 **PROTEUS** *INC.*
... for Education, Employment and Community Services

March 27, 2003

1830 N. Dinuba Blvd.
P.O. Box 727
Visalia, California 93279
(559) 733-5423
Fax (559) 738-1137

Deborah Outten-Mills, Director
National Audit and Evaluations Office
U.S. Department of Labor – OIG
200 Constitution Avenue, NW, Room N-5620
Washington DC 20210

Re: Audit Draft Report 21-03-010-03-365

Dear Ms. Outten-Mills,

Thank you for allowing Proteus, Inc. to respond and comment on the draft report of the audit results concerning Grant Number AC-10751-00-55. The audit was performed by Harper, Rains, Stokes & Knight reviewing fiscal and program operations for the period 07/01/00 – 06/30/01. Also on site was an OIG representative, Mr. Michael Dettling.

The Draft Report cites three separate findings:

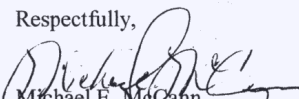
1. Equipment and Supply Purchases benefiting more than one funding source charged to the abovementioned contract
2. An equipment purchase over \$5,000 made without prior approval
3. Performance data reports to ETA

We would like to re-state our submitted position on items #1 and #2. We concur with the third item in reference to Data reporting.

Please find enclosed position statements and support documents for items 1 and 2. These are submitted for your review, feedback and possible relief. Please feel free to contact us in response to any concerns or questions we may be able to further clarify for you.

Once again, thank you for this opportunity.

Respectfully,


Michael E. McCann
Chief Executive Officer

Enclosures

MEM:ch

FINDINGS AND RECOMMENDATIONS

1. Equipment And Supply Purchases That Benefit More Than One Funding Source Were Directly Charged To The DOL Grant

Proteus, Inc. purchased \$36,158 in equipment and supplies and charged the entire amount to the DOL grant. These purchases benefited a number of funding sources and, therefore, should have been distributed equitably among the funding sources that benefited. We questioned \$27,047, the amount in excess of the DOL benefit.

Attachment A of OMB Circular A-122, A. 4. Allocable Costs, states:

A cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity in accordance with the relative benefits received.

We reviewed the documentation attached to each invoice to determine what the purchases were to be used for. Of the total amount of equipment purchased, \$19,143 was purchased for specific individuals. To determine the percentage allocation of these costs to the various funding sources, we reviewed the time allocation records of these individuals. We questioned \$14,456 that should not have been charged to DOL.

The remaining \$17,015 in equipment purchases was for upgrades in the network server used to support all computer operations at the Visalia, CA administrative office. To determine the proper allocation to DOL, we reviewed the overall time spent on all grants. Based on the percent of time attributed to DOL, we questioned \$12,591.

Recommendations:

We recommend that the Assistant Secretary for ETA:

1. Recover the \$27,047 questioned.
2. Require Proteus, Inc. to revise its policies to ensure costs that benefit more than one cost objective are properly allocated and all cost objectives bear their fair share of costs.

Statement of Fact - Equipment and supplies

- Proteus Inc. contests the findings under “Equipment and Supply Purchases That Benefits More than One Funding Source....”

1. Questioned costs of \$14,456... should not have been charged to DOL.... Paragraph two, highlighted.

All items listed were purchased under Proteus Equipment Purchase procedures as defined in the Proteus Operations Manual sec. 12. The threshold value for “equipment” definition was much lower than DOL as is other contracting agencies such as local WIB’s in our service area.

Interpreting the OMB Circular A-122 on-line document the “Comments and Response” under “Equipment Definition” states “Equipment under the \$5,000 threshold, as established by the non-profit organizations policy, can be directly charged to sponsored agreements”. Proteus has treated all listed items as equipment and appropriately tagged as DOL property.

All funding sources Proteus Inc. contracts with in our service area has implemented the OMB option, establishing “equipment definitions” at lower levels ranging from \$100 to \$1000. This situation makes it impossible to allocate “equipment” to the other funding sources. They of course demand “ownership”, therefore making defined “equipment” solely their property. This is a very difficult position. The need (equipment) is apparent and the decision to direct fund a purchase is based on “greatest benefit”. Clearly Proteus Inc. is a Farmworker funded agency and DOL is the cognizant agency. Even though local contracts receive some benefit, the ongoing, underlying primary benefit is to process and service our Farmworker contract(s).

The stated recommendation, #2, “require Proteus Inc. to revise its policies to ensure costs that benefit more than one cost objective are properly allocated and all cost objectives bear their fair share of costs”. This recommendation is asking the impossible, to allocate equipment as legally defined by organizations and “share” equipment. This appears to be an issue which needs attention and direction from ETA as to how can an organization split cost on a locally defined piece of equipment. Certainly if the equipment threshold was mandated to the Federal level then any item(s) under \$5000 would be allocable.

2. Questioned costs \$12,591 in equipment purchase was for upgrades in the network server used to support all computer operations..... Paragraph three, highlighted.

This upgrade was to bring our primary Participant Data Entry/Reporting system server into appropriate “state-of-the-art” condition to properly compete, record, report and allow future growth within Proteus Inc. Data Department. Proteus Inc. developed an extensive Case Management system which was introduced on line in the year 2000. The demand of the software and hardware needs to introduce a corporate wide LAN required an upgrade, using various components, to service the increased demand of field office entries, Customer resource room development as mandated by WIA and new electronic reporting formats as required by DOL.

These costs were charged appropriately. The Data collection system was storing only Farmworker client information and the system was only reporting to the NFJP office and SPR using this client data. No other funding source client data was stored on this server during this period. The benefit was to the DOL contract as required by WIA and ETA. The definition used via the audit to review the Data System Managers timecard for work-hours and therefore allocation method based on the “snapshot” of the purchase date is not valid. The upgrade benefited the Farmworker contract only at the same “snapshot” date. The employee certainly has other responsibilities which are allocated based on actual hours benefited to other contracts and using this as a template is inaccurate in this circumstance. A direct charge to the DOL contract was appropriate.

We respectfully request relief and direction on this finding.

- Examples included;
 - OMB Circular A-122
 - Proteus Inc. Operations Manual Section 12
 - Local WIB Equipment definition (2)

THE WHITE HOUSE

OMB Circular A-122

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OFFICE OF MANAGEMENT AND BUDGET

Cost Principles for Non-Profit Organizations

AGENCY: Office of Management and Budget

ACTION: Final revision of OMB Circular A-122, "Cost Principles for Non-Profit Organizations"

SUMMARY: The Office of Management and Budget (OMB) revises OMB Circular A-122 by amending the definition for equipment; requiring the breakout of indirect costs into two categories (facilities and administration) for certain non-profit organizations; modifying the multiple allocation basis; and, clarifying the treatment of certain cost items.

DATES: The revision is effective on June 1, 1998.

FOR FURTHER INFORMATION CONTACT: Federal agencies should contact Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, (202) 395-3993. Non-Federal organizations should contact the organization's Federal cognizant agency.

SUPPLEMENTARY INFORMATION:

A. Background

On October 6, 1995, the Office of Management and Budget (OMB) issued a final revision to OMB Circular A-122, "Cost Principles for Non-Profit Organizations," in the **Federal Register** (60 FR 52516) regarding interest allowability. The revision was made in a continuing effort to increase consistency across OMB's cost principles circulars A-122, A-21, "Cost Principles for Educational Institutions," and A-87, "Cost Principles for State, Local and Indian Tribal Governments." To further the goals of consistency, OMB proposed on the same date (60 FR 52522) to revise the definition of equipment, to clarify the treatment of certain types of costs, to modify the multiple allocation base method for computing indirect cost rate(s), and to place an upper-limit on payments of administrative expenses for certain non-profit organizations.

With this final revision, Circular A-122 consists of the Circular as issued in 1980 (45 FR 46022; July 8, 1980), as amended in 1984 (49 FR 18260; April 27, 1984), in 1987 (52 FR 19788; May 27, 1987), in 1995 (60 FR 52516; October 6, 1995), in 1997 (62 FR 45934; August 29, 1997), and in this notice. A recompilation of the entire Circular A-122, with all its amendments, accompanies the notice and is available in electronic form on the OMB Home Page at /OMB.

B. Current Revisions

OMB 122
Q. + A.

Circular A-122 is revised in this notice to:

1. Amend the definition of equipment by increasing the amount used for financial statement purposes or for
2. Require major non-profit organizations (those receiving Federal funding) to report indirect cost rates by type of administration (see paragraph D, Attachment A).
3. Modify the multiple allocation base method (MAB) in Circular A-21 (see paragraph D.3). However, major non-profit organizations may continue to use the multiple allocation base method. MAB remains the method for computing indirect costs.
4. Clarify the treatment of the following cost items to provide consistency across OMB's cost principles circulars (A-21 and A-87) and the Federal Acquisition Regulations, where applicable:
 - Alcoholic beverages
 - Advertising and public relations costs
 - Organization-furnished automobiles
 - Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements
 - Housing and living expenses
 - Insurance
 - Memberships
 - Selling or marketing of goods and services
 - Severance pay for foreign nationals

OMB is not implementing the proposed restrictions on trustees' travel expenses at non-profit organizations. In line with this decision, and to further consistency between cost circulars, OMB will be amending Circular A-21 to allow trustees' travel expenses.

OMB defers considering an upper-limit on payment of administrative expenses until better data on indirect costs at non-profit organizations are collected.

C. Comments and Responses

OMB received about 185 comments from non-profit organizations, Federal agencies, professional organizations and accounting firms. A summary of comments and OMB's responses are included in this notice. Several comments resulted in modifications to OMB's original proposal.

The comments and OMB's responses are summarized by section as follows.

Equipment Definition

Comment: Clarification is needed on the treatment of depreciation of those assets which had

costs between the old \$500 threshold and the new \$5,000.

Response: In order to clarify the accounting for the undepreciated portion of any equipment costs as a result of a change in capitalization levels, paragraph 15 has been added to explain that the undepreciated amount may be recovered by continuing to claim otherwise allowable use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years as negotiated with the Federal cognizant agency.

Comment: Clarification is needed on whether equipment under the \$5,000 threshold, as established by the non-profit organizations' policy, requires Federal approval prior to acquisition.

Response: Equipment under the \$5,000 threshold, as established by the non-profit organization's policy, can be directly charged to sponsored agreements (subparagraph 15.b) without prior Federal approval.

Comment: Current subparagraph 13.b requires prior approval for special purpose equipment, as direct costs, with a unit cost of \$1,000 or more. This requirement is not consistent with the higher threshold of \$5,000 allowed in the proposed revision. This requirement should be revised to be consistent with the proposed revision.

Response: OMB agrees. The Circular is revised to require prior Federal approval only for special purpose equipment with a unit cost of \$5,000 or more.

Unallowable Cost Items

These ten revised cost items are already unallowable under OMB Circulars A-21, "Cost Principles for Educational Institutions," and A-87, "Cost Principles for State, Local and Indian Tribal Governments," and/or the Federal Acquisition Regulations. OMB addressed the issue of trustees' travel in response to the comments received. For the other items, consistency across Federal cost regulations was a more significant issue than most of the commenters' concerns. Comments related to specific cost items are presented below, followed by OMB's responses.

Advertising and Public Relations Costs

Comment: Current paragraph 37, Public information service costs, should be combined with the "Advertising" paragraph to be consistent with other OMB cost principles in Circulars A-21 and A-87.

Response: The commenter is correct. The treatment of public information service costs is now addressed in revised paragraph 1, Advertising and public relations costs. Current paragraph 37 is deleted.

Comment: Clarify the types of activities that are allowable as public relations costs. Public relations costs to carry out certain functions, such as legitimate program outreach, that are required under sponsored programs and contracts should be allowable.

Response: The Circular is revised to clarify that certain public relations costs for the purpose of communicating specific activities related to the sponsored programs to the public or the press are allowable costs. When they are necessary for program outreach effort as required by

and then note the appropriate G/L number and location code. The Fiscal Department will prepare an allocation which combines the funds and activities of all staff in the building to derive the appropriate allocation for this type of purchase.

- D) There are instances where a purchase will benefit only one grant/activity, even though the staff person's time may be divided between several fund and activity combinations. An example of this would be supplies purchased to fulfill a special condition of a grant which is not required in any other grant. In this case, when you create the purchase requisition/order, please enter the fund/activity which will benefit and make a note of explanation in the "Description of Goods" section of the Purchase requisition/order. The same situation could occur where more than one, but not all of the funds, under which a staff spends time requires the use of the supplies, etc. In that event, follow the same procedures above, simply noting the funds and activities which will benefit and make your explanation in the "Description of Goods" section. Do not enter those funds which will not benefit from the purchase.
- E) Note that memberships (company, not personal) must be charged as an administrative cost, to activity code 001. An allocation will be prepared in Fiscal by determining the percentage of time spent in each grant to which staff benefiting from the membership charge their time. Note in the "Description of Goods" section of the purchase requisition/order the names of staff who will benefit from the membership. If all staff in the office benefit, enter 9602/001 in the appropriate fund/activity section of the budget code number on the purchase requisition, and note the appropriate G/L and Location Code.
- F) When preparing field issued purchase orders for participant supplies or services, allocation must follow the grant, and activity within that grant, under which the participant is being provided the supply or service. Remember to verify your fund numbers because fund numbers for different grants change at different times during the year.
- G) Charging of equipment purchases must be done in accordance with the requirements imposed by legislation and the funding source(s). While Proteus has adopted the definition of equipment as any item of nonexpendable personal property which costs \$100 or more, and has an expected life of more than one year, various funding sources use different definitions. When coding an equipment purchase, knowing the applicable definition becomes important because most funding sources require that equipment be charged to a sole grant. ***It cannot be split-funded.*** Any items, therefore, purchased with funds from a grant must be charged with recognition of their definition of equipment.

The United States Department of Labor uses the definition of equipment found at 29 CFR Part 95.2(n) which implements the revised OMB Circular A-110, which states that equipment is defined as "tangible nonexpendable personal property including exempt property charged

directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit." Acquisition cost is defined as "the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in conjunction with the recipient's regular accounting practices".

Proteus does not include these auxiliary costs in the acquisition cost. For those items costing \$5,000, or more, with a useful life of more than one year, it is additionally necessary that prior written approval from the funding source is received before the actual purchase of the equipment. Therefore, for any item costing \$5,000, or more, not including tax, etc., where DOL is the beneficiary, you must request that the Property and Services Section obtain prior, written approval, when you submit your purchase requisition and the purchase must be allocated only to the Department of Labor, to the activity(ies) which will benefit from its use.

The Community Services Block Grant (CSBG) uses the definition of equipment found in OMB Circular A-122, which states that equipment is defined as "tangible nonexpendable personal property having a useful life of more than two years and an acquisition cost of \$500 or more per unit." Acquisition cost is defined as "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 or excluded from the acquisition cost in accordance with the organization's regular written accounting practices". To further demonstrate how this allocation of equipment must occur, suppose that a Human Development Specialist who is split funded, spending time working under both CSBG and the DOL Section 402 grant, and wishes to purchase an item of equipment costing \$635.00. The more restrictive CSBG equipment guidelines must be considered. A decision must be made regarding which grantor, CSBG or DOL, would most benefit from the use of the equipment. If the grantor who would most benefit is the Department of Labor, no further action would be required. A purchase requisition would be written coding the purchase to the relevant activities within the Department of Labor grant that benefit from the equipment. If, on the other hand, CSBG would most benefit from the use of the equipment, then a request should be made in the "Description of Goods" section of the purchase requisition that Property and Services request written approval to purchase from the CSBG funding source, and the fund and activity(ies) coded on the purchase requisition will be the CSBG fund, and activity(ies) which will benefit from the purchase.

Once it has been determined which grant benefits most from the purchase of the equipment, it may be found that a staff person spends time in more than one activity within a grant. The cost of the purchase should be allocated by prorating the amount of time the staff person is spending in each activity of the grant compared to the time spent within the entire grant. **Equipment**

purchases are not split-funded. If you have questions regarding a specific piece of equipment, contact the Property and Services Section for clarification.

Remember that equipment, by Proteus' definition, is defined as an item of nonexpendable personal property costing \$100.00 or more, with a useful life of more than one year. All items falling within that definition must be treated as equipment, and a purchase requisition must be submitted to the Property and Services Section for processing. Also, remember that different procedures can apply for different grants and funding sources. If you have any questions in this regard, please contact your Program Coordinator.

**TULARE COUNTY WORKFORCE INVESTMENT BOARD
EQUIPMENT PURCHASE POLICY**

TULARE COUNTY WORKFORCE INVESTMENT BOARD
 (Formerly the Tulare County Private Industry Council, Inc.)
WORKFORCE INVESTMENT ACT
SERVICE PROVIDER CONTRACT

#6200

WIA TITLE I-B

This award is an agreement by and between the Tulare County Workforce Investment Board (WIB) and:

Proteus, Inc.
 (Service Provider)

The Workforce Investment Board hereby enters into this Agreement with the above named Service Provider, for the purpose of providing specific services, as further described in the body of the Agreement, under the Public Law (PL) 105-220 of 1998 and other applicable local State and Federal legislation.

Contract No. 538 Z 00 Effective From 7/1/00 to 6/30/01

Program Activity Disadvantaged Adult Program Name On-the-Job Training

Contact Person Quirino Banuelos Telephone 741-2850

COST REIMBURSEMENT AGREEMENT FUNDING ALLOCATION:

	Total	Percent
Administration		
Program Costs	\$ 309,900	100%
TOTAL (Maximum Funding Level)	\$ 309,900	100%

IN WITNESS WHEREOF, the WIB and the Service Provider have executed this Agreement by having their authorized representatives affix their signatures in the spaces provided below:

SERVICE PROVIDER

Michael McCann

Chief Executive Officer

Recommended, Administrator's Name

Title

Michael McCann
 Signature

8/15/00
 Date

Gloria Gomez

Chair

Agreed: Chairperson of the Board's Name

Title

Gloria Gomez
 Signature

8/15/00
 Date

TULARE COUNTY WORKFORCE INVESTMENT BOARD

Recommended, Joseph H. Danjel, Administrator

Date

Kathy Huson
 Signature

8/17/00
 Date

Agreed: Chairman of the Interim WIB

Date

EXHIBIT "A"
STATEMENT OF WORK

AGENCY: Proteus, Inc.

CONTRACT SPECIFICATIONS
COST REIMBURSEMENT CONTRACT
WIA I-B ACTIVITY Disadvantaged Adults

A. GENERAL PROVISIONS

- (1) This Contract has been agreed to by the Tulare County Workforce Investment Board (WIB) and the Agency (Service Provider) cited above. Service Provider agrees to comply with the provisions of the Workforce Investment Act (WIA) Title I-B 20, CFR Part 652, et al. as amended by and other applicable local, state and federal legislation, including WIB Directives governing programs operated under this Contract.
- (2) The Service Provider shall document that all staff performing work on this Contract have read and received instructions on applicable sections of the WIA Law, Regulations, and WIB Directives. Service Provider shall also document that the staff working on this Contract have read the Contract in its entirety or as necessary, and understand its contents, specifications, and exhibits. The Service Provider will ensure that all staff assigned to this Contract are familiar with and understand their responsibilities related to services to be performed.
- (3) The Service Provider will ensure that only qualified staff persons are assigned to work under this Contract. Staff qualifications will be reviewed during monitoring visits or as deemed necessary by the WIB.
- (4) Purchase of property (materials and nonexpendable supplies) with a unit price of \$1,000 or more, or an aggregate cost of \$1,000 or more, must first be approved in writing by the WIB Staff Administrator or Designee. Title to such property purchased under this Contract vests in the WIB. All durable purchases, such as tables, desks, chairs, computers, etc., should be tagged for inventory purposes and this information must be forwarded to the WIB. Request for Purchases must contain sufficient justification to show need for the item(s) requested. Training or services not provided directly by the Service Provider must be procured through a documented, and competitive process that is consistent with WIB Procurement Policy.
- (5) When using WIB contract funds for advertising, i.e., flyers, brochures, newspaper ads, billboards, radio/tv advertising, news releases, signs, etc., the following statement will

Page 11 of 32 pages

EMPLOYERS TRAINING RESOURCE – COUNTY OF KERN
EQUIPMENT PURCHASE POLICY

**SUBGRANT AGREEMENT UNDER THE
WORKFORCE INVESTMENT ACT AND THE
WELFARE-TO-WORK GRANT PROGRAM
(COUNTY - PROTEUS, INC.)**

THIS AGREEMENT, entered into as of the 22nd day of August, 2000, is by and between the COUNTY OF KERN, a political subdivision of the State of California ("COUNTY") and PROTEUS, INC., a California non-profit corporation, Tax I.D. #94-2184330, with its principal place of business located at 1830 North Dinuba Boulevard/P.O. Box 727, Visalia, California 93279("AGENCY").

WITNESSETH:

WHEREAS:

(a) In 1998, the Congress of the United States enacted the Workforce Investment Act (P.L. 105-220; hereinafter "WIA"); and

(b) The purpose of WIA is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation; and

(c) In 1997, the Congress of the United States enacted the Welfare-to-Work Grant Program (hereinafter "WtW"), a provision under Title IV, Part A of the Social Security Act, as amended by the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act and Title V of the Balanced Budget Act of 1997, and as amended by the Consolidated Appropriations Act for Fiscal Year 2000; and

(d) The purposes of the WtW provision are to provide transitional assistance which moves hard-to-employ welfare recipients and other individuals living in high poverty areas into unsubsidized employment and economic self-sufficiency; to provide a variety of activities, grounded in the Temporary Assistance for Needy Families (TANF) program's "work first" philosophy; to prepare individuals for, and to place them in, lasting unsubsidized employment; and to provide for a variety of services which will assist individuals to secure lasting unsubsidized employment; and

(e) The Balanced Budget Act of 1997 requires the State to match available WtW federal funds with non-federal funds; and

(f) COUNTY receives WIA funds authorizing and enabling it to contract with public agencies, private for-profit and private non-profit organizations to provide job training activities and related services which are in addition to those which would otherwise be available in the area in the absence of such funds; and



IN WITNESS WHEREOF, COUNTY and AGENCY have caused this agreement to be executed by their respective officers and agents as of the day and year first above written.

APPROVED AND RECOMMENDED
AS TO CONTENT
Employers' Training Resource

COUNTY OF KERN

John Nilon

for John Nilon
Executive Director

Kenneth W Peterson

Chairman, Board of Supervisors

"COUNTY"

APPROVED AS TO FORM
Office of County Counsel

PROTEUS, INC.

[Signature]

Deputy

Michael E. McCann

Michael E. McCann
Chief Executive Officer
Tax I.D. #94-2184330

"AGENCY"

pm
041WIA-WtW
6/12/00

guidelines issued by the U.S. Department of Labor (DOL), and the definitions of community service, work experience, on-the-job training, pre-employment, vocational education and job training, and job creation as set forth in the State plan for WtW.

RESTRICTIONS AND POLICIES

1. No program or activity funded or otherwise financially assisted in whole or in part under WIA or WtW shall involve political activities.
2. Neither AGENCY's services nor the WIA funds or WtW funds provided therefore, nor the personnel employed in the administration of this agreement, shall be in any way or to any extent, engaged in the conduct of political activities in contravention of Chapter 15 of Title 5 of the United States Code.
3. Personnel policies shall be stated in written form and available to COUNTY upon request.
4. AGENCY shall maintain a written detailed job description identifying job functions and responsibilities for each administrative and staff position funded under this agreement as they relate to their job functions under WIA and WtW.
5. WIA participants shall not be employed to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).
6. AGENCY must obtain written permission from COUNTY before the purchase of:
 - a. Any computer equipment and/or software regardless of cost, or
 - b. Any equipment (or sets of items) costing ONE THOUSAND DOLLARS (\$1,000) or more (including shipping, installation, and tax) is made with grant funds paid to AGENCY in accordance with this agreement. Notification of receipt of the above along with a copy of the invoice, must be submitted to COUNTY within thirty (30) days of receipt of the items.

Authorization of COUNTY must be received prior to moving any inventory items purchased under this agreement from their original location.

7. All property, finished or unfinished documents, data, studies and reports prepared or purchased by AGENCY under this agreement are property of COUNTY. In addition, any supplies, tools and/or equipment furnished to AGENCY by COUNTY and/or purchased by AGENCY with funds pursuant to this agreement, will be limited to use within the activities outlined in this agreement and will remain the property of COUNTY. Upon termination of this agreement, AGENCY will immediately return such supplies, tools and/or equipment to COUNTY or dispose of them as directed by COUNTY.

2. Equipment Purchase Over \$5,000 Was Made Without Prior DOL Approval

Proteus, Inc. purchased a scanner costing \$7,234 and charged the entire amount to the DOL grant without obtaining prior approval. The *Special Clauses and Conditions* section of the grant requires that the grantee obtain prior approval from the DOL/ETA grant officer before purchasing equipment costing over \$5,000.

Recommendations:

We recommend that the Assistant Secretary for ETA:

1. Recover the \$7,234 questioned.
2. Require Proteus, Inc. to develop the necessary policies and procedures to comply with all grant conditions.

Statement of Fact - Equipment Purchase Over \$5000.....

Proteus Inc. submits to DOL an itemized budget, which designates dollars for Equipment purchasing. The budget process assumes the Proteus Inc. Property Purchasing procedures as defined in the Operations Manual, section 12. These potential purchases are totaled within the line item and referenced in the Narrative section of our proposal as "electronically connecting all TOPSPRO testing through a centralized point for appropriate assessment and placement of the tested client". This purchase allows this function to occur. An approved budget, verified by the Grant Officer signature is in itself "pre-approval" of potential purchases.

Please note that no known attempt to divert cost or frivolously purchase equipment is tolerated by this corporation. Equipment is to be identified in all budgets following all legal requirements. This specific equipment purchase has greatly enhanced and expedited service to our Farmworker clientele through our Education Department and the benefit to the DOL contract is identifiable.

Once again we seek relief and guidance in this issue.

Please find enclosed:

Part of OMB A-122 pages 23, 47-48

Copy of Award, as submitted and approved including budget

non-profit 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 A-87 shall apply.

4. **Definitions.**

a. **Non-profit 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 "non-profit organization" excludes (i) colleges and universities; (ii) hospitals; (iii) State, local, and federally-recognized Indian tribal governments; and (iv) those non-profit organizations which are excluded from coverage of this Circular in accordance with paragraph 5.

~~“Prior approval” means securing the awarding agency’s permission in advance to incur cost for those items that are designated as requiring prior approval by the Circular. 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 non-profit organizations.** Some non-profit organizations, because of their size and nature of operations, can be considered to be similar to commercial concerns for purpose of applicability of cost principles. Such non-profit 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 non-profit organizations shall implement the provisions of this Circular. Upon request, implementing instruction shall be furnished to OMB. 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 OMB 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 - Non-Profit Organizations Not Subject To This Circular

8. **Requests for exceptions.** OMB may grant exceptions to the requirements of this Circular when permissible under existing law. However, in the interest of achieving maximum

normally paid, fair market value shall be computed in accordance with **subparagraph (a)**.

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 Sec. __.23 of Circular A-110. The value of the donations shall be determined in accordance with Sec. __.23 of Circular A-110. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

13. 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.

14. Entertainment costs. Costs of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable (but see **paragraphs 13 and 30**).

~~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 one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5000. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years as negotiated with the Federal cognizant agency.

(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 made 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. All 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 \$5000 or more have the prior approval of 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 11** for allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see **paragraph 46** for allowability of rental costs for land, buildings, and equipment.

16. 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.

17. Fringe benefits. See **subparagraph 7.f**.

18. Goods or services for personal use. Costs of goods or services for personal use of the organization's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

19. Housing and personal living expenses.

a. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent, etc.), housing allowances and personal living expenses for/of the organization's officers are unallowable as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees. These costs are allowable as direct costs to sponsored award when necessary for the performance of the sponsored award and approved by awarding agencies.

b. The term "officers" includes current and past officers and employees.

20. 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 or collectively, or any other tangible capital asset, wherever located, and whether owned or leased

COST CATEGORY		01 000	ADMIN TOTAL	12 000	17 000	37 000	46 000	47 000	61 000	73 000	74 000	82 000	PROG TOTAL	GRAND TOTAL
4110	Staff Salaries	389,325	389,325	109,788	16,830	0	0	0	0	869,270	142,976	0	1,238,864	1,628,189
	Staff FICA	30,931	30,931	8,398	1,288	0	0	0	0	73,000	10,937	0	93,623	124,554
	Staff SUI	3,973	3,973	1,508	206	0	0	0	0	11,700	1,814	0	15,228	19,201
4131	Staff Worker's Comp	7,075	7,075	1,921	295	0	0	0	0	16,699	2,502	0	21,417	28,492
4141	Staff Medical/LTD	54,585	54,585	6,540	2,272	0	0	0	0	114,083	16,223	0	139,118	193,703
4143	Staff Retirement/Vacation	12,130	12,130	1,454	505	0	0	0	0	25,350	3,605	0	30,914	43,044
4210	Staff Travel	15,327	15,327	2,831	655	0	0	0	0	26,425	5,028	0	34,939	50,266
5125	Audit	19,067	19,067	0	0	0	0	0	0	0	0	0	0	19,067
5130	Business (Background Check)	0	0	0	0	0	0	0	0	13,000	0	0	13,000	13,000
5140	Courier	476	476	414	64	0	0	0	0	4,311	544	0	5,333	5,809
5150	Training	7,412	7,412	663	158	0	0	0	0	8,375	1,208	0	10,404	17,816
5410	Building Rental	19,697	19,697	10,567	1,938	0	0	0	0	83,959	15,695	0	112,159	131,856
5420	Utilities & Services	5,722	5,722	3,042	586	0	0	0	0	30,281	4,688	0	36,597	44,319
5430	Building Maintenance	3,104	3,104	836	149	0	0	0	0	10,295	1,216	0	12,496	15,600
6110	Consumable Supplies	18,657	18,657	4,544	924	0	0	0	0	42,504	7,298	0	55,270	73,927
6120	Equipment Rent/Lease	7,602	7,602	1,058	263	0	0	0	0	13,903	1,988	0	17,212	24,814
6130	Equipment Purchase	15,000	15,000	0	0	0	0	0	0	30,516	0	0	30,516	45,516
6140	Equipment Op/Maint	6,787	6,787	1,783	272	0	0	0	0	11,853	2,317	0	16,225	23,012
7120	Participant Wages	0	0	0	0	0	105,300	0	0	0	0	0	105,300	105,300
7210	Participant Worker's Comp	0	0	0	0	0	2,633	0	0	0	0	0	2,633	2,633
7211	Participant FICA	0	0	0	0	0	8,055	0	0	0	0	0	8,055	8,055
7220	Participant Travel	0	0	5,150	5,607	0	500	0	0	0	1,360	10,805	23,422	23,422
7311	Participant Direct Supplies	0	0	3,000	760	5,110	0	0	0	0	0	7,360	16,230	16,230
7312	Participant Transportation	0	0	1,500	900	2,400	0	900	0	0	0	3,000	8,700	8,700
7313	Participant Allowances	0	0	34,520	23,240	0	0	0	0	1,632	0	41,496	100,888	100,888
	Participant Direct Services	0	0	7,000	1,900	5,500	500	3,000	7,400	1,022	0	12,000	38,322	38,322
7315	Participant Rent Subsidy	0	0	0	1,250	0	0	0	0	0	0	1,250	2,500	2,500
7317	Participant CFNP	0	0	500	500	0	600	0	0	500	0	500	2,600	2,600
7318	Participant Health Care	0	0	0	0	0	0	0	0	0	0	0	0	0
7319	Participant Tuition	0	0	0	0	0	0	0	0	0	0	149,800	149,800	149,800
7321	Participant Energy Asst.	0	0	0	1,000	200	0	0	0	1,000	0	1,000	3,200	3,200
7400	OJT Emp. Reimbursement	0	0	0	0	122,976	0	0	0	0	0	0	122,976	122,976
8210	Telephone	10,417	10,417	2,903	624	0	0	0	0	32,189	4,867	0	40,583	51,000
8220	Advertising/Promotion	3,071	3,071	1,719	301	0	0	0	0	21,192	2,465	0	25,677	26,748
8250	Memberships	2,759	2,759	0	0	0	0	0	0	0	0	0	0	2,759
8310	Insurance	2,225	2,225	521	85	0	0	0	0	4,642	707	0	5,955	8,180
8340	Taxes	222	222	0	0	0	0	0	0	93	0	0	93	315
	TOTAL	635,564	635,564	212,160	62,572	136,186	117,588	3,900	7,400	1,547,794	227,438	227,211	2,542,249	3,177,813