

CONTRACT/AGREEMENT DATA SHEET	B 23274	1. M/SER/AAM/A/SUP Action Monitor	2. Date PIO/T Received in M/SER/AAM/A/SUP
		cme DDFBS 507	1 / 9 / 89

COMPLETE EACH BLOCK FOR BOTH NEW ASSISTANCE/ACQUISITION AND MODIFICATION ACTIONS

1. Contract/Agreement/Number  
OTR - 0000 - G - <sup>55</sup> - 9028-00

4. Contractor/Recipient Name  
Asociacion Nicaraguense Pro-Derechos Humanos

5. Contractor Acronym  
ANPDH

6. Project Title  
Human Rights Training Program

7. Project Number  
594-0000.02

8. Project Officer's Name  
R. Noriega

9. Bureau or USAID Symbol  
TFHA/W

10. PIO/T Number  
594-0000-3-89002

21. Budget Plan Code VRR A-89-29594-HG84  
App. 72-1191038

11. TYPE OF ACTION

A. New Acquisition/Assistance  A

B. Amendment/Modification

1. New/Revised Scope

2. Funded Extension

3. No Cost Extension

4. Transfer of action from AID/W to Mission/Mission to AID/W

5. Incremental Funding

6. Overhead Rate Adjustment

7. Contract Closeout

8. Other

C.FPR or FAR H.B. 13

22. Country or Region of Performance  
Nicaragua

23. A. This Action Increases or Decreases TEC by  
\$ - 0 -

B. Total Estimated Cost of Contractual Document  
\$ 490,000

24. Amount of Non-Federal Funds Pledged to the Project  
- 0 -

12. Amount of this PIO/T  
Obl. U.S. \$ 490,000

25. Effective Date of this Action  
12/30/89

13. Amount  Obligated  Subobligated  Deobligated  
by this Contract or Amendment  
U.S. \$ 490,000

26. Estimated Completion/Expiration Date  
5/30/87

14. Cumulative Obligation (Life of Contract)  
U.S. \$ 490,000

27. Contractor DUNS Number  
19-623-4256

15. This Action Funded Through  
5,30,89

28. Consultant Type Award  
 YES  NO

16. Date Contractual Documents Signed by AID Official  
12/30/89

29. Number of Person Months (PASA/RSSA only)  
N/A

17. Incrementally Funded Contracts  
 YES  NO

30. Number of Persons (PASA/RSSA only)  
N/A

18. Host Country/Counterpart Institution (University Contracts)  
N/A

31. CONTRACT TYPE

A. Fixed Price (specify:  FFP  FPRD  FPEPA  FPI)

B. Cost Reimbursement (specify:  CR  CPFF  CS  CPAF  CPIF)

C. IOC and Requirements Contracts

D. Grant/CA/PASA/RSSA

E. Contracts with Individuals

19. Campus Coordinator (University Contracts)  
N/A

20. ADVANCE

A. No Advance

B. Advance Non-FRLC

C. Advance FRLC  A

32. Negotiator's Typed Name  
C.A. Williams

33. Negotiator's Signature  
*C.A. Williams*

34. Date Signed  
1,27,89

35. Contract/Grant Officer's Organization Symbol  
W/MS

36. Contract/Grant Officer's Signature  
*CR Sedridge*

37. Date Signed  
1/30/89

38. SUBJECT TO STATUTORY REQUIREMENT

- A. Walsh-Healey Act, Manufacturer\*
- B. Walsh-Healey Act, Regular Dealer\*
- C. Service Contract Act  
*(U.S. ONLY - Guards, Maintenance, Laborers)*
- D. Davis-Bacon Act *(Construction)*
- E. Not subject to Walsh -Bacon Act  
*(Most AID Contracts)*

E

\*Equipment, Supplies, Materials, and Commodities

39. Country of Manufacture

N/A

40. CURRENCY INDICATOR

- A. U.S. Dollar
- B. Local Currency
- C. Combination
- D. Unfunded

C

41. SUBCONTRACTS

Is there a provision for a subcontract? *(Contracts only)*

YES  NO

42. TYPE OF SERVICE

- A. Training of Participants
- B. Technical Assistance to Host Country  
*(Program, Project related except A&E Services)*
- C. A&E Services
- D. Construction
- E. Research
- F. Technical Services to AID  
*(other than training; usually operating expense)*
- G. Training Service for AID
- H. Equipment, Materials, Supplies, Commodities
- I. Translation Service

E

43. CONTRACT/AGREEMENT SOURCE

- A. U.S. Contractor/Grantee
- B. Non-U.S. Contractor/Grantee
- C. Combination of A & B

A

44. TYPE OF AMERICAN OWNERSHIP  
*(U.S. Persons or Firms Only)*

- Minority
  - A. Asian/Pacific Islander
  - B. Black American
  - C. American Aleuts or Eskimos
  - D. American Indian
  - E. Hispanic
- G. Non-Minority

G

45. METHOD OF SOLICITATION

- A. Sealed Bid
- B. Competitive Proposal
- C. Combination/Competition
- D. Other Competitive
- E. Noncompetitive

E

46. LABOR SURPLUS AREA PREFERENCE

- Labor Surplus Area
  - A. No Preference
  - B. Tie Bid Preference
  - C. Total Set Aside
  - D. Not a Labor Surplus Area Preference Award

D

47. TYPE OF BUSINESS

- A. Source: Non-U.S. and Used Outside U.S. & Possessions
- B. Source: Non-U.S. and Possessions  
*(Foreign Purchases Used Inside U.S.)  
(If U.S. Source, complete C through Q)*
- C. Firm - Profit Making & PSC's
- Non-Profit Organizations
  - D. Private Educational Organizations
  - E. Hospitals
  - F. Research Institutions, Foundations, and Laboratories
  - G. Other

G

- Private Voluntary Organizations
  - H. U.S. Registered
  - I. U.S. Non-Registered
  - J. Foreign

- State/Local Government
  - K. Educational Institutions
  - L. Hospitals
  - M. Research Organizations
  - N. Other

- O. International Agricultural Research Organizations
- P. Public International Organizations
- Q. U.S. Cooperatives

48. Women Owned Business?

YES  NO

49. TYPE OF AWARD

- Small Business
  - A. Not Set Aside
  - B. Partial Set Aside
  - C. Total Set Aside
- Other Than Small Business
  - D. Personal Service Contract
  - E. Individual Non-Personal Service Contract
  - F. U.S. Government
  - G. University
  - H. Non-Profit Organizations and PVOs
  - I. Large Businesses

H

50. Paying Office:

Payment will be made by

THH/H

December 30, 1988

Director General Marta Patricia Baltodano  
Asociacion Nicaraguense Pro-Derechos Humanos  
3701 Massachusetts Ave., #601  
Washington, D.C. 20016

Subject: Grant No. OTR-0000-G-00-9028-00

Dear Dr. Baltodano:

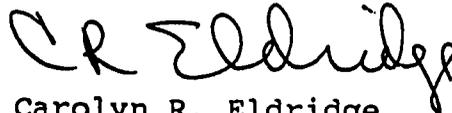
Pursuant to the authority contained in Title IX of the Department of Defense Appropriations Act, 1989 which is to provide assistance and support for peace, democracy, and reconciliation in Central America, the Agency for International Development (hereinafter referred to as "A.I.D." or "Grantor") hereby grants to the Asociacion Nicaraguense Pro-Derechos Humanos, (hereinafter referred to as "Recipient" or "ANPDH") the sum of \$490,000 to provide support for ANPDH's Human Rights training program. This is more fully described in Enclosure 2 entitled, "Program Description."

This Grant is effective, and obligation is made as of December 30, 1988 and shall apply to commitments made by the Recipient in furtherance of program objectives, through the estimated completion date of May 30, 1989.

This Grant is made to the Recipient on condition that the funds will be administered in accordance with the terms and conditions as set forth in this Cover Letter, Enclosure 1 entitled "Schedule," Enclosure 2 entitled "Program Description," Enclosure 3 entitled "Standard Provisions," which together constitute the complete Grant document and have been agreed to by your organization.

Please acknowledge receipt of this Grant by signing all copies of this Cover Letter, retaining one set for your files, and returning the remaining copies to the undersigned.

Sincerely,



Carolyn R. Eldridge  
Grant Officer  
Management Services Branch  
Office of Procurement

Enclosures:

1. Schedule
2. Program Description
3. Standard Provisions
4. OMB Circular A-122, "Cost Principles for Nonprofit Organizations"

ACCEPTED BY: ASOCIACION NICARAGUENSE PRO-DERECHOS HUMANOS.

Name: Myrattorandof  
Title: Executive Director  
Date: January 11, 89

Fiscal Data

PIO/T NO: 89002  
APPROPRIATION NO: 72-1191038  
BUDGET PLAN CODE: VRRRA-89-29594-HG84  
THIS OBLIGATION: \$490,000  
TOTAL OBLIGATION: \$490,000  
TOTAL ESTIMATED AGREEMENT AMOUNT: \$490,000  
DUNS NO: 19-623-4256  
A.I.D. PROJECT OFFICER: Roger Noriega, TFHA,  
RESCON NO: R900001

Enclosure No. 1

SCHEDULEA. Purpose of Grant

The purpose of this Grant is to provide support for ANPDH's training program which provides nonmilitary training for members of the Nicaraguan Resistance with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights.

The above is more specifically described in Enclosure 2 entitled "Program Description." In the event of an inconsistency between the program description and this schedule, the schedule and then the program description shall take precedence.

B. Period of Grant

1. The effective date of this Grant is December 30, 1988. The expiration date of this Grant is May 30, 1989.

2. Notwithstanding the effective date of this Grant, and subject to the Mandatory Standard Provision entitled "Allowable Costs," costs incurred on or after October 1, 1988 shall qualify as allowable costs to be included under this Grant. Such costs are included in Section E. Budget.

C. TFHA Project Managers

Mr. Don Enos, Deputy Director of TFHA/Honduras, is the project manager for TFHA/H. He is responsible for the management and implementation of the program in Honduras.

Mr. Ray Baum, is the project manager for TFHA/CR. He is responsible for the management and implementation of the program in Costa Rica.

D. Amount of Grant and Payment

1. A.I.D. hereby obligates the amount of \$490,000 for the purposes of this Grant.

2. Payment shall be made to the Recipient in accordance with the following procedures: provisions for establishing and maintaining a Special Bank Account shall apply, A.I.D will reimburse the recipient not more often than monthly in order to replenish the advance funds, and such replenishment shall be made upon the submission of voucher forms SF 1034 and 1034-A.

3. Payment In Honduras: Upon inception of this Grant, the ANPDH controller will present a budget to the TFHA/H Project Manager projecting its recurring operating expenses and initial procurement costs in Honduras for the first 60 days of this program. Every thirty days thereafter, ANPDH will present a budget to the TFHA/H Project Manager projecting its recurring operating expenses for the next thirty days. These budgets will be certified by the A.I.D. non-federal auditors (Price-Waterhouse) as being consistent with this agreement. The TFHA/H controller will then authorize the payment of that sum in lempiras to a separate ANPDH bank account established to accept funds for this program. ANPDH will make payments for authorized goods and services and provide justification and all receipts to the TFHA/H Project Manager. Every 30 days, Price-Waterhouse will certify for A.I.D. those expenses incurred under this program and the TFHA/H controller will rely on that certification to request replenishment for recurring costs.

4. Payment In Costa Rica: Upon inception of this Grant, the ANPDH controller will present a budget to the TFHA/CR Project Manager projecting its recurring operating expenses and initial procurement costs in Costa Rica for the first 60 days of this program. Every thirty days thereafter, ANPDH will present a budget to the TFHA/CR Project Manager projecting its recurring operating expenses for the next thirty days. These budgets will be certified by the A.I.D. non-federal auditors (Price-Waterhouse) as being consistent with this agreement. The USAID/CR controller will request authorization to disburse under the agreement for the initial amount from the TFHA/H controller and authorize the payment of that sum in colones to a separate ANPDH bank account established to accept funds for this program. ANPDH will make payments for authorized goods and services and provide justification and all receipts to TFHA/CR Project Manager. Every 30 days, Price-Waterhouse will certify for A.I.D. those expenses incurred under this program and USAID/CR controller will rely on that certification to request replenishment for recurring costs.

5. Use of Funds Funds under this program will be used to support only those activities related directly to training. The ANPDH controller is responsible for justifying which expenditures (or portions thereof) are attributable to this training program and can thereby be covered with funds under this grant. The TFHA/H project manager will provide administrative approval for all vouchers.

6. Reimbursement for Retroactive Costs The total amount of this agreement shall include reimbursement for costs incurred by ANPDH relating to eligible human rights training activities conducted since October 1, 1988, and subject to certification by the A.I.D. non-federal auditor, Price-Waterhouse. Only those costs which are allowable under the applicable cost principles (i.e. OMB Circular A-122) qualify as valid costs for reimbursement during the period from October 1, 1988.

ANPDH will, upon acceptance of this grant, present to the program manager in TFHA/H a summary of justifiable training costs from October 1, 1988 up to the effective date of this agreement. Price-Waterhouse will be given access to all receipts and other records to determine which costs are eligible for reimbursement and will expeditiously certify to the TFHA/H controller what amount should be set aside for justification so as not to delay the certification of justifiable expenses.

In the event these costs have already been paid by another Government Agency, A.I.D. will reimburse that agency for the allowable costs.

7. Training Benchmarks ANPDH shall meet with the TFHA program managers in the respective countries (i.e., Honduras and Costa Rica) for the purpose of establishing benchmarks by which the training program's monthly progress will be measured.

8. At no time shall any member of the Nicaraguan Resistance receive payment of any kind, for any reason, under this training program.

#### E. Budget

The following is the Budget for this Grant. Revisions to this Budget shall be made in accordance with the Standard Provision of this Grant entitled "Revision of Grant Budget."

#### SUMMARY OF BUDGET (October 1, 1988 - May 30, 1989)

	Costa Rica	Honduras	Total
Recurring Costs	\$87,395	\$200,250	\$287,645
Commodities	27,780	34,502	62,282
Retroactive Costs	30,000	70,000	100,000
Miscellaneous	6,073	34,000	40,073
TOTAL	<u>\$151,248</u>	<u>\$338,752</u>	<u>\$490,000</u>

SUMMARY OF MONTHLY RECURRING COSTS

Technical Assistance:	<u>Costa Rica</u>	<u>Honduras</u>	<u>Total</u>
Personnel	\$5,026	\$7,845	\$12,871
Intl. Travel	600	600	1,200
Local Travel	1,600	2,350	3,950
Vehicle Rental	1,400	1,000	2,400
Seminars	1,400	6,890	8,290
TOTAL:	<u>\$10,026</u>	<u>\$18,685</u>	<u>\$28,711</u>
Program Management:	<u>Costa Rica</u>	<u>Honduras</u>	<u>Total</u>
Personnel	\$3,358	\$6,935	\$10,293
Vehicle Rental	0	750	750
Rent	660	900	1,560
Utilities	60	180	240
Postage	50	50	100
Courier Service	150	750	900
Telephone/Fax	750	2,500	3,250
Vehicle Maint.	150	800	950
Other Costs	400	1,650	2,050
Transl Svcs	275	1,250	1,525
Emp. Soc. Ben.	1,600	2,600	4,200
Indep. Aud.	0	3,000	3,000
TOTAL:	<u>\$7,453</u>	<u>\$21,365</u>	<u>\$28,818</u>
Total Recurring Costs:	\$17,479	\$40,050	\$57,529

SUMMARY OF ONE TIME COSTS

Procurement:	<u>Costa Rica</u>	<u>Honduras</u>	<u>Total</u>
Equipment	\$1,730	\$23,510	\$25,240
Furniture	1,050	1,992	3,042
Classroom Const.	0	9,000	9,000
Printing	25,000	0	25,000
TOTAL:	<u>\$27,780</u>	<u>\$34,502</u>	<u>\$62,282</u>

RETROACTIVE COSTS  
(Since October 1, 1988)

Estimate of Eligible Costs: \$100,000

Notes to Budget:

1. This budget may be adjusted monthly subject to the approval of the TFHA/H and TFHA/CR Project Managers.
2. Funds under this program will be used to support only those activities related directly to training, as described in the Program Description. The ANPDH Controller is responsible for justifying which expenditures (or portions thereof) are attributable to this program and can thereby be covered with funds under this Grant. The Program Managers will provide administrative approval of all vouchers.
3. Prior to the procurement of equipment, a list of items to be procured must be submitted, reviewed, and approved by the the TFHA Program Managers.

F. Reporting/Monitoring1. Monthly/Quarterly Reports:

ANPDH shall provide an initial report of all training activities performed since October 1, 1988. Thereafter, ANPDH shall provide a monthly report in English to TFHA/H and TFHA/CR which shall be due not later than the tenth calendar day following the month. The report shall address at least the following:

- a. A narrative description of the activities during the month and reports of the numbers of individuals receiving various types of training.
- b. Major problems encountered and the proposed solutions thereto.
- c. An analysis of performance in terms of meeting training benchmarks established in consultation with the TFHA/H and TFHA/CR program managers.
- d. Objectives for the following month.
- e. Financial status report summarizing expenditures for the month against the major line items.

## 2. Interim Reporting

Prior to the required final performance reporting date, events may occur that have significant impact upon the project. In such instances, the recipient shall inform the Grant and Project Managers as soon as the following types of conditions become known:

a. Problems, delays, or adverse conditions that will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work activities by the established time period. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

b. Favorable developments or events that enable time schedules to be met sooner than anticipated or more work activities to be performed than originally projected.

3. Final Report: A final, end-of-project report will be required via a format to be provided to the Recipient at a later date.

4. Site Monitoring: From time-to-time A.I.D. officers and/or their representatives will, with prior notification to ANPDH, visit selected project sites.

## G. Title to Property

Title to all property purchased under this Grant shall be vested in the Recipient and subject to the Standard Provision entitled "Title to and Use of Property (Grantee Title)." Within 30 days after the end of the agreement, ANPDH shall propose disposition of the property to the Project Manager of TFHA/W for approval. A.I.D. may direct that title to property be transferred to A.I.D. or to a third party. Equipment purchased with program funds will be used exclusively for program purposes.

## H. Special Provisions

1. Travel and Per Diem: That portion of costs for travel relating to training activities may be reimbursed under this grant. Grantee shall promptly inform the TFHA program manager of international travel involving the use of A.I.D. funds under this grant. Payment of per diem involving international travel will be based upon the U.S. Standardized Government Travel Regulations. An updated schedule will be provided to the recipient. Payment of per diem for local travel will be based on a schedule prepared by ANPDH and approved in advance by the TFHA program managers.

2. Use of Task Force Helicopter Services The helicopter services contracted by TFHA may be requested for delivery of equipment and training instructors if absolutely required to operate effectively. ANPDH must provide TFHA/H with sufficient advance notice (at least 48 hours) and the proposed itinerary. Use of helicopters remains at the discretion of D/TFHA/H.

3. Personnel Decisions: ANPDH is expected to promptly inform the local TFHA Program Manager of personnel decisions affecting this training program.

4. Classrooms: Construction of classrooms should be cleared by TFHA/H. Equipment for classrooms (i.e. video players and monitors, generators) will be procured by ANPDH, in consultation with the TFHA Program Manager to ensure compatibility with other equipment purchased with A.I.D. funds. ANPDH should purchase equipment only when it is certain that the classroom facilities in which they are to be used are established and operable.

5. Financial Management ANPDH is responsible for sound financial management to ensure the effective use of these funds for the purposes reflected herein. ANPDH will maintain financial records, including documentation to support entries on accounting records, and will substantiate financial charges against this agreement in accordance with generally accepted accounting practices. All such financial records shall be maintained for at least three years after final disbursement of funds under this agreement. ANPDH agrees to make available to A.I.D. and to the Comptroller General of the United States all records and documents which support expenditures under this agreement. ANPDH will immediately reimburse A.I.D. for amounts claimed and paid which are subsequently determined not to be eligible expenses under this program.

6. Audit: A monthly financial and compliance audit of the use of funds, internal control of funds, and compliance with agreement terms, laws, and regulations shall be made by ANPDH's external auditors which have been cleared by A.I.D.'s Office of Regional Inspector General. The audit shall be conducted in accordance with the U.S. General Accounting Office Standards for Audit of Governmental Organizations, Programs, Activities and Functions (1981 Revision). This audit shall be subject to review by the U.S. General Accounting Office and the A.I.D. Inspector General, or their designated representatives, for compliance with the above-mentioned standards. Funds for the external audit are included in this Grant.

7. Special Provisions to resolve Price Waterhouse Audit:

A. Since ANPDH is not legally registered with the Government of Honduras, ANPDH is required to continue its efforts toward registration in Honduras.

B. Since ANPDH does not have a system for budgetary execution, ANPDH is required to strictly comply with the requirements of Schedule Provision C.2, C.3, C.4, and C.5. to ensure a monthly accounting of the use of grant funds.

C. Since ANPDH has a large number of people under contract, A.I.D. funds will only be used to support positions expressly authorized in this grant or as otherwise approved by the TFHA Project Managers.

D. ANPDH is required to issue checks directly to its suppliers/contractors under this grant and never through one of its employees.

E. Summaries of expenses under this grant must be reviewed and approved by ANPDH top management.

F. No ANPDH delegates will be funded under this grant.

G. ANPDH must retain written documentation for procurements over \$500 to demonstrate competition received.

H. ANPDH is required to comply with host country currency regulations when paying contractors.

## Enclosure 2

Program DescriptionI. Definition:

To provide assistance to ANPDH in their training program for members of the Nicaraguan Resistance with respect to treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights. The training includes explanations of the international conventions and protocols that address the behavior of combatants in rules of engagement, treatment of noncombatants, treatment of prisoners of war, and other relevant issues.

II. Purpose:

1) To provide approximately 6,000 members of the Nicaraguan Resistance with instructions in the four Geneva Conventions and their protocols, the Universal Declaration of Human Rights, the International Rules for Combatants on the Treatment of the Civilian Population, the Soldier's Handbook, and a description of various laws enforcing these principles.

2) Courses will be offered to units on the Northern, Atlantic, and Southern fronts. Instruction will be at a level commensurate with the educational background of the students. In addition to a basic course designed to introduce human rights concepts, specialized courses will be offered to augment previous training. Special courses will be held to provide intensive instruction for delegates.

III. Objectives:

To provide 6,000 members of the Nicaraguan Resistance with the basic knowledge of the proper treatment of non-combatants, prisoners of war, and others. To continue the independent training activities of ANPDH, consistent with the policy of the United States Government to promote respect for the human rights and civilian property by the Nicaraguan Resistance. To reinforce classroom learning by training delegates of the Association to impart human rights lessons at the task force level.

IV. Principal Activities:

1) Construct or remodel suitable classrooms in Honduras (Four in Nicaraguan Resistance camps in Eastern Honduras; two in the Mosquitia and one in Bocay)

2) Equip classrooms with video players and monitors, amplifiers, and generators to facilitate effective instruction.

3) Provide students with relevant teaching materials in Spanish or other appropriate dialects.

4) Provide instructors in the numbers and with the teaching skills necessary to provide effective training at each site as scheduled. Instructions will be offered in Spanish or other appropriate dialects, depending on the trainees.

5) Conduct regular training courses over a five month period, according to the following tentative plan:

a. Northern Front

63 basic courses, 40 students per course; 2,520 total  
40 specialized courses, 50 students per course; 2,000 total.

b. Atlantic Front

20 basic courses, 30 students per course; 600 total  
12 specialized courses, 30 students per course; 360 total

c. Southern Front

12 basic courses, 25 students per course; 300 total

6) Rent one crew-cab four-wheel drive vehicle for use in Honduras needed for the transportation of instructors, students, and supplies. If necessary, rent microbus for transportation of students in Costa Rica.

7) Coordinate instruction schedules with commanders of the Nicaraguan Resistance to ensure the participation of the students as scheduled.

8) Consult with the TFHA program manager in the respective country in order to minimize duplication in curriculum, physical plant, and associated costs and maximize the impact of other A.I.D.-funded training programs. Any steps taken in this regard is subject to agreement as to feasibility by all parties involved.

9) Operate in consoling with local laws and be sensitive to the cultural aspects of the host countries.

V. Program Personnel:

ANPDH will provide qualified individuals to perform the following functions, at the total cost reflected in the budget in the schedule and in ANPDH's proposal. These figures can fluctuate depending upon the needs or requirements that can emerge as the program develops. Individuals who are ineligible for funding under this program because of their status as members of the Resistance may assist in field and classroom activities.

Honduras Training Staff: One Honduras Chief (70% of time), one Instructor/Mosq.Chief (70% of time), one instructor/legal advisor, seven instructors, one training support, and two training support/interpreters.

Costa Rica Staff: One training chief (70% of time) and three to four instructors.

The management staff for Honduras consists of 15 individuals. The management staff for Costa Rica consists of 5 individuals.

STANDARD PROVISIONS FOR  
U.S., NONGOVERNMENTAL GRANTEES

INDEX OF  
MANDATORY STANDARD PROVISIONS

- |                               |                                       |
|-------------------------------|---------------------------------------|
| 1. Allowable Costs            | 6. U.S. Officials Not to Benefit      |
| 2. Refunds                    | 7. Nonliability                       |
| 3. Revision of Grant Budget   | 8. Amendment                          |
| 4. Termination and Suspension | 9. Notices                            |
| 5. Disputes                   | 10. Procurement of Goods and Services |

1. ALLOWABLE COSTS (DECEMBER 1988)

The grantee shall be reimbursed for costs incurred in carrying out the purposes of this grant which are determined by the grant officer to be reasonable, allocable, and allowable in accordance with the terms of this grant, any negotiated advance understanding on particular cost items, and the cost principles for non-profit organizations in OMB Circular A-122 in effect on the date of this grant.

OMB Circular A-122 requires prior approval of international travel (Paragraph B.50) and purchase of capital equipment (Paragraph B.13). The approval of monthly budgets (Schedule Provision D.4 and D.5) and procurement lists (Schedule Provision E.3) will constitute the approvals required by OMB Circular A-122.

2. REFUNDS (JANUARY 1988)

(a) The grantee shall remit to A.I.D. all interest earned on funds provided by A.I.D. at least quarterly, except that interest amounts up to \$100 per year may be retained by the grantee for administrative expense.

(b) Funds obligated by A.I.D. but not disbursed to the grantee at the time the grant expires or is terminated shall revert to A.I.D., except for such funds encumbered by the grantee by a legally binding transaction applicable to this grant. Any funds advanced to but not expended by the grantee and not encumbered by a legally binding transaction applicable to this grant at the time of expiration or termination of the grant shall be refunded to A.I.D.

(c) If, at any time during the life of the grant, or as a result of final audit, it is determined by A.I.D. that funds it provided under this grant have been expended for purposes not in accordance with the terms of this grant, the grantee shall refund such amount to A.I.D.

3. REVISION OF GRANT BUDGET (DECEMBER 1988)

(a) The approved grant budget is the financial expression of the grantee's program as approved during the grant award process.

(b) The grantee shall immediately request approval from the grant officer when there is reason to believe that within the next 30 calendar days a revision of the approved grant budget will be necessary for the following reasons:

(1) Changes in the scope or the objectives of the program and/or revisions in the funding allocated among program objectives.

(2) The need for additional funding.

Enclosure 4

OMB Circular A-122

# Federal Register

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Tuesday  
July 8, 1980

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Part III

## Office of Management and Budget

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Circular A-122, "Cost Principles for  
Nonprofit Organizations"

## OFFICE OF MANAGEMENT AND BUDGET

### Circular A-122, "Cost Principles for Nonprofit Organizations"

**AGENCY:** Office of Management and Budget.

**ACTION:** Final Policy.

**SUMMARY:** This notice advises of a new OMB Circular dealing with principles for determining costs of grants, contracts, and other agreements with nonprofit organizations.

The Circular is the product of an interagency review conducted over a two-year period. Its purpose is to provide a set of cost principles to replace existing principles issued by individual agencies. These have often contained varying and conflicting requirements, and created confusion among agency administrators, auditors, and nonprofit officials. The new Circular will provide a uniform approach to the problem of determining costs, and promote efficiency and better understanding between recipients and the Federal Government.

**EFFECTIVE DATE:** The Circular becomes effective on issuance.

**FOR FURTHER INFORMATION CONTACT:** Palmer A. Marcantonio, Financial Management Branch, Office of Management and Budget, Washington, D.C. 20503, (202) 395-4773.

**SUPPLEMENTARY INFORMATION:** Before the Circular became final there was extensive coordination with the affected nonprofit organizations, professional associations, Federal agencies and others. All interested persons were given an opportunity to comment on the proposed Circular through informal consultations and a notice in the *Federal Register*. In response to our requests for comment, we received about 100 letters from Federal agencies, nonprofit organizations, associations, and other interested members of the public. These comments were considered in the final version of the Circular. There follows a summary of the major comments and the action taken on each.

In addition to the changes described, other changes have been made to improve the clarity and readability of the Circular. To the extent possible, we have tried to make the language of this Circular consistent with that of cost principles for educational institutions (Circular A-21), and State and local governments (Circular 74-4).

#### *Summary of Significant Changes:*

Set forth are changes that have been made in the final Circular as a result of

public comments. The more significant changes to the basic Circular and Attachment A include:

1. Paragraph 2, "Supersession" was added to the basic Circular to make it clear that this Circular supersedes cost principles issued by individual agencies.

2. Paragraph 4 of the basic Circular has been amended to make it clear that the absence of an advance agreement on any element of cost will not in itself affect the reasonableness of allocability of that element. Also, this paragraph was amended to make it clear that where an item of cost requiring prior approval is specified in the budget, approval of the budget constitutes approval of the cost.

3. Paragraph 5 of the basic Circular has been changed to remove any doubt as to which nonprofit organizations would not be covered by the Circular. Now, Appendix C to the Circular lists all exclusions.

4. Paragraph 8 was added to the basic Circular to permit Federal agencies to request exceptions from the requirements of the Circular.

5. Paragraph E.2. was added to Attachment A to cover the negotiation and approval of indirect cost rates, and to provide for cognizance arrangements.

The more significant changes to Attachment B to the Circular include:

1. Paragraph 5, *Compensation for Personal Services*, was modified to:

a. Permit Federal agencies to accept a substitute system for documenting personnel costs through means other than personnel activity reports.

b. Clarify provisions covering the allowability of costs for unemployment compensation or workmen's compensation, and costs of insurance policies on the lives of trustees, officers, or other employees.

c. Make unallowable any increased costs of pension plans caused by delayed funding.

d. Delete a paragraph dealing with review and approval of compensation of individual employees.

2. Paragraph 6, *Contingencies*, was changed to make it clear that the term "contingency reserves" excludes self-insurance reserves or pension funds.

3. Paragraph 10 was modified to provide that the value of donated services used in the performance of a direct cost activity shall be allocated a share of indirect cost only when (a) the aggregate value of the service is material, (b) the services are supported by a significant amount of the indirect cost incurred by the organization, and (c) the direct cost activity is not pursued primarily for the benefit of the Federal Government. Provisions were also added to this paragraph for the

cognizant agency and the recipient to negotiate when there is no basis for determining the fair market value of the services rendered, and to permit indirect costs allocated to donated services to be charged to an agreement or used to meet cost sharing or matching requirements.

4. Paragraph 31, *Equipment and Other Capital Expenditures*, was changed. Capital equipment is now defined as having an acquisition cost of \$500 and a useful life of more than two years.

5. Paragraph 26, *Meetings, Conferences*. The prior approval requirement for charging meetings and conferences as a direct cost was deleted. A sentence was added to make it clear such costs were allowable provided they meet the criterion for the allowability of cost shown in Attachment A.

6. Paragraph 27, *Organization Costs*, was amended to provide that organization costs may be allowable when approved in writing by the awarding agency.

7. Paragraph 30, *Page Charges in Professional Journals*, was revised to provide that page charges may be allowable.

8. Paragraph 37, *Public Information Service Costs*, was modified to make public information costs allowable as direct costs with awarding agency approval.

9. Paragraph 43, *Rental Costs*, was rewritten to:

a. Make it clear that rental costs under leases which create a material equity on the leased property are allowable only to the amount that the organization would have been allowed had they purchased the property; e.g., depreciation or use allowances, maintenance, taxes, insurance, etc.

b. Clarify the criteria for material equity leases.

10. Paragraph 51, *Travel Costs*, was amended to delete the prior approval requirement for domestic travel. In addition to the above, a number of editorial changes were made to the original document.

#### *Suggested Changes Not Considered Necessary.*

*Comment.* Several respondents questioned the provision that, for "less than arm's length" leases, rental costs are allowable only up to the amount that would be allowed had title to the property been vested in the grantee organization. In their opinion, this rule will result in unnecessary cost to the Federal Government, since it would encourage an organization to lease space on the commercial market at higher rate.

**Response.** The cost principles are designed to cover most situations; however, there are always exceptions that must be considered on a case-by-case basis. The Circular contains a provision for Federal agencies to request exceptions.

**Comment.** Several respondents questioned why interest is not an allowable cost, since it is an ordinary and necessary cost of doing business.

**Response.** It has been a longstanding policy not to recognize interest as a cost. However, this policy has recently been revised for State and local governments in Circular 74-4, with respect to the cost of office space. The revision provides that "rental" rates for publicly owned buildings may be based on actual costs, including depreciation, interest, operation and maintenance costs, and other allowable costs. This revision was under consideration for some time. It was studied extensively by OMB, the General Accounting Office and others, and considerable analysis went into its formulation. Suggestions for extending it to nonprofit organizations would have to be examined with equal care. This has not yet been done, and we were reluctant to further delay issuance of this Circular.

**Comment.** Several respondents questioned why public information costs were not allowable as an indirect cost.

**Response.** Public information costs are often direct services to an organization's other programs. They are allowable, however, as a direct charge when they are within the scope of work of a particular agreement.

**Comment.** One respondent suggested that smaller grantees be excluded from complying with the Circular.

**Response.** Similar rules for the 50 selected items of cost would be needed regardless of the size of the grantee. To the extent possible, the Circular provides simplified methods for smaller grantees.

**Comment.** One respondent said the requirements of the Cost Accounting Standards Board should be applied to cover contracts with nonprofit organizations.

**Response.** It is unlikely that the type of grantees covered by this Circular would have contracts large enough to be covered by the CASB. In the event that they do, however, the regulations of the CASB would apply.

**Comment.** One respondent said the allocation of indirect cost to donated services would pose a tremendous difficulty to the organization. The organization relies on a corps of approximately 8,000 committee members to carry out obligations in response to Government requests. There is no

employer relationship in the arrangements for this assistance, nor are there committee members normally reimbursed for such services. Further, it was pointed out the committee members spend many thousands of hours outside the organization's premises conducting research.

**Response.** It would appear that this type of committee arrangement would not be considered in the determination of the organization's indirect cost rate provided that Federal agreements do not bear an unreasonable share of indirect cost. However, the cognizant agency will be responsible for evaluating the allocation of indirect cost where there are committee-type arrangements on a case-by-case basis.

**Comment.** One respondent suggested that wherever possible the language in the *Federal Procurement Regulations* be used for nonprofit organizations.

**Response.** The language in the *Federal Procurement Regulations* was designated primarily for commercial firms, and is not necessarily well suited to nonprofit organizations. At the suggestion of the General Accounting Office, the nonprofit cost principles were written to conform as closely as possible to those of educational institutions (Circular A-21), and State and local governments (Circular 74-4).  
John J. Lordan,  
Chief, Financial Management Branch.

(Circular No. A-122)

June 27, 1980

To The Heads of Executive Departments and Establishments  
Subject: Cost principles for nonprofit organizations.

1. **Purpose.** This Circular establishes principles for determining costs of grants, contracts and other agreements with nonprofit organizations. It does not apply to colleges and universities which are covered by Circular A-21; State, local, and federally recognized Indian tribal governments which are covered by Circular 74-4; or hospitals. The principles are designed to provide that the Federal Government bear its fair share of costs except where restricted or prohibited by law. The principles do not attempt to prescribe the extent of cost sharing or matching on grants, contracts, or other agreements. However, such cost sharing or matching shall not be accomplished through arbitrary limitations on individual cost elements by Federal agencies. Provision for profit or other increment above cost is outside the scope of this Circular.

2. **Supersession.** This Circular supersedes cost principles issued by

individual agencies for nonprofit organization.

3. **Applicability.** a. These principles shall be used by all Federal agencies in determining the costs of work performed by nonprofit organizations under grants, cooperative agreements, cost reimbursement contracts, and other contracts in which costs are used in pricing, administration, or settlement. All of these instruments are hereafter referred to as awards. The principles do not apply to awards under which an organization is not required to account to the Government for actual costs incurred.

b. All cost reimbursement subawards (subgrants, subcontracts, etc.) are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a nonprofit organization, this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial concerns shall apply; if a subaward is to a college or university, Circular A-21 shall apply; if a subaward is to a State, local, or federally recognized Indian tribal government, Circular 74-4 shall apply.

4. **Definitions.** a. "Nonprofit organization" means any corporation, trust, association, cooperative, or other organization which (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses its net proceeds to maintain, improve, and/or expand its operations. For this purpose, the term "nonprofit organization" excludes (i) colleges and universities; (ii) hospitals; (iii) State, local, and federally recognized Indian tribal governments; and (iv) those nonprofit organizations which are excluded from coverage of this Circular in accordance with paragraph 5 below.

b. "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. 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.

5. **Exclusion of some nonprofit organizations.** Some nonprofit organizations, because of their size and nature of operations, can be considered to be similar to commercial concerns for purposes of applicability of cost principles. Such nonprofit organizations shall operate under Federal cost principles applicable to commercial concerns. A listing of these

organizations is contained in Attachment C. Other organizations may be added from time to time.

**6. Responsibilities.** Agencies responsible for administering programs that involve awards to nonprofit organizations shall implement the provisions of this Circular. Upon request, implementing instruction shall be furnished to the Office of Management and Budget. Agencies shall designate a liaison official to serve as the agency representative on matters relating to the implementation of this Circular. The name and title of such representative shall be furnished to the Office of Management and Budget within 30 days of the date of this Circular.

**7. Attachments.** The principles and related policy guides are set forth in the following Attachments:

Attachment A—General Principles  
Attachment B—Selected Items of Cost  
Attachment C—Nonprofit

Organizations Not Subject to This Circular

**8. Requests for exceptions.** The Office of Management and Budget may grant exceptions to the requirements of this Circular when permissible under existing law. However, in the interest of achieving maximum uniformity, exceptions will be permitted only in highly unusual circumstances.

**9. Effective Date.** The provisions of this Circular are effective immediately. Implementation shall be phased in by incorporating the provisions into new awards made after the start of the organization's next fiscal year. For existing awards the new principles may be applied if an organization and the cognizant Federal agency agree. Earlier implementation, or a delay in implementation of individual provisions is also permitted by mutual agreement between an organization and the cognizant Federal agency.

**10. Inquiries.** Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-4773.

James T. McIntyre, Jr.,

Director.

[Circular No. A-122]

#### Attachment A

##### General Principles

##### Table of Contents

##### A. Basic Considerations

1. Composition of total costs
2. Factors affecting allowability of costs
3. Reasonable costs
4. Allocable costs

5. Applicable credits
6. Advance understandings

##### B. Direct Costs

##### C. Indirect Costs

##### D. Allocation of Indirect Costs and Determination of Indirect Cost Rates

1. General
2. Simplified allocation method
3. Multiple allocation base method
4. Direct allocation method
5. Special indirect cost rates

##### E. Negotiation and Approval of Indirect Cost Rates

1. Definitions
2. Negotiations and approval of rates

[Circular No. A-122]

#### Attachment A

##### General Principles

##### A. Basic Considerations.

**1. 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.

**2. Factors affecting allowability of costs.** To be allowable under an award, costs must meet the following general criteria:

a. Be reasonable for the performance of the award and be allocable thereto under these principles.

b. Conform to any limitations or exclusions set forth in these principles or in the award as to types or amount of cost items.

c. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the organization.

d. Be accorded consistent treatment.

e. Be determined in accordance with generally accepted accounting principles.

f. Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or a prior period.

g. Be adequately documented.

**3. Reasonable costs.** A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by Federal agencies. In determining the reasonableness of a given cost, consideration shall be given to:

a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.

b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and terms and conditions of the award.

c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and

clients, the public at large, and the Government.

d. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

##### 4. Allocable costs.

a. A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Government award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(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.

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

b. Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

##### 5. Applicable credits.

a. The term applicable credits refers to those receipts, or reduction of expenditures which operate to offset or reduce expenses items that are allocable to awards as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing or received by the organization relate to allowable cost they shall be credited to the Government either as a cost reduction or cash refund as appropriate.

b. In some instances, the amounts received from the Federal Government to finance organizational activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the organization in determining the rates or amounts to be charged to Federal awards for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds.

a(c) For rules covering program income (i.e., gross income earned from federally supported activities) see Attachment D of OMB Circular A-110.

**6. Advance and understandings.** Under any given award the reasonableness and allocability of certain items of costs may be difficult to determine. This particularly true in connection with organizations that receive a preponderance of their support from Federal agencies. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, it is often desirable to seek a written agreement with the cognizant or awarding agency in advance of the incurrence of special or unusual costs. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element.

**B. Direct Costs**

1. Direct costs are those that can be identified specifically with a particular final cost objective: i.e., a particular award, project, service, or other direct activity of an organization. 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 circumstance, has been allocated to an award as an indirect cost. Cost identified specifically with awards are direct cost of the awards and are to be assigned directly thereto. Cost identified specifically with other final cost objectives of the organization are direct costs of those cost objectives and are not to be assigned to other awards directly or indirectly.

2. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where the account treatment for such cost is consistently applied to all final cost objectives.

3. The cost of certain activities are not allowable as charges to Federal awards (see, for example, fund raising costs in paragraph 21 of Attachment B). However, even though these costs are unallowable for purposes of computing charges to Federal awards, they nonetheless must be treated as direct cost for purposes of determining indirect cost rates and be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs.

4. The costs of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs when or not allowable and be allocated an equitable share of indirect costs. Some examples of these types of activities include:

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

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

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

d. Meetings and conferences except those held to conduct the general administration of the organization.

3. Maintenance, protection, and investment of special funds not used in operation of the organization.

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

**C. Indirect Cost**

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct cost of minor amounts may be treated as indirect costs under the conditions described in paragraph B.2. above. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. 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.

2. Because of the diverse characteristics and accounting practices of nonprofit organizations, it is not possible to specify the types of cost which may be classified as indirect cost in all situations. However, typical examples of indirect cost for many nonprofit organizations may include depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

**D. Allocation of Indirect Cost and Determination of Indirect Cost Rates.****1. General.**

a. Where a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures as described in paragraph 2 below.

b. Where an organization has several major functions which benefit 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).

c. The determination of what constitutes an organization's major functions will depend on its purpose in being; the types of services it renders to the public, its clients, and its members; and the amount of effort it devotes to such activities as fund raising, public information and membership activities.

d. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in paragraphs 2 through 5 below.

e. The base period for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation work performed in that period. The base period normally should coincide with the organization's fiscal year, but in any event, shall be so selected as to avoid inequities in the allocation of the costs.

**2. Simplified allocation method.**

a. Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (i) separating the organization's total costs for the base period as either direct or indirect, and (ii) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used

where an organization has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to an organization is relatively small.

b. Both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs. However, unallowable costs which represent activities must be included in the direct costs under the conditions described in paragraph B.3. above.

c. The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such as major subcontracts or subgrants), direct salaries and wages, or other base which results in an equitable distribution. The distribution base shall generally exclude participant support costs as defined in paragraph 29 of Attachment B.

d. Except where a special rate(s) is required in accordance with paragraph D.5 below, the indirect cost rate developed under the above principles is applicable to all awards at the organization. If a special rate(s) is required, appropriate modifications shall be made in order to develop the special rate(s).

**3. Multiple allocation base method.**

a. Where an organization's indirect costs benefit its major functions in varying degrees, such costs shall be accumulated into separate cost groupings. Each grouping shall then be allocated individually to benefiting functions by means of a base which best measures the relative benefits.

b. The groupings shall be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, taking into consideration the materiality of the amounts involved and the degree of precision desired.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefiting functions. When an allocation can be made by assignment of a cost grouping directly to the function benefited, the allocation shall be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Government and the organization. In general, any cost element or cost related factor associated with the organization's work is potentially adaptable for use as an allocation base provided (i) it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, and the like) and (ii) it is common to the benefiting functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with paragraph D.5. below, the separate groupings of indirect costs allocated to each major

function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall then be distributed to individual awards included in that function by use of a single indirect cost rate.

e. The distribution base used in computing the indirect cost rate for each function may be total direct costs (excluding capital expenditures and other distorting items such as major subcontracts and subgrants), direct salaries and wages, or other base which results in an equitable distribution. The distribution base shall generally exclude participant support costs as defined in paragraph 29, Attachment B. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the distribution base identified with that pool.

#### 4. Direct allocation method.

a. Some nonprofit organizations, treat all costs as direct costs except general administration and general expenses. These organizations generally separate their costs into three basic categories: (i) General administration and general expenses, (ii) fund-raising, and (iii) other direct functions (including projects performed under Federal awards). Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and the like are prorated individually as direct cost to each category and to each award, or other activity using a base most appropriate to the particular cost being prorated.

b. This method is acceptable provided each joint cost is prorated using a base which accurately measures the benefits provided to each award or other activity. The bases must be established in accordance with reasonable criteria, and be supported by current data. This method is compatible with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations issued jointly by the National Health Council, Inc., the National Assembly of Voluntary Health and Social Welfare Organizations, and the United Way of America.

c. Under this method, indirect costs consist exclusively of general administration and general expenses. In all other respects, the organization's indirect cost rates shall be computed in the same manner as that described in paragraph D.2 above.

5. *Special indirect cost rates.* In some instances, a single indirect cost rate for all activities of an organization or for each major function of the organization may not be appropriate, since it would not take into account those different factors which may substantially affect the indirect costs applicable to a particular segment of work. For this purpose, a particular segment of work may be that performed under a single award or it may consist of work under a group of awards performed in a common environment. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or order resources employed, the scientific disciplines or technical skills involved, the organizational arrangements

used, or any combination thereof. When a particular segment of work is performed in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used provided it is determined that (i) the rate differs significantly from that which would have been obtained under paragraph D.2, 3, and 4 above, and (ii) the volume of work to which the rate would apply is material.

#### E. Negotiation and Approval of Indirect Cost Rates.

1. *Definitions.* As used in this section, the following terms have the meanings set forth below:

a. "Cognizant agency" means the Federal agency responsible for negotiating and approving indirect cost rates for a nonprofit organization on behalf of all Federal agencies.

b. "Predetermined rate" means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.

c. "Fixed rate" means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

d. "Final rate" means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment.

e. "Provisional rate" or billing rate means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on awards pending the establishment of a rate for the period.

f. "Indirect cost proposal" means the documentation prepared by an organization to substantiate its claim for the reimbursement of indirect costs. This proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate.

g. "Cost objective" means a function, organizational subdivision, contract, grant, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, projects, jobs and capitalized projects.

#### 2. Negotiation and approval of rates.

a. Unless different arrangements are agreed to by the agencies concerned, the Federal agency with the largest dollar value of awards with an organization will be designated as the cognizant agency for the negotiation and approval of indirect cost rates and, where necessary, other rates such as fringe benefit and computer charge-out rates. Once an agency is assigned cognizance for a particular nonprofit 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, but after a rate has been agreed upon it will be accepted by all Federal agencies. When a Federal agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates in accordance with paragraph D.5 above, it will, prior to the time the rates are negotiated, notify the cognizant agency.

b. A nonprofit organization which has not previously established an indirect cost rate with a Federal agency shall after the organization is advised that an award will be made and, in no event, later than three months after the effective date of the award.

c. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each fiscal year.

d. A predetermined rate may be negotiated for use on awards where there is reasonable assurance, based on past experience and reliable projection of the organization's costs, that the rate is not likely to exceed a rate based on the organization's actual costs.

e. Fixed rates may be negotiated where predetermined rates are not considered appropriate. A fixed rate, however, shall not be negotiated if (i) all or a substantial portion of the organization's awards are expected to expire before the carry-forward adjustment can be made; (ii) the mix of Government and non-government work at the organization is too erratic to permit an equitable carry-forward adjustment; or (iii) the organization's operations fluctuate significantly from year to year.

f. Provisional and final rates shall be negotiated where neither predetermined nor fixed rates are appropriate.

g. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the nonprofit organization. The cognizant agency shall distribute copies of the agreement to all concerned Federal agencies.

h. If a dispute arises in a negotiation of an indirect cost rate between the cognizant agency and the nonprofit organization, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

i. To the extent that problems are encountered among the Federal agencies in connection with the negotiation and approval process, the Office of Management and Budget will lead assistance as required to resolve such problems in a timely manner.

[Circular No. A-122]

#### Attachment B

##### Selected Items of Cost

##### Table of Contents

1. Advertising costs
2. Bad debts
3. Bid and proposal costs (reserved)
4. Bonding costs
5. Communication costs
6. Compensation for personal services
7. Contingency provisions

6. Contributions
9. Depreciation and use allowances
10. Donations
11. Employee morale, health and welfare costs and credits
12. Entertainment costs
13. Equipment and other capital expenditures
14. Fines and penalties
15. Fringe benefits
16. Idle facilities and idle capacity
17. Independent research and development (reserved)
18. Insurance and indemnification
19. Interest, fund raising, and investment management costs
20. Labor relations costs
21. Losses on other awards
22. Maintenance and repair costs
23. Materials and supplies
24. Meetings, conferences
25. Memberships, subscriptions, and professional activity costs
26. Organization costs
27. Overtime, extra-pay shift, and multishift premiums
28. Page charges in professional journals
29. Participant support costs
30. Patent costs
31. Pension plans
32. Plant security costs
33. Preaward costs
34. Professional service costs
35. Profits and losses on disposition of depreciable property or other capital assets
36. Public information service costs
37. Publication and printing costs
38. Reamalgamation and alteration costs
39. Reconversion costs
40. Recruiting costs
41. Relocation costs
42. Rental costs
43. Royalties and other costs for use of patents and copyrights
44. Severance pay
45. Specialized service facilities
46. Taxes
47. Termination costs
48. Training and education costs
49. Transportation costs
50. Travel costs

(Circular No. A-122)

#### Attachment B

#### Selected Items of Cost

Paragraphs 1 through 50 provide principles to be applied in establishing the allowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. Failure to mention a particular item of cost is not intended to imply that it is unallowable; rather determination as to allowability in each case should be based on the treatment or principles provided for similar or related items of cost.

##### 1. Advertising costs.

a. Advertising costs mean the costs of media services and associated costs. Media advertising includes magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The only advertising costs allowable are those which are solely for (i) the recruitment of personnel when considered in conjunction with all other recruitment costs, as set forth

in paragraph 40; (ii) the procurement of goods and services; (iii) the disposal of surplus materials acquired in the performance of the award except when organizations are reimbursed for disposals at a predetermined amount in accordance with Attachment N of OMB Circular A-110; or (iv) specific requirements of the award.

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

##### 3. *Bid and proposal costs.* (reserved)

##### 4. *Bonding costs.*

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

b. Costs of bonding required pursuant to the terms of the award are allowable.

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

5. *Communication costs.* Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

##### 6. *Compensation for personal services.*

a. *Definition.* Compensation for personal services includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the award (except as otherwise provided in paragraph g. below). It includes, but is not limited to, salaries, wages, director's and executive committee member's fees, incentive awards, fringe benefits, pension plan costs, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differentials.

b. *Allowability.* Except as otherwise specifically provided in this paragraph the costs of such compensation are allowable to the extent that:

(1) Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both Government and non-Government activities; and

(2) Charges to awards whether treated as direct or indirect costs are determined and supported as required in this paragraph.

##### c. *Reasonableness.*

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

(2) When the organization is predominantly engaged in Government-sponsored activities and in cases where the kind of employees required for the Government activities are not found in the organization's other

activities, compensation for employees on Government-sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.

d. *Special considerations in determining allowability.* Certain conditions require special consideration and possible limitations in determining costs under Federal awards where amounts or types of compensation appear unreasonable. Among such conditions are the following:

(1) Compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

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

e. *Unallowable costs.* Costs which are unallowable under other paragraphs of this Attachment shall not be allowable under this paragraph solely on the basis that they constitute personal compensation.

##### f. *Fringe benefits.*

(1) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each.

(2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, pension plan costs (see paragraph g. below), and the like, are allowable provided such benefits are granted in accordance with established written organization policies. Such benefits whether treated as indirect costs or as direct costs, shall be distributed to particular awards and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to such awards and other activities.

(3)(a) Provisions for a reserve under a self-insurance program for unemployment compensation or workmen's compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made shall not exceed the present value of the liability.

(b) Where an organization follows a consistent policy of expensing actual payments to, or on behalf of, employees or

former employees for unemployment compensation or workmen's compensation, such payments are allowable in the year of payment with the prior approval of the awarding agency provided they are allocated to all activities of the organization.

(4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the organization is named as beneficiary are unallowable.

**g. Pension plan costs.**

(1) Costs of the organization's pension plan which are incurred in accordance with the established policies of the organization are allowable, provided:

(a) Such policies meet the test of reasonableness;

(b) The methods of cost allocation are not discriminatory;

(c) The cost assigned to each fiscal year is determined in accordance with generally accepted accounting principles as prescribed in Accounting Principles Board Opinion No. 8 issued by the American Institute of Certified Public Accountants; and

(d) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

(2) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) are allowable. Late payment charges on such premiums are unallowable.

(3) Excise taxes on accumulated funding deficiencies and other penalties imposed under the Employee Retirement Income Security Act are unallowable.

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

**i. Overtime, extra pay shift, and multishift premiums.** See paragraph 27.

**j. Severance pay.** See paragraph 44.

**k. Training and education costs.** See paragraph 48.

**l. Support of salaries and wages.**

(1) Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to awards must be supported by personnel activity reports as prescribed in subparagraph (2) below, except when a substitute system has been approved in writing by the cognizant agency. (See paragraph E.2 of Attachment A)

(2) Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s) (e.g., an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by nonprofit organizations to satisfy these requirements must meet the following standards:

(a) The reports must reflect an *after-the-fact* determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards.

(b) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.

(c) The reports must be signed by the individual employee, or by a responsible supervisory official having first hand knowledge of the activities performed by the employee, that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports.

(d) The reports must be prepared at least monthly and must coincide with one or more pay periods.

(3) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in subparagraphs (1) and (2) above, must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (29 CFR Part 516). For this purpose, the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under the Fair Labor Standards Act.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on awards must be supported in the same manner as salaries and wages claimed for reimbursement from awarding agencies.

**7. Contingency provisions.** Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see paragraph 6.f.(3) and 18.a.(2)(d)); pension funds (see paragraph 6.(g)); and reserves for normal severance pay (see paragraph 44.(b)(1)).

**8. Contributions.** Contributions and donations by the organization to others are unallowable.

**9. Depreciation and use allowances.**

a. Compensation for the use of buildings, other capital improvements, and equipment

on hand may be made through use allowances or depreciation. However, except as provided in paragraph f. below a combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.).

b. The computation of use allowances or depreciation shall be based on the acquisition cost of the assets involved. The acquisition cost of an asset donated to the organization by a third party shall be its fair market value at the time of the donation.

c. The computation of use allowances or depreciation will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the organization in satisfaction of a statutory matching retirement.

d. Where the use allowance method is followed, the use allowance for buildings and improvement (including land improvements such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air conditioning, etc.) cannot be segregated from the building's shell. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the need for costly or extensive alterations or repairs to the building or the equipment. Equipment that meets these criteria will be subject to the six and two-thirds percent equipment use allowance limitation.

e. Where depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular program area, and the renewal and replacement policies followed for the individual items or classes of assets involved. The method of depreciation used to assign the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in the later portions, the straight-line method shall be presumed to be the appropriate method. Depreciation

methods once used shall not be changed unless approved in advance by the cognizant Federal agency. When the depreciation method is introduced for application to assets previously subject to a use allowance, the combination of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets. When the depreciation method is used for buildings, a building's shell may be segregated from each building component (e.g., plumbing system, heating, and air conditioning system, etc.) and each item depreciated over its estimated useful life; or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.

f. When the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that, under paragraph e. above, would be viewed as fully depreciated. However, a reasonable use allowance may be negotiated for such assets if warranted after taking into consideration the amount of depreciation previously charged to the Government, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

g. Charges for use allowances or depreciation must be supported by adequate property records and physical inventories must be taken at least once every two years (a statistical sampling basis is acceptable) to ensure that assets exist and are usable and needed. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be maintained.

#### 10. Donations

##### a. Services received.

(1) Donated or volunteer services may be furnished to an organization by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost.

(2) The value of donated services utilized in the performance of a direct cost activity shall be considered in the determination of the organization's indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(a) The aggregate value of the services is material;

(b) The services are supported by a significant amount of the indirect costs incurred by the organization;

(c) The direct cost activity is not pursued primarily for the benefit of the Federal Government.

(3) In those instances where there is no basis for determining the fair market value of the services rendered, the recipient and the cognizant agency shall negotiate an appropriate allocation of indirect cost to the services.

(4) Where donated services directly benefit a project supported by an award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be

reimbursed under the award or used to meet cost sharing or matching requirements.

(5) The value of the donated services may be used to meet cost sharing or matching requirements under conditions described in Attachment E, OMB Circular No. A-110.

Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

(6) Fair market value of donated services shall be computed as follows:

(a) *Rates for volunteer services.* Rates for volunteers shall be consistent with those regular rates paid for similar work in other activities of the organization. In cases where the kinds of skills involved are not found in the other activities of the organization, the rates used shall be consistent with those paid for similar work in the labor market in which the organization competes for such skills.

(b) *Services donated by other organizations.* When an employer donates the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and indirect costs) provided the services are in the same skill for which the employee is normally paid. If the services are not in the same skill for which the employee is normally paid, fair market value shall be computed in accordance with subparagraph (a) above.

##### b. Goods and space.

(1) Donated goods; i.e., expendable personal property/supplies, and donated use of space may be furnished to an organization. The value of the goods and space is not reimbursable either as a direct or indirect cost.

(2) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in Attachment E, OMB Circular No. A-110. The value of the donations shall be determined in accordance with Attachment E. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

11. *Employee morale, health, and welfare, costs and credits.* The costs of house publications, health or first-aid clinics, and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the organization's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance are allowable. Such costs will be equitably apportioned to all activities of the organization. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.* Costs of amusement, diversion, social activities, ceremonies, and costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable (but see paragraphs 11 and 25).

##### 13. Equipment and other capital expenditures.

a. As used in this paragraph, the following terms have the meanings set forth below:

(1) "Equipment" means an article of nonexpendable tangible personal property having a useful life of more than two years and an acquisition cost of \$500 or more per unit. An organization may use its own definition provided that it at least includes all nonexpendable tangible personal property as defined herein.

(2) "Acquisition cost" means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.

(3) "Special purpose equipment" means equipment which is usable only for research, medical, scientific, or technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

(4) "General purpose equipment" means equipment which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make them suitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

b. (1) Capital expenditures for general purpose equipment are unallowable as a direct cost except with the prior approval of the awarding agency.

(2) Capital expenditures for special purpose equipment are allowable as direct costs provided that items with a unit cost of \$1000 or more have the prior approval of the awarding agency.

c. Capital expenditures for land or buildings are unallowable as a direct cost except with the prior approval of the awarding agency.

d. Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior approval of the awarding agency.

e. Equipment and other capital expenditures are unallowable as indirect costs. However, see paragraph 9 for allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see paragraph 42 for allowability of rental costs for land, buildings, and equipment.

14. *Fines and penalties.* Costs of fines and penalties resulting from violations of, or failure of the organization to comply with Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency.

15. *Fringe benefits.* See paragraph 6. i.

16. *Idle facilities and idle capacity.*

a. As used in this paragraph the following terms have the meanings set forth below:

(1) "Facilities" means land and buildings or any portion thereof, equipment individually

26x

or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the organization.

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

(3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 per cent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

(4) "Costs of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs; e.g., property taxes, insurance, and depreciation or use allowances.

b. The costs of idle facilities are unallowable except to the extent that:

(1) They are unnecessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subparagraph, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see paragraphs 47.b. and d.).

c. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be idle facilities.

17. *Independent research and development* [Reserved].

18. *Insurance and indemnification.*

a. Insurance includes insurance which the organization is required to carry, or which is approved, under the terms of the award and any other insurance which the organization maintains in connection with the general conduct of its operations. This paragraph does not apply to insurance which represents fringe benefits for employees (see paragraph 6.f. and 6.g.(2)).

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

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

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

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees.

(c) Costs of insurance or of any provisions for a reserve covering the risk of loss or damage to Government property are allowable only to the extent that the organization is liable for such loss or damage.

(d) Provisions for a reserve under a self-insurance program are allowable to the extent that types of coverage, extent of coverage, rates, and premiums would have been allowed had insurance been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made shall not exceed the present value of the liability.

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see paragraph 6). The cost of such insurance when the organization is identified as the beneficiary is unallowable.

(3) Actual losses which could have been covered by permissible insurance (through the purchase of insurance or a self-insurance program) are unallowable unless expressly provided for in the award, except:

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

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

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

19. *Interest, fund raising, and investment management costs.*

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

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

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

d. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in paragraph B of Attachment A.

20. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the organization and its employees, including costs of labor management committees, employee publications, and other related activities are allowable.

21. *Losses on other awards.* Any excess of costs over income on any award is unallowable as a cost of any other award. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or any underrecoveries through negotiation of lump sums for, or ceilings on, indirect costs.

22. *Maintenance and repair costs.* Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life shall be treated as capital expenditures (see paragraph 13).

23. *Materials and supplies.* The costs of materials and supplies necessary to carry out an award are allowable. Such costs should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the organization. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges may be a proper part of material cost. Materials and supplies charged as a direct cost should include only the materials and supplies actually used for the performance of the contract or grant, and due credit should be given for any excess materials or supplies retained, or returned to vendors.

24. *Meetings, conferences.*

a. Costs associated with the conduct of meetings, and conferences, and include the cost of renting facilities, meals, speakers' fees, and the like. But see paragraph 12, *Entertainment costs*, and paragraph 29, *Participant support costs*.

b. To the extent that these costs are identifiable with a particular cost objective, they should be charged to that objective. (See paragraph B. of Attachment A.) These costs are allowable provided that they meet the general tests of allowable, shown in Attachment A to this Circular.

c. Costs of meetings and conferences held to conduct the general administration of the organization are allowable.

25. *Memberships, subscriptions, and professional activity costs.*

a. Costs of the organization's membership in civic, business, technical and professional organizations are allowable.

b. Costs of the organization's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of attendance at meetings and conferences, sponsored by others when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, and other items incidental to such attendance.

26. *Organization costs.* Expenditures, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection

with establishment or reorganization of an organization, are unallowable except with prior approval of the awarding agency.

**27. Overtime, extra-pay shift, and multishift premiums.** Premiums for overtime, extra-pay shifts, and multishift work are allowable only with the prior approval of the awarding agency except:

a. When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of equipment, or occasional operational bottlenecks of a sporadic nature.

b. When employees are performing indirect functions such as administration, maintenance, or accounting.

c. In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed.

d. When lower overall cost to the Government will result.

**28. Page charges in professional journals.**

Page charges for professional journal publications are allowable as a necessary part of research costs, where:

a. The research papers report work supported by the Government; and

b. The charges are levied impartially on all research papers published by the journal, whether or not by Government-sponsored authors.

**29. Participant support costs.** Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects. These costs are allowable with the prior approval of the awarding agency.

**30. Patent costs.**

a. Costs of (i) preparing disclosures, reports, and other documents required by the award and of searching the art to the extent necessary to make such disclosures, (ii) preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the Government to be conveyed to the Government, and (iii) general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements are allowable (but see paragraph 34).

b. Cost of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures, if not required by the award, are unallowable. Costs in connection with (i) filing and prosecuting any foreign patent application, or (ii) any United States patent application, where the award does not require conveying title or a royalty-free license to the Government, are unallowable (also see paragraph 43).

**31. Pension plans.** See paragraph 6, g.

**32. Plant security costs.** Necessary expenses incurred to comply with Government security requirements or for facilities protection, including wages, uniforms, and equipment of personnel are allowable.

**33. Preaward costs.** Preaward costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

**34. Professional service costs.**

a. Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the organization, are allowable, subject to b, c, and d, of this paragraph when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government.

b. In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the organization's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to Government awards.

(4) The impact of Government awards on the organization's business (i.e., what new problems have arisen).

(5) Whether the proportion of Government work to the organization's total business is such as to influence the organization in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants and contracts.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Government awards.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

c. In addition to the factors in paragraph b above, retainer fees to the allowable must be supported by evidence of bona fide services available or rendered.

d. Cost of legal, accounting, and consulting services, and related costs incurred in connection with defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, organization and reorganization, are unallowable unless otherwise provided for in the award (but see paragraph 47e).

**35. Profits and losses on disposition of depreciable property or other capital assets.**

a. (1) Gains and losses on sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to cost grouping(s)

in which the depreciation applicable to such property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions.

(a) The gain or loss is processed through a depreciation reserve account and is reflected in the depreciation allowable under paragraph 9.

(b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in paragraph 18.a.(3).

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation in accordance with paragraph 9.

(e) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions shall be considered on a case-by-case basis.

b. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph a. above shall be excluded in computing award costs.

**36. Public information service costs.**

a. Public information service costs include the cost associated with pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(1) Inform or instruct individuals, groups, or the general public.

(2) Interest individuals or groups in participating in a service program of the organization.

(3) Disseminate the results of sponsored and nonsponsored activities.

b. Public information service costs are allowable as direct costs with the prior approval of the awarding agency. Such costs are unallowable as indirect costs.

**37. Publication and printing costs.**

a. Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling.

b. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the organization.

c. Publication and printing costs are unallowable as direct costs except with the prior approval of the awarding agency.

d. The cost of page charges in journals is addressed paragraph 28.

**38. Rearrangement and alteration costs.**

Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of the awarding agency.

**39. Reconversion costs.** Costs incurred in the restoration or rehabilitation of the

organization's facilities to approximately the same condition existing immediately prior to commencement of Government awards, fair wear and tear excepted, are allowable.

40. *Recruiting costs.* The following recruiting costs are allowable: cost of "help wanted" advertising, operating costs of an employment office, costs of operating an educational testing program, travel expenses including food and lodging of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees (see paragraph 41c). Where the organization uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

41. *Relocation costs.*

a. Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitation described in paragraphs b, c, and d, below, provided that:

(1) The move is for the benefit of the employer.  
 (2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.  
 (3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

b. Allowable relocation costs for current employees are limited to the following:

(1) The costs of transportation of the employee, members of his immediate family and his household, and personal effects to the new location.

(2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to a maximum period of 30 days, including advance trip time.

(3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in (4) below, are limited to 8 per cent of the sales price of the employee's former home.

(4) The continuing costs of ownership of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing up expenses), utilities, taxes, and property insurance.

(5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of cancelling an unexpired lease, disconnecting and reinstalling household appliances, and purchasing insurance against loss of or damages to personal property. The cost of cancelling an unexpired lease is limited to three times the monthly rental.

c. Allowable relocation costs for new employees are limited to those described in (1) and (2) of paragraph b. above. When relocation costs incurred incident to the recruitment of new employees have been allowed either as a direct or indirect cost and the employee resigns for reasons within his

control within 12 months after hire, the organization shall refund or credit the Government for its share of the cost. However, the costs of travel to an overseas location shall be considered travel costs in accordance with paragraph 50 and not relocation costs for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods.

d. The following costs related to relocation are unallowable:

(1) Fees and other costs associated with acquiring a new home.

(2) A loss on the sale of a former home.

(3) Continuing mortgage principal and interest payments on a home being sold.

(4) Income taxes paid by an employee related to reimbursed relocation costs.

42. *Rental costs.*

a. Subject to the limitations described in paragraphs b. through d. of this paragraph, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.

b. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the organization continued to own the property.

c. Rental costs under less-than-length leases are allowable only up to the amount that would be allowed had title to the property vested in the organization. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between (i) divisions of an organization; (ii) organizations under common control through common officers, directors, or members; and (iii) an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

d. Rental costs under leases which create a material equity in the leased property are allowable only up to the amount that would be allowed had the organization purchased the property on the date the lease agreement was executed; e.g., depreciation or use allowances, maintenance, taxes, insurance but excluding interest expense and other unallowable costs. For this purpose, a material equity in the property exists if the lease is noncancelable or is cancelable only upon the occurrence of some remote contingency and has one or more of the following characteristics:

(1) The organization has the right to purchase the property for a price which at the beginning of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option);

(2) Title to the property passes to the organization at some time during or after the lease period;

(3) The term of the lease (initial term plus periods covered by bargain renewal options,

if any) is equal to 75 per cent or more of the economic life of the leased property; i.e., the period the property is expected to be economically usable by one or more users.

43. *Royalties and other costs for use of patents and copyrights.*

a. Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the award are allowable unless:

(1) The Government has a license or the right to free use of the patent or copyright.

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

(3) The patent or copyright is considered to be unenforceable.

(4) The patent or copyright is expired.

b. Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's length bargaining; e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the organization.

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government award would be made.

(3) Royalties paid under an agreement entered into after an award is made to an organization.

c. In any case involving a patent or copyright formerly owned by the organization, the amount of royalty allowed should not exceed the cost which would have been allowed had the organization retained title thereto.

44. *Severance pay.*

a. Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by organizations to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (i) law, (ii) employer-employee agreement, (iii) established policy that constitutes, in effect, an implied agreement on the organization's part, or (iv) circumstances of the particular employment.

b. Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all activities; or, where the organization provides for a reserve for normal severances such method will be acceptable if the charge to current operations is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the organization.

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

45. *Specialized service facilities.*

a. The costs of services provided by highly complex or specialized facilities operated by the organization, such as electronic

computers and wind tunnels, are allowable provided the charges for the services meet the conditions of either b. or c. of this paragraph and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under paragraph A.5. of Attachment A.

b. The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that (i) does not discriminate against federally supported activities of the organization, including usage by the organization for internal purposes, and (ii) is designed to recover only the aggregate costs of the services. The costs of each service shall consist normally of both its direct costs and its allocable share of all indirect costs. Advance agreements pursuant to paragraph A.6. of Attachment A are particularly important in this situation.

c. Where the costs incurred for a service are not material, they may be allocated as indirect costs.

#### 46. Taxes.

a. In general, taxes which the organization is required to pay, and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (i) taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Government and in the latter case when the awarding agency makes available the necessary exemption certificates, (ii) special assessments on land which represent capital improvements, and (iii) Federal income taxes.

b. Any refund of taxes, and any payment to the organization of interest thereon, which were allowed as award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the Government.

47. *Termination costs.* Termination of awards generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the award not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the other provisions of this Circular in termination situations.

a. *Common items.* The cost of items reasonably usable on the organization's other work shall not be allowable unless the organization submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the organization, the awarding agency should consider the organization's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the organization shall be regarded as evidence that such items are reasonably usable on the organization's other work. Any acceptance of common items as allocable to the terminated portion of the award shall be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

b. *Costs continuing after termination.* If in a particular case, despite all reasonable efforts by the organization, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Circular, except that any such costs continuing after termination due to the negligent or willful failure of the organization to discontinue such costs shall be unallowable.

c. *Loss of useful value.* Loss of useful value of special tooling, machinery and equipment which was not charged to the award as a capital expenditure is generally allowable if:

(1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the organization.

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency;

d. *Rental costs.* Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated award less the residual value of such leases, if (i) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the award and such further period as may be reasonable, and (ii) the organization makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the award, and of reasonable restoration required by the provisions of the lease.

e. *Settlement expenses.* Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the award, unless the termination is for default. (See paragraph 4.a. of Attachment L, OMB Circular No. A-110; and

(b) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced for the award; except when grantees are reimbursed for disposals at a predetermined amount in accordance with Attachment N of OMB Circular A-110.

(3) Indirect costs related to salaries and wages incurred as settlement expenses in subparagraphs (1) and (2) of this paragraph. Normally, such indirect costs shall be limited to fringe benefits, occupancy cost, and immediate supervision.

f. *Claims under subawards.* Claims under subawards, including the allocable portion of claims which are common to the award, and to other work of the organization are generally allowable. An appropriate share of the organization's indirect expense may be allocated to the amount of settlements with subcontractor/subgrantees; provided that the amount allocated is otherwise consistent

with the basic guidelines contained in Attachment A. The indirect expense so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

#### 48. Training and education costs.

a. Costs of preparation and maintenance of a program of instruction including but not limited to on-the-job, classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, salaries or wages of trainees (excluding overtime compensation which might arise therefrom), and (i) salaries of the director of training and staff when the training program is conducted by the organization; or (ii) tuition and fees when the training is in an institution not operated by the organization, are allowable.

b. Costs of part-time education, at an undergraduate or postgraduate college level, including that provided at the organization's own facilities, are allowable only when the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work, and are limited to:

(1) Training materials.

(2) Textbooks.

(3) Fees charges by the educational institution.

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution.

(5) Salaries and related costs of instructors who are employees of the organization.

(6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year and only to the extent that circumstances do not permit the operation of classes or attendance at classes after regular working hours; otherwise such compensation is unallowable.

c. Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time education, including that provided at the organization's own facilities, at a postgraduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which the employee is now working or may reasonably be expected to work, and only where the costs receive the prior approval of the awarding agency. Such costs are limited to the costs attributable to a total period not to exceed one school year for each employee so trained. In unusual cases the period may be extended.

d. Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees' salaries, subsistence, and travel. Costs allowable under this paragraph do not include those for courses that are part of a degree-oriented

curriculum, which are allowable only to the extent set forth in b. and c. above.

e. Maintenance expense, and normal depreciation or fair rental, on facilities owned or leased by the organization for training purposes are allowable to the extent set forth in paragraphs 9, 22, and 42.

f. Contributions or donations to educational or training institutions, including the donation of facilities or other properties, and scholarships or fellowships, are unallowable.

g. Training and education costs in excess of those otherwise allowable under paragraphs b. and c. of this paragraph may be allowed with prior approval of the awarding agency. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.

49. *Transportation costs.* Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly charged as transportation costs or added to the cost of such items (see paragraph 23). Where identification with the materials received cannot readily be made, transportation costs may be charged to the appropriate indirect cost accounts if the organization follows a consistent, equitable procedure in this respect.

50. *Travel costs.*

a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the organization. Travel costs are allowable subject to paragraphs b. through e. below, when they are directly attributable to specific work under an award or are incurred in the normal course of administration of the organization.

b. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used results in charges consistent with those normally allowed by the organization in its regular operations.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (i) require circuitous routing, (ii) require travel during unreasonable hours, (iii) greatly increase the duration of the flight, (iv) result in additional costs which would offset the transportation savings, or (v) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Necessary and reasonable costs of family movements and personnel movements of a special or mass nature are allowable, pursuant to paragraphs 40 and 41, subject to

allocation on the basis of work or time period benefited when appropriate. Advance agreements are particularly important.

e. Direct charges for foreign travel costs are allowable only when the travel has received prior approval of the awarding agency. Each separate foreign trip must be approved. For purposes of this provision, foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions. However, for an organization located in foreign countries, the term "foreign travel" means travel outside that country.

[Circular No. A-122]

Attachment C

Nonprofit Organizations not Subject to this Circular

Aerospace Corporation, El Segundo, California

Argonne Universities Association, Chicago, Illinois

Associated Universities, Incorporated, Washington, D.C.

Associated Universities for Research and Astronomy, Tucson, Arizona

Atomic Casualty Commission, Washington, D.C.

Battelle Memorial Institute, Headquartered in Columbus, Ohio

Brookhaven National Laboratory, Upton, New York

Center for Energy and Environmental Research (CEER), (University of Puerto Rico)

Commonwealth of Puerto Rico, Charles Stark Draper Laboratory, Incorporated

Cambridge, Massachusetts, Comparative Animal Research Laboratory (CARL)

(University of Tennessee), Oakridge, Tennessee

Environmental Institute of Michigan, Ann Arbor, Michigan

Hanford Environmental Health Foundation, Richland, Washington

IIT Research Institute, Chicago, Illinois

Institute for Defense Analysis, Arlington, Virginia

Institute of Gas Technology, Chicago, Illinois

Midwest Research Institute, Headquartered in Kansas City, Missouri

Mitre Corporation, Bedford, Massachusetts

Montana Energy Research and Development Institute, Inc. (MERDI), Butte, Montana

National Radiological Astronomy Observatory, Green Bank, West Virginia

Oakridge Associated Universities, Oakridge, Tennessee

Project Management Corporation, Oakridge, Tennessee

Rand Corporation, Santa Monica, California

Research Triangle Institute, Research Triangle Park, North Carolina

Riverside Research Institute, New York, New York

Sandia Corporation, Albuquerque, New Mexico

Southern Research Institute, Birmingham, Alabama

Southwest Research Institute, San Antonio, Texas

SRI International, Menlo Park, California

Syracuse Research Corporation, Syracuse, New York

Universities Research Association,

Incorporated (National Acceleration Lab), Argonne, Illinois

Universities Corporation for Atmospheric Research, Boulder, Colorado

Nonprofit Insurance Companies such as Blue Cross and Blue Shield Organizations

Other nonprofit organizations as negotiated with awarding agencies.

[FR Doc. 80-30270 Filed 7-7-80; 8:45 am]

BILLING CODE 3110-01-M

# Data Source 3

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**Title** Office of Management and Budget (OMB):  
Memorandum for the Heads of Executive Departments and Agencies  
**Subject:** OMB Guidance for Implementing the Federal Grant & Cooperative Agreement Act

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**Dated** August 15, 1978

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**Published** Federal Register, Vol. 43, No. 161-Friday, August 18, 1978

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**Available from** Mr. Thomas Hadd, Office of Management and Budget, Room 5217, New Executive Office Building, Washington, D.C., 20503, Phone - (202) 395-5152

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## Price

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**Purpose** Final OMB guidance for Federal agency use in implementing the Federal Grant and Cooperative Agreement Act of 1977.

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## Topics of Interest

- o Distinguishes between procurement and assistance relationships and mandates that Federal agencies use contracts for procurement transactions and grants or cooperative agreements for assistance transactions.
- o Requires use of a procurement contract when the principal purpose is acquisition by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government
- o Requires the use of grants or cooperative agreements when the principal purpose is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute.
- o Defines the characterization of Grants and Cooperative Agreements
- o Outlines the administrative requirements for Federal agencies to follow in both grants and cooperative agreements involving the transfer of Federal funds.
- o Outlines specific guidelines for grants, cooperative agreements, transactions involving only nonmonetary transfers, joint funding under grants and cooperative agreements the Federal agencies should follow.

AID 1350-1 (3-87)

\*PIO/T

AGENCY FOR INTERNATIONAL DEVELOPMENT

PROJECT IMPLEMENTATION ORDER/TECHNICAL SERVICES

1. Cooperating Country  
TFHA

2. PIO/T No.  
89-002

3.  Original or Amendment No. \_\_\_\_\_

4. Project/Activity No. and Title  
Human Rights Training Program, ANPDH

594-0000.02

Page 1 of 3 Pages

DISTRIBUTION

5. Appropriation Symbol  
72-1191038

6. Budget Plan Code  
VRRRA-89-29594-HG84

7. Obligation Status  
 Administrative Reservation  Implementing Document

8. Project Assistance Completion Date (Mo., Day, Yr.)  
May 30, 1989

9. Authorized Agent  
M/SER/OP/W

10. This PIO/T is in full conformance with PRO/AG No. \_\_\_\_\_ Date \_\_\_\_\_

11a. Type of Action and Governing AID Handbook  
 AID Contract (HB 14)  AID Grant or Cooperative Agreement (HB 13)  PASA/RSSA (HB 12)  Other

11b. Contract/Grant/Cooperative Agreement/PASA/RSSA Reference Number (if this is an Amendment)

12. Estimated Financing (A detailed budget in support of column (2) is attached as Attachment No. \_\_\_\_\_)

Maximum AID Financing Available	A. Dollars	(1) Previous Total	(2) Increase	(3) Decrease	(4) Total to Date
					\$490,000
	B. U.S.-Owned Local Currency				

13. Mission References  
Tegu #21292  
Reservation of \$490,000  
Res. Control No.: R900001

14A. Instructions to Authorized Agent  
Negotiate a cooperative agreement with the Asociacion Nicaraguense Pro-Derechos Humanos (ANPDH - Nicaraguan Association for Human Rights) to perform the training described in the attached program. The effective date of the agreement is December 1, 1988, with eligible retroactive costs payable from October 1, 1988. Total value of the grant is \$490,000, including retroactive costs of roughly of \$100,000.

14B. Address of Voucher Paying Office  
Agency for International Development  
TFHA Controller, RM 3214 NS  
Washington, DC 20523-0021

15. Clearances - include typed name, office symbol, telephone number and date for all clearances.

A. The Project Officer certifies that the specifications in the statement of work or program description are technically adequate. <i>[Signature]</i> Roger Noriega, TFHA/W	Phone No. x70458	B. The statement of work or program description lies within the purview of the initiating office and approved agency programs. <i>[Signature]</i> John Jovaas, AID/TFHA/W	Date 12/23/88
	Date 12/20/88		Date 12/23/88
C. <i>[Signature]</i> Robert Mexghan, AID/TFHA/W	Date 12/23/88	D. Funds for the services requested are available. <i>[Signature]</i> Linda Tarpen-Doe, AID/TFHA/W	Date 12/23/88

16. For the Cooperating Country: The terms and conditions set forth herein are hereby agreed to  
Signature \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_

17. For the Agency for International Development  
*[Signature]*  
Ted D. Morse, D/TFHA/W  
Date 12/23/88  
Title \_\_\_\_\_

\* See HB 3, Sup. A, App. C, Att B, for preparation instructions. Note: The completed form contains sensitive information whose unauthorized disclosure may subject an employee to disciplinary action