendable personal property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, such as vehicles, bicycles, computer equipment, teaching aids, lab equipment, etc.) acquired by a recipient with HHS funds shall vest in the recipient. The equipment may not be encumbered without the approval of the awarding agency. The equipment will be used for authorized purposes as long as it is needed whether or not the project or program continues to be supported by federal funds. When the recipient no longer needs the equipment, it may use it for other activities in accordance with agency procedures or dispose of it upon approval from the awarding agency.

Equipment records shall be maintained accurately and shall include the following information:

1. A description of the equipment
2. Manufacturer's serial number, model number, or other identification number
3. Source of the equipment including the award number
4. Whether title vests in the recipient or the federal government
5. Acquisition date (or date received, if the equipment was furnished by the federal government) and cost
6. Information from which one can calculate the percentage of HHS's share in the cost of the equipment (not applicable to equipment furnished by the federal government)

7. Location and condition of the equipment and the date the information was reported
8. Unit acquisition cost
9. Ultimate disposition data including date of disposal and sale price or, when a recipient compensates the HHS awarding agency for its share, the method used to determine current fair market value

Equipment owned by the federal government shall be identified to indicate federal ownership. The recipient shall take a physical inventory of equipment and reconcile the results 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 cause of the difference.

Supplies (45 CFR 74.36; HHS GPS Part II)

Title to supplies shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-federally sponsored activities or sell them. In either case, the recipient shall compensate the federal government for its share.

Intangible Property (45 CFR 74.36; HHS GPS Part II)

The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The HHS awarding agency reserves a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

Title to intangible property and debt instruments purchased or otherwise acquired under an award or sub-award 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 HHS awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with agency procedure.

Property Trust Relationship (45 CFR 74.37; HHS GPS Part II)

Real property, equipment, intangible property, and debt instruments that are acquired or improved with federal funds shall be held in trust by the recipients as trustee for the beneficiaries of the project or program under which the



TOM LORSLING FOR CRS

Tourists visit a floating market in Bangkok, Thailand. Tourism in Bangkok has grown and is poised to expand further.

property was acquired or improved, and shall not be encumbered without the approval of the HHS awarding agency.

Property Disposition (45 CFR 74.32/34; HHS GPS Part II)

When the property or equipment is no longer needed, or when the award ends, the recipient must request disposition instructions from its awarding agency.

There are several different options for disposition, as follows:

1. The recipient may be permitted to retain the title of the property without further obligation to the United States government after the recipient compensates the government for the remaining current fair market value of the property.
2. The recipient may be directed to sell the property under guidelines provided by the awarding agency and pay the United States government for its percentage of the current fair market value of the property. When the recipient is authorized or required to sell the property, the recipient must establish proper sales procedures that provide for competition to the extent practicable and result in the highest possible return.
3. The recipient may be directed to transfer title of the property to the United States 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.

Procurement Standards

Funds and in-kind resources provided under the award shall be used only for those activities necessary to complete the project goals and objectives. It is important that as the recipient purchases goods and services, it follows certain guidelines to ensure good stewardship of the funds and in-kind services.

Codes of Conduct (45 CFR 74.42; HHS GPS Part II)

The recipient is responsible for maintaining written standards of conduct governing the performance of its employees who are engaged in the award and administration of any sub-contracts. The officers, employees, and agents of the recipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to sub-agreements. However, the recipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The written standards of conduct shall cover what disciplinary actions are to be applied for violations of such standards.

Competition (45CFR 74.43; HHS GPS Part II)

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. All bids should be conducted in a manner ensuring open and free competition.

Written Procurement Procedures (45 CFR74.44; HHS GPS Part II)

Recipients must establish written procurement procedures that they agree to follow. The written procedures must ensure the following:

- Recipient avoids purchasing unnecessary items
- Recipient analyzes purchase alternatives to determine which would be the most economical and practical procurement
- Recipient solicitations for goods and services provide for all of the following:
 - A clear and accurate description of the technical requirements for the material, product, or service to be procured
 - Requirements that the bidder must fulfill and all other factors to be used in evaluating bids or proposals
 - A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards
 - Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources, protect the environment, and are energy efficient
- Contracts shall be made only with responsible contractors who possess the 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

Recipients must establish written procurement procedures

If the recipient fails to follow these written procedures, the awarding agency may require it to make available procurement documents such as requests for proposals or invitations for bids, independent cost estimates, etc., and may determine that any purchase made contrary to the defined procedures is an unallowable expense.

Procurement Records (45 CFR 74.47)

Procurement records and files for purchases should at a minimum contain basis for contractor selection, justification for lack of competition when competitive bids or offers are not obtained, and basis for award cost or price.

Reports and Records(45CFR 74.50-53)

The main purpose for reports and records is to monitor and report on the recipient's financial and program performance through the various standard formats and forms.

Monitoring and Reporting Program Performance (45CFR74.51; HHS GPS Part II)

It is the responsibility of the recipient to monitor each project, program, sub-award, function, or activity supported by the award to ensure that sub-recipients meet the audit and other requirements by the awarding agency. The HHS awarding agency will prescribe the frequency with which the performance reports shall be submitted. Performance reports will not be required more frequently than quarterly or less frequently than annually unless the awarding agency issues special requests. Annual reports shall be due 90 calendar days after the award year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The HHS 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.

Financial Reporting (45CFR 74.52; HHS GPS Part II)

The HHS awarding agency will 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 will not be required more frequently than quarterly or less frequently than annually except under special conditions of the awarding agency. A final report shall be required at the completion of the agreement.

Retention and Access Requirements for Records (45 CFR 74.53; HHS GPS Part II)

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. However if any litigation, claim, financial management review, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. There could be other exceptions depending on the nature of the records.

HHS awarding agencies, the HHS Inspector General, the U.S. Comptroller General, or any of their duly authorized representatives, have the right to

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.

TERMINATION AND ENFORCEMENT

Termination (45 CFR 74.61; HHS GPS Part II)

Awards may be terminated in whole or in part in the following ways:

- By the HHS awarding agency, if a recipient materially fails to comply with the terms and conditions of an award
- By the HHS 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
- By the recipient upon sending to the HHS 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

Enforcement (45 CFR 74.62; HHS GPS Part II)

If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a federal statute or regulation, an assurance, an application, or a notice of award, the HHS awarding agency may impose special conditions and may also take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency by the recipient
- Disallow all or part of the cost of the activity or action not in compliance
- Wholly or partly suspend or terminate the current award
- Withhold further awards for the project or program
- Take any other remedies that may be legally available
- In taking an enforcement action, the HHS awarding agency will provide the recipient or sub-recipient an opportunity for a hearing, an appeal, or other administrative proceeding to which the recipient or sub-recipient is entitled under any statute or regulation applicable to the action



SEAN SPRAGUE FOR CRS

Fitriah and her daughter Namira live in Banda Aceh, Indonesia, and area that was hard-hit by the 2004 Indian Ocean earthquake and tsunami.

AFTER-THE-AWARD REQUIREMENTS

Closeout Procedures (45CFR 74.71; HHS GPS Part II)

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 HHS awarding agency may approve extensions when requested by the recipient.

Unless the HHS 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.

Subsequent Adjustments and Continuing Responsibilities (45 CFR 74.72; HHS GPS Part II)

The closeout of an award does not affect any of the following:

- The right of the HHS awarding agency to disallow costs and recover funds on the basis of a later audit or other review
- The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions
- Audit requirements
- Property management requirements
- Records retention requirements

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 HHS awarding agency and the recipient, provided the responsibilities of the recipient including those for property management as applicable are considered and provisions are made for continuing responsibilities of the recipient as appropriate.

Collection of Amounts Due (45 CFR 74.73; HHS GPS Part II)

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 HHS awarding agency may reduce the debt by doing one of the following:

- Making an administrative offset against other requests for reimbursements
- Withholding advance payments otherwise due the recipient
- Taking other action permitted by statute

DISPUTES

Final Decisions in Disputes (45 CFR 74.90; HHS GPS Part II)

HHS attempts to promptly issue final decisions in disputes and other matters affecting the interests of recipients. However, final decisions adverse to the recipient are not issued until it is clear that the matter cannot be resolved through further exchange of information and views.

Under various HHS statutes or regulations, recipients have the right to appeal or to have a hearing concerning certain final decisions by HHS awarding agencies.

Alternative Dispute Resolution (45 CFR 74.91; HHS GPS Part II)

HHS encourages its awarding agencies and recipients to try to resolve disputes by using alternative dispute resolution (ADR) techniques. ADR often is effective in reducing the cost, delay, and contentiousness involved in appeals and other traditional ways of handling disputes. ADR techniques include mediation, neutral evaluation, and other consensual methods.

COST PRINCIPLES

2CFR230 (OMB CIRCULAR A-122)

2CFR230 establishes principles for determining costs of grants, contracts, and other agreements with non-profit organizations. It does not apply to colleges and universities, which are covered by Office of Management and Budget (OMB) Circular A-21, "Cost Principles for Educational Institutions;" state, local, and federally-recognized Indian tribal governments, which are covered by OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments;" or hospitals.

The principles are designed to ensure that the federal government bears its fair share of costs except where restricted or prohibited by law.

GENERAL PRINCIPLES

Basic Considerations (Attachment "A" Sub Part A, 1-7)

a) Composition of Total Costs

The total cost of an award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

b) Allowability

Costs must meet all of the following seven general criteria in order to be allowable under an award (note that specific inclusion in the budget is NOT one of the criteria):

- i. Be reasonable for the performance of the award and be allocable
- ii. Follow the principles in A-122
- iii. Be consistent with the NGO's policies and procedures for both USG grants and other programs
- iv. Be treated consistently in the accounting records
- v. Follow generally accepted accounting principles (GAAP)
- vi. Not be charged as a cost to any other USG grant or used as cost share on another USG grant
- vii. Be adequately documented

c) Reasonableness

Costs must be generally recognized as ordinary and necessary for the operation of the organization or the performance of the award

A cost is **reasonable** if it meets one or more of the following conditions:

- Ordinary and necessary for the operation of the organization or the performance of the award
- Compliant with restraints or requirements imposed by
 - Arms length bargaining
 - Generally accepted sound business practices
 - Government regulations
 - The terms and conditions of the award
- Reasonable in nature and amount

d) Allocability

Costs are allocable when they meet one or more of the following conditions:

- Incurred specifically for the award (*direct cost*)
- Benefits more than one award (*shared direct cost*)
- Necessary to the operation, but no direct relationship (*indirect cost*)
- Distributed based on benefits received
- Treated consistently with other costs incurred for the same purpose
- Benefits both the award and other work proportionately
- Is necessary for the project, even though a direct relationship to that project cannot be demonstrated

Costs allocable to a particular award cannot be moved to another federal award because of funding deficiencies or to avoid restrictions.

Exemptions

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.

Direct Costs (Attachment “A,” Sub Part B, 1-4)

Direct costs are those that can be identified specifically with a particular final cost objective. However, a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose, in like circumstances, has been allocated to an award as an indirect cost.

Indirect Costs (Attachment “A,” Sub Part C, 1-3)

Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.

Indirect costs are classified into two broad categories: Facilities and Administration. *Facilities* is defined as depreciation and uses allowances on buildings, equipment, and capital improvement; interest on debt associated with certain buildings, equipment and capital improvements; and operations and maintenance expenses. *Administration* is defined as general administration and all other types of expenditures not listed specifically under one of the subcategories of Facilities.

Allocation and Determination of Indirect Cost Rates (Attachment “A,” Sub Part D 1-5)

When an organization has several major functions benefiting from its indirect costs in varying degrees, allocation of indirect costs may require the accumulation of such costs into separate cost groupings, which then are allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual awards and other activities included in that function by means of an indirect cost rate(s).

An allocation base has to be determined to ensure equity. To do this, actual conditions are taken into account in selecting the base to be used in allocating the expenses to the various functions. The essential consideration in selecting a method or a base is that it is the one best suited for assigning the pooled

costs to cost objectives in accordance with benefits derived. A base period for the allocation also has to be determined. This is the period in which indirect costs are incurred and accumulated for allocation to work performed in that period. The base period normally should coincide with the organization's fiscal year but in any event shall be selected carefully to avoid inequities in the allocation of the costs.

**Negotiation and Approval of Indirect Cost Rates
(Attachment "A", Sub Part E 1-2)**

Unless different arrangements are agreed to by the agencies concerned, the federal agency with the largest dollar value of awards to an organization will be designated as the cognizant agency for the negotiation and approval of indirect cost rates. Once an agency is assigned cognizance for a particular non-profit organization, the assignment will not be changed unless there is a major long-term shift in the dollar volume of the federal awards to the organization. All concerned federal agencies shall be given the opportunity to participate in the negotiation process. After a rate has been agreed upon, it will be accepted by all federal agencies. The indirect cost rates are individual agreements negotiated for each fiscal year by each organization and are different for each organization. They apply to awards by USG agencies to the organization. A "provisional rate" is used throughout the year. After the annual fiscal year audit, a final rate based on actual indirect costs is established.

**Selected Items of Cost
(2 CFR230 Attachment B; HHS GPS Part II Exhibits 10-16)**

2 CFR230 (OMB Circular A-122) Attachment B lists 56 selected items of costs. Principles established in determining allowability of the 56 items of costs apply to similar costs that have not been listed. HHS GPS Part II also specifies cost allowability within HHS awards.

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Advertising	For recruiting personnel, procuring goods and services related to the award, disposing of scrap or surplus materials acquired through the award, and other purposes to meet requirements of rewards.		Fundraising/promotional advertising
Public Relations	Only those required for sponsored awards and communications with public and press pertaining to notices of contract awards and specific activities and accomplishments. Costs related to liaison with news media and government PR offices is limited to communication to keep the public informed on matters of public concern such as notices of contract/grant awards, financial matters, etc.		<ul style="list-style-type: none"> Alcoholic beverages Bad debts Entertainment costs Representation Fines and penalties Goods or services for personal use Personal use of vehicles Losses on other awards or contracts First or business class air tickets (except in case by case exceptions) Contributions or donations to other organizations or causes
Bonding Costs	When required by the award or the organization to fulfill the obligations of the award. May be bid, performance, advance payment, or fidelity, pursuant to terms and requirements of the award and obtained in accordance with good business practices.		
Communications	Telephone, telegrams, postage, e-mails, and pouch		

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Compensation	Personnel salaries, wages, directors' and executive committee members' fees, incentives, fringe benefits, and pensions, provided they are granted in accordance with established written policies of the institution. As long as they are reasonable for services rendered and conform to established policies of the organization, consistently applied, and documented.		
Compensation - Overtime	Only when necessary to (a) cope with emergencies resulting from accidents, natural disasters, breakdowns of equipment, or occasional operational bottlenecks of sporadic nature; (b) when employees are performing indirect functions such as administration, maintenance and accounting; (c) in the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot be reasonably interrupted or otherwise completed, and (d) when lower overall costs to the federal government will result.	Allowable with prior approval of awarding agency.	
Contingency Provisions	Allowable as self-insurance reserves, pension funds, and accruals for severance payments.		Contingency provisions with no certainty as to time, intensity, or assurance of their happening.
Defense, Prosecution, and Claims	Costs are allowable if costs are provided in an approved award.	When suits brought by the federal government against the organization are resolved by consent or compromise, certain costs may be allowable depending on the agreements reached. When proceedings instituted by state, local or foreign government if the costs were incurred as a result of a specific term or condition of the award or specific written direction of an authorized official of the sponsoring agency.	Costs incurred in defense of suits from employees under Major Fraud Act of 1988, against federal government claims or appeals.

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Depreciation and Use Allowances	<p>Compensation for the use of buildings, other capital improvements, and equipment on hand may be made based upon the acquisition costs of the assets involved. This must exclude the cost of land, any portion of the cost of buildings and equipment borne by or donated by the USG, regardless of titleholder, and any portion of the cost of buildings and equipment contributed by or for the organization as part of a statutory matching requirement.</p>		
Employee Morale/Health	<p>Costs associated with employee morale, health, and welfare, including costs for house publications and first aid, equitably apportioned to all activities of the organization.</p>		
Insurance/Indemnification	<p>As required or approved and maintained pursuant to the award (as long as it is sound business practice, reasonable, and excludes management fees). Also allowed is coverage of minor losses not covered by insurance costs such as spoilage, leakage and disappearance and supplies lost during ordinary course of operations. Indemnification: Only as expressly provided in the award or otherwise not covered by insurance.</p>		
Labor Relations Costs	<p>Costs to maintain satisfactory relations between the organization and employees, including labor management committees, publications, and other related activities.</p>		
Lobbying	<p>Costs associated with providing factual information on a topic directly related to the performance of a grant or agreement via hearings, statements, or letters to Congress or other government agency in response to a documented request, provided the information is readily available and presentable.</p>		<p>Lobbying of US government Contributions to political parties or for influencing elections</p>

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Maintenance and Repair Costs	Necessary maintenance of equipment and buildings that neither adds to the permanent value or extends their intended life.		
Materials and Supplies	Allowable after deducting any cash discounts, rebates, and allowances received by the organization. Incoming transportation charges are considered part of the materials and supplies costs.		
Meetings and Facilities	Facility rental, meals, and speakers' fees.		
Memberships	Such costs for organizational membership in business, technical and professional organizations, attendance at meetings of the same, and subscriptions to business, professional and technical periodicals.	Membership in civic or community membership or subscriptions is allowable only with prior written approval from the cognizant agency.	
Page Charges in Professional Journals	Allowable as necessary part of research costs when work is supported by the federal government and charges levied by the journal are the same for non-federally sponsored authors.		
Participant Support Costs		Travel allowances, stipends, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or trainings are only allowable with prior approval of the awarding agency.	
Patent Costs	General counselling services relating to patents and copyrights		Costs for preparing disclosures, reports, and researching to make disclosures if not required by the award.
Professional Services Fees	Retainers allowable when supported by evidence of bona fide services available or rendered.		

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Publication and Printing Costs	Allowable as indirect costs only if not identifiable with a particular cost objective.		
Profit and Loss on Asset Disposition	Shall be included in the year they occur as credits or charges to cost groupings in which the depreciation applicable to such property was included, unless processed via a depreciation reserve account, 1) the property is given in exchange as part of the purchase price of a similar item, 3) the loss results from the failure to maintain permissible insurance, or 4) compensation was through use allowances.		
Re-conversion Costs	Costs for restoring or rehabilitating facilities to same condition prior to commencement of award due to fair wear and tear excepted.		
Recruiting Staff	Costs associated with recruiting staff to fulfill the requirements of the award.		
Rental Costs	Cost of renting facilities or equipment in the performance of the award as long as they are reasonable in light of comparable property.		
Security	Plant security costs required to comply with federal requirements or protection of facilities, including wages, uniforms and equipment for personnel.		
Severance Pay	When required by law, employer-employee agreement, or established policies if the charge to current operations is reasonable in light of payments made for normal severances over a representative past period.		
Specialized Service Facilities (Highly Complex or Specialized Facilities)	When material, these costs should be charged directly to the applicable award based on actual usage, and not charged at a rate different than that for non-awards. Where costs are not material, the use of such facilities should be charged as indirect costs.		

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Taxes	Taxes required or accrued in accordance with GAAP and payments made to local government in lieu of taxes.		
Termination Costs	Rental costs from unexpired leases are generally allowable when reasonably necessary for the performance of the award when such amounts do not exceed the value of the property leased and the organization has made all efforts to terminate, settle, or reduce the cost of the lease. Settlement expenses for accounting, legal, clerical, and similar costs reasonably necessary for the award, the termination and settlement of any claims, the termination and settlement of sub awards, costs for the storage, transportation, protection, and disposition of property acquired or produced for the award, indirect costs related to salaries/wages. Claims under sub-awards which are common to the award are also allowable.		
Training and Education Costs	Materials, textbooks, tuition, and fees charged by the educational institution and compensation to employees not to exceed 156 hours per year.		
Transportation Costs and Postage	Costs for freight, cartage, and postal charges related to the purchase of goods in process or delivered, as either direct or indirect costs depending on how they are normally treated by the organization.		Taxes for which exemptions are available
Travel Costs	Transportation, lodging, subsistence, and related items of employees on official business for specific work under the grant or incurred in the normal course of administration of the organization. Necessary and reasonable costs of family movements and personnel movements of a special or mass nature are allowable pursuant to paragraphs 44 and 45 (Recruiting and Relocation).	Foreign travel (outside Canada and the USA and its territories and possessions) must have prior approval, including of destination and number of people, from awarding agency for each foreign trip.	

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Trustee Travel	Travel and subsistence costs for trustees or directors are allowable and subject to travel costs restrictions.		
Relocation Costs		Allowable only if for the benefit of the employer and reimbursement to employee is consistent with written policy and does not exceed actual expenses. Applicable to transportation of employee and family, personal effects, cost of finding new home, and closing costs. (Note that relocation costs for employees that resign from the agency within 12 months of being hired, must be reimbursed to the USG.)	
Capital for Purchase or Improvements of Land/Buildings		Only permissible with prior approval of the awarding agency	
Donated Services		Can be charged as indirect costs when services are substantial and supported by significant amounts of indirect costs and are pursuant to the conditions of the regulations.	
Fines and Penalties		Allowable only as permitted by the award or written authorization from the Federal agency.	Relocation costs – Fees associated with acquiring a new home, loss on sale of a former home, or principal and interest on mortgage payments on home being sold.
Idle Facilities		Only permissible if required for meeting fluctuations in workload. They may sit idle for up to one year after the end of the period for which they were used.	
Equipment		For the performance of the award, capital expenditures are allowable as direct costs, provided that costs are US\$5,000.00 or more and approved by awarding agency.	

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Improvements to Land/Buildings		Only permissible with prior approval from awarding agency.	
Housing/Living Expenses		Allowable as direct costs to an award when necessary for the performance of the award and approved by the awarding agency.	
Maintenance and Repair Costs		Costs adding to the permanent value of the buildings or equipment are regarded as capital improvements.	
Meetings and Facilities – Participant Support Costs		For stipends, subsistence and travel allowances, and registration fees paid on behalf of participants are allowable with prior approval from the awarding agency. (This does not apply to employees of the organization that received the award).	
Organization Costs		Expenditures for incorporation, brokerage, organizers, and management consultant or attorney's fees, in the establishment of an organization or reorganization are allowable, except with prior permission from the cognizant agency.	
Patent Costs		Many costs allowable unless required to be incurred by the award or the federal government.	
Pre-Award Costs		Costs incurred prior to the effective date of the award, after negotiation and in anticipation of the award when such costs are necessary to comply with the proposed delivery schedule or period of performance with prior approval from the awarding agency.	
Professional Services Fees		Allowable for consultants when the organization has need for external technical support, when in line with previous practice, and are reasonable for the work to be done to fulfill the aim of the award.	

ITEM OF COST	ALLOWABLE	CONDITIONALLY ALLOWABLE	UNALLOWABLE
Publication and Printing Costs		Costs for printing, distribution, promotion, mailing, and handling are allowable as direct costs unless the cognizant agency provides written authorization.	
Royalties/ Patents/ Copy Rights		Such royalties or costs of acquiring by purchase a copyright, patent, or rights thereto are permissible unless the federal government has free use of it or it is invalid, unenforceable, or is expired.	
Re-Arrangement and Alteration Costs		Office rearrangement and alteration costs are permissible only with prior agency approval.	
Selling and Marketing		Other than allowable Public Relations costs (See Advertising and Public Relations), costs of selling and marketing any products or services are allowable unless included as direct costs with prior approval from the awarding agency when necessary for the performance of the award.	
Severance Pay		Amounts to national employees exceeding that which the organization would pay in the USA are allowable, unless prior approval is received from the awarding agency. Amounts to foreign nationals employed by the organization outside the United States, 1) to the extent that the amount exceeds the customary or prevailing practices for the organization in the US or 2) due to termination of the foreign national as a result of the closing or curtailment of activities by the organization in country, are allowable, unless they are necessary for the performance of federal programs and approved by the awarding agency.	
Termination Costs		Costs that cannot be discontinued immediately after the award terminates are allowable, unless such costs continue merely at the negligence or willful failure of the organization.	
Training and Education Costs		When in excess of the allowable costs may be allowed with prior approval of the awarding agency.	

**Costs and Actions Specifically Requiring Prior Approval
(2CFR230 Attachment B; HHS GPS Part II Exhibit 5)**

Prior approval means securing the awarding agency's permission in advance to incur cost for those items that are designated as requiring prior approval by the Circular or HHS GPS. Generally, this permission will be in writing. Where an item of cost requiring prior approval is specified in the budget of an award, approval of the budget constitutes approval of that cost.

Such cost and actions include the following:

- Equipment and other capital expenditures
- Housing expenses
- Participant support costs
- Memberships in civic or community organizations
- Pre-award costs
- Publication and printing costs
- International travel – each foreign trip must be approved
- Overtime compensation
- Carryover of unobligated balances
- Change of grantee organization
- Change in scope or objectives
- Changes in status of principal investigator, project director, or other key personnel named in the notice of award
- Construction, land, or building acquisition
- Deviation from award terms and conditions
- Foreign component added to a grant to a domestic organization
- Indemnification of third parties
- Need for additional funding
- No-cost extension
- Research patient care costs
- Retention of research grant funds when career award made
- Transfer of amounts for training allowances (stipends, tuition, and fees) to other budget categories
- Transfer of funds between construction and non construction work
- Transfer of substantive programmatic work, i.e., transfer, sub-award, or contracting out any work under prime award

GLOSSARY

Administrative requirements

The general practices that are common to the administration of grants, such as financial accountability, reporting, equipment management, and retention of records.

Advance payment

A payment made to a recipient upon its request either before cash disbursements are made by the recipient or through the use of predetermined payment schedules. Most HHS advance payments are made by the Payment Management System (PMS), the HHS centralized grant payment system.

Allocable cost

A cost that is allocable to a particular cost objective (i.e., a specific function, grant project, service, department, or other activity) in accordance with the relative benefits received. A cost is allocable to a federal award when it is treated consistently with other costs incurred for the same purpose in like circumstances and (1) is incurred specifically for the award, (2) benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or (3) is necessary for the overall operation of the organization.

Allowable cost

A cost incurred by a recipient that is (1) reasonable for the performance of the award; (2) allocable; (3) in conformance with any limitations or exclusions set forth in the federal cost principles applicable to the organization incurring the cost or in the NoA as to the type or amount of cost; (4) consistent with regulations, policies, and procedures of the recipient that are applied uniformly to both federally-supported and other activities of the organization; (5) accorded consistent treatment as a direct or indirect cost; (6) determined in accordance with generally accepted accounting principles; and (7) not included as a cost in any other federally supported award (unless specifically authorized by statute).

Alternative dispute resolution

A process in which mediation or other techniques are used to avoid or resolve disputes.

Award

The document that provides OPDIV funds to a recipient to carry out an approved program or project (based on an approved application or progress report). The term, when used as a noun, is sometimes used interchangeably with *grant*.

Carryover

Unobligated federal funds remaining at the end of any budget period that may be carried forward to another budget period to cover allowable costs of that budget period (whether as an offset or additional authorization). Obligated but non-liquidated funds are not considered carryover.

Closeout

The process by which an OPDIV determines whether all applicable administrative actions and all work required under the award have been completed by the recipient and the awarding office.

Competition

A process in which applications undergo an objective review; the applications are evaluated against established review criteria and scored and rated accordingly.

Cooperative agreements

A financial assistance support mechanism used when there will be substantial federal programmatic involvement. Substantial involvement means that OPDIV program staff will collaborate or participate in project or program activities as specified in the NoA.

Copyright

A form of protection provided by the laws of the United States (Title 17, U.S. Code) to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, computer programs, and certain other intellectual works. This protection is available for both published and unpublished works.

Direct costs

Costs that can be identified specifically with a particular sponsored project, an instructional activity, or any other institutional activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

Equipment

An article of tangible nonexpendable personal property that has a useful life of more than one year and an acquisition cost of \$5,000 or more per unit or the capitalization threshold established by the recipient, whichever is less.

For profit organization

An organization, institution, corporation, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners. Such organizations also are referred to as *commercial organizations*.

Grant

A financial assistance support mechanism providing money, property, and/or other direct assistance in lieu of money to an eligible entity to carry out an

approved project or activity in support of a public purpose and not the direct benefit of the government. A grant is used whenever the OPDIV anticipates no substantial programmatic involvement with the recipient during performance of the financially assisted activities.

Indirect costs

Costs that are incurred by a recipient for common or joint objectives and cannot be identified specifically with a particular project or program. These costs also are known as *facilities and administrative costs*.

Intangible property

Property that ordinarily does not have physical existence. It includes, but is not limited to, copyrights for which assignment of rights is acquired under awards; patents and other intellectual property for which ownership is acquired under awards; loans, notes, and other debt instruments (even if considered tangible for other purposes); lease agreements; and stock and other instruments of property ownership. The term excludes copyrights, patents, and other intellectual property that are generated or developed, rather than acquired, under awards.

Matching or cost sharing

The value of third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the federal government. Costs used to satisfy matching or cost sharing requirements are subject to the same policies governing allowability as other costs under the approved budget.

Pre-Award costs

Costs incurred prior to the beginning date of the project period, in anticipation of an award and at the applicant's own risk, for otherwise allowable costs.

Prior approval

Written consent or issuance of an award by the OPDIV GMO in response to a written request from the recipient to incur a specific direct cost or take other action that requires such approval (as specified in Part II of the HHS GPS). If the costs or other actions are specifically identified in an application, approval of the application and issuance of an award based thereon constitutes such authorization. Prior approval for components of indirect costs must be obtained from the cognizant agency or be specified in the applicable cost principles.

Program income

Gross income, earned by a recipient, that is directly generated by the grant-supported project, program, or activity or earned as a result of the award.

Project or program costs

The total allowable costs incurred by a recipient (and the value of in-kind contributions made by third parties) in accomplishing the objectives of the award during the project period.

Project period

The total time for which support of a project has been programmatically approved. The total project period comprises the initial competitive segment, any subsequent competitive segments resulting from a competing continuation award, and any non-competing extensions.

Real property

Land, including land improvements, structures, and appurtenances, but not movable machinery and equipment.

Reasonable cost

A cost whose nature or amount does not exceed that which would be incurred by a prudent person under the circumstances prevailing when the decision was made to incur the cost.

Recipient

The organization or individual that receives a grant or cooperative agreement award from an OPDIV and is responsible and accountable for the use of the funds provided and for the performance of the grant-supported project or activity. The recipient is the entire legal entity even if a particular component is designated in the NoA. The term includes *grantee*.

Reimbursement

A payment made to a recipient upon its request after it makes cash disbursements. Most reimbursement payments are processed through the Payment Management System (PMS), the department's centralized grants payment system.

Sub-Award

Financial assistance in the form of money or property in lieu of money provided under an award by a recipient to an eligible sub-recipient (or by an eligible sub-recipient to a lower-tier sub-recipient). The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include either procurement of goods or services or, for purposes of this policy statement, any form of assistance other than grants and cooperative agreements. The term includes consortium agreements.

Sub-Recipient

An entity that receives a sub-award from a recipient or another sub-recipient under an award of financial assistance and is accountable to the recipient or other sub-recipient for the use of the federal funds provided by the sub-award.

Supplies

Personal property other than equipment, intangible property, and debt instruments. The category of *supplies* includes items that could be considered equipment but do not meet the threshold definition.

Tangible property

Equipment, supplies, and any other property other than that defined as intangible property. It also does not include copyrights, patents, and other intellectual property that is generated or developed (rather than acquired) under an award.

Third-Party in-kind contributions

The value of non-cash contributions directly benefiting a grant-supported project or program that is provided by non-federal third parties to the recipient, the sub-recipient, or a cost-type contractor under the grant or sub-grant without charge. In-kind contributions may be in the form of real property, equipment, supplies, other expendable property, and goods and services directly benefiting and specifically identifiable to the project or program.

Total project or program costs

The total allowable costs (both direct and indirect) incurred by the recipient to carry out a grant-supported project or activity. Total project or program costs include costs charged to the award and costs borne by the recipient to satisfy a matching or cost-sharing requirement.

Unallowable cost

A cost specified by law or regulation, federal cost principles, or terms and conditions of an award that may not be reimbursed under a grant or cooperative agreement.

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Catholic Relief Services (CRS)
228 W. Lexington Street
Baltimore, MD 21201, USA
Tel: (410) 625-2220

www.crsprogramquality.org

