

NIH GUIDE

for GRANTS and CONTRACTS

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

No. 20, June 8, 1972

REPRINTS AND COPIES OF FINAL REPORTS REQUIRED ON RESEARCH AND TRAINING GRANTS

PROCEDURE NOTICE

Effective July 1, 1972, the requirement for 10 copies of reprints and terminal progress reports on research and training grants is reduced to three. Copies of such reports should be submitted to the awarding unit within 120 days of the end of the project.

The GUIDE is published at irregular intervals to provide policy, program, and administrative information to individuals and organizations who need to be kept informed of requirements and changes in grants and contracts programs administered by the National Institutes of Health.

SPECIAL PROVISIONS FOR COST-REIMBURSEMENT RESEARCH
CONTRACTS WITH EDUCATIONAL INSTITUTIONS

POLICY

1. Purpose The purpose of this release is to suggest the format of clauses to be employed in the Special Provisions of cost-reimbursement research contracts with educational institutions.
2. Background and References OMB Circular No. A-101 provides policies and procedures for establishing consistency in the administration of grants, contracts or other agreements with educational institutions. The cornerstone of consistent government-wide policies is reflected in OMB Circular No. A-21, which establishes principles for determination of costs applicable to the support of research and development under grants and contracts with educational institutions. The March 30, 1971, revision to Circular No. A-21 provides a definition of "permanent equipment" and imposes certain approval requirements pertaining to the acquisition of such equipment. Procurement Circular HEW-71.3 prescribes policies and procedures pertaining to the acquisition of property by contractors, which are applicable to educational institutions.

This release attempts to reconcile the policies reflected in the foregoing issuances as they pertain to items currently covered by the Article entitled "Compensation" heretofore employed in the Special Provisions of cost-type contracts with educational institutions. A copy of a sample "Compensation" article is attached hereto (Attachment 3) for reference. It is anticipated that this release will be supplemented from time to time to prescribe additional Special Provisions clauses and that it will be superseded eventually by the issuance of a standardized format for Special Provisions applicable to cost-type contracts with educational institutions.

3. Policy In keeping with the spirit of pertinent OMB Circulars, it is the policy of NIH to facilitate the negotiation and administration of research contracts with educational institutions. It is the further policy of NIH to strive for the maximum practical understanding between the parties to a contract at the time of award -- thus avoiding unnecessary administrative action during the performance of the contract and obviating the postponement of necessary determinations; both of which reduce the effectiveness of contract performance -- and to eliminate redundancies in drafting special provisions with regard to items adequately covered in the General Provisions to HEW contracts.

It is also NIH policy to honor the standard established in Circular No. A-21 (FPR §1-15.303-3) making "Consistency with established institutional policies and practices applicable to the work of the institution generally, including government research," a major consideration in the determination of the reasonableness of costs incurred under research contracts with educational institutions; and to honor the policy established by Paragraph J.13 of Circular No. A-21, regarding prior approval requirements in connection with the acquisition of permanent equipment.

In furtherance of the objective of achieving maximum understanding of the respective rights and obligations of the parties at the time of award, and in conformance with the procurement policies of the Department, it is NIH policy to identify certain categories of direct costs the allowability of which must be expressly provided for in the contract, rather than by less formal means, and to encourage the use of advance understandings.

4. Procedure The employment of the Special Provisions article entitled "Compensation" (Attachment 3) in cost-reimbursement contracts with educational institutions, and modifications thereto, will be discontinued. In lieu thereof, Contracting Officers will insert the articles and the alteration set forth in Attachments 1 and 2 hereto, and discussed in paragraphs E and F below, in the Special Provisions of cost-reimbursement contracts with educational institutions.
5. Discussion of New Clauses Prescribed by Attachment No. 1
 - a. Paragraph A., Maximum Actual Cost, of the "Compensation" article will be replaced in its entirety by a separate article entitled "Estimated Cost." Clause 22, Limitation of Cost, of the General Provisions (Form HEW-315 (Rev. 8/64)) provides that "the total cost to the Government for the performance of this contract will not exceed the estimated cost set forth in this contract." Clause 22 also establishes procedures for increasing the "estimated cost." All that is required in the Special Provisions is a statement of the amount of "estimated cost" in the manner prescribed in Attachment No. 1 hereto.

- b. Paragraph B., Indirect Costs, of the "Compensation" article will be eliminated in its entirety. All cost-reimbursement contracts with educational institutions are required to contain the following paragraph (g) as an addition to General Provisions Clause 27, Negotiated Overhead Rates:

"(g) Submission of proposed provisional, predetermined and/or final overhead rates together with supporting data to the Secretary, and agreements on provisional, predetermined and/or final overhead rates entered into with the Department of Health, Education, and Welfare as evidenced by a Negotiated Overhead Rate Agreement signed by both parties, shall be deemed to fulfill the requirements of paragraphs (b), (d), and (e) above."

The incorporation of the required paragraph (g) is accomplished by inserting the foregoing language in the article entitled "Modifications of General Provisions." Further reference, elsewhere in the Special Provisions, to the incorporation by reference of Negotiated Overhead Rate Agreements is redundant. (FPR §1-15.307-3 permits negotiation of a fixed amount in lieu of overhead in particular contracts. Where such a lump sum has been negotiated, HEW Negotiated Overhead Rate Agreements are inapplicable and the contract must provide for the negotiated fixed amount in a separate Special Provisions article.)

- c. Paragraph D., Cost Determination, of the "Compensation" article will be eliminated in its entirety. The only principles applicable to the determination of costs, under research and development contracts with educational institutions, are those prescribed by OMB Circular No. A-21 as embodied in FPR Subpart 1-15.3, which are, in turn, incorporated by reference in Clause 23, Allowable Cost and Payment, of the General Provisions.
- d. Paragraphs C., Direct Costs, and E., Prior Authorization of Certain Direct Costs, of the "Compensation" article will be replaced by a separate article entitled "Provisions Applicable to Direct Costs," as prescribed in Attachment No. 1 hereto.

- (1). Paragraph A of the prescribed clause addresses the allowability of certain items which, because of their special nature, should be resolved at the time of negotiation and should not be reserved for some subsequent informal agreement. In the event that the incurrence of costs relating to any of these items is unforeseen at the time of award, the allowability of such costs will be covered in a formal amendment to the contract. The use of Standard Form 30 (see FPR §1-16.901-30) to effectuate such amendments is encouraged.
 - (a) The impropriety of directly charging to Government contracts the cost of acquiring interests in real property is obvious; and the unallowability of such costs is consistent with established Government policy, although not expressly specified in pertinent cost principles.
 - (b) Pursuant to FPR §1-15.309-30, "Special rearrangement and alteration costs incurred specifically for the project" are unallowable unless "such work has been approved in advance."
 - (c) Restrictions on the acquisition of items of "general purpose office furniture or office equipment" conform to the policy expressed in Procurement Circular HEW-71.3, which imposes various administrative requirements designed to discourage such acquisitions under ordinary circumstances.
 - (d) "Printing" is included in the category of expressly unallowable items because of the importance attached to the policies established by the Joint Committee on Printing of the Congress.
- (2). The prescribed "Provisions Applicable to Direct Costs" article makes no mention of other items heretofore requiring "prior authorization" pursuant to paragraph E. of the "Compensation" article, since these and other prior approval requirements are covered adequately in either the applicable cost principles or in other specific General Provisions clauses or Special Provisions articles; e.g., the "Subcontracting" clause and the prescribed "Consultant Services" article.

- (3). Paragraph B of the prescribed "Provisions Applicable to Direct Costs" article addresses the matter of "travel costs," an item which has traditionally proven sensitive and has aroused particular concern among university contractors. The basic principles governing the allowability of travel costs are set forth in FPR §1-15.309-44 and, except for emphasizing the restrictions prescribed by the latest revision to Circular No. A-21 concerning "foreign travel" and total expenditures for domestic travel, do not require reiteration in the Special Provisions.

The restriction on foreign travel is straightforward and self-explanatory. The restriction on total expenditures for domestic travel means that individual trips will not require prior approval unless the prescribed cumulative limits of \$500 or 125% of the amount allotted for such travel have been or will be exceeded. If applicable, the amount allotted for domestic travel should be specified in a separate article in the Special Provisions.

In furtherance of the policy expressed in this release, NIH will accept established institutional travel policies as consistently applied. The approval of such policies, and revisions thereto, is reserved to cognizant audit agencies and not to individual contracting officers. There is no requirement that mileage and per diem rates be specified in the contract; and such rates will be specified only in cases where the institution has not established a generally applicable travel policy. Revisions to an institution's established travel policy approved by the cognizant audit agency, occurring during the contract, will become effective automatically.

6. Approval of Equipment Purchases "Permanent equipment," which term is synonymous with "nonexpendable personal property" as heretofore used throughout NIH, is defined as "an item of property which has an acquisition cost of \$200 or more and has an expected service life of one year or more." For contracts with educational institutions, Paragraph J.13 of OMB Circular No. A-21 requires prior approval for the acquisition of "permanent research equipment i.e., scientific equipment costing \$1,000 or more" and for the acquisition of all other equipment

(i.e., items of property costing \$200 or more), categorized therein as "general purpose permanent equipment," with examples given. Paragraph (b) of Clause 26, Subcontracting, in General Provisions Form HEW-315 requires prior contracting officer approval of: "(1) purchase of items of property or equipment having a unit value exceeding One Hundred Dollars (100.00), or (2) purchase orders or subcontracts exceeding One Thousand Dollars (\$1,000.00) unless specified otherwise elsewhere in this contract" (emphasis added). The prior approval requirement of Clause 26, which is more restrictive than the requirement of Circular No. A-21, may be modified by appropriate language in the Special Provisions.

Attachment 2 hereto sets forth an alteration to General Provisions Clause 26, Subcontracting, which will be incorporated into all cost-reimbursement contracts with educational institutions, and modifications thereto. The alteration substitutes the prior approval requirement of Circular No. A-21 for the approval requirement currently contained in Clause 26. This substitution will be accomplished by inserting in the Special Provisions article entitled "Modifications of General Provisions" the language of Attachment 2.

7. Advance Understandings The use of advance understandings regarding the approval of particular activities under the contract, or the allowability of certain items of cost, is encouraged. The employment of advance agreements should contribute to maximizing mutual understanding at the time of award and minimizing administrative approvals during contract performance. Such advance agreements will be set forth, as applicable, in a separate Special Provisions article entitled "Advance Understandings," which will be tailored to the particular contracting situation. The article may include, among other things, agreements concerning the allowability of the cost of items made unallowable pursuant to paragraph A of the article entitled "Provisions Applicable to Direct Costs," prescribed by Attachment No. 1 hereto, the acquisition of particular items of equipment otherwise requiring prior approval pursuant to Attachment 2 hereto, or of other items not clearly allowable or unallowable pursuant to the cost principles. A further consideration in drafting the "Advance Understandings" article is to assure that sufficient flexibility is provided in order to avoid turning the article into a straight-jacket which will defeat the very purpose of the advance agreement.
8. Implementation The use of the articles and alteration set forth in Attachments 1 and 2 hereto will become mandatory after July 1, 1972. However, they may be used prior to that date at the discretion of the contracting officer, and should be used whenever requested by the contractor.

ARTICLE III

ESTIMATED COST

The presently estimated cost of the work under this contract is \$_____.

ARTICLE IV

PROVISIONS APPLICABLE TO DIRECT COSTS

A. Items Unallowable Unless Otherwise Provided

Notwithstanding the clause of this contract entitled "Allowable Cost and Payment," unless otherwise expressly provided elsewhere in this contract or in any amendment thereto, the costs of the following items or activities shall be unallowable as direct costs under this contract:

1. acquisition, by purchase or lease, of any interest in real property;
2. special rearrangement or alteration of facilities;
3. purchase or lease of any item of general purpose office furniture or office equipment; and
4. printing, binding, and duplicating as defined by the Government Printing and Binding Regulation in effect on the effective date of this contract.

B. Travel Costs

1. Foreign Travel Foreign travel, herein defined as travel outside the United States, its Territories and Possessions, and Canada, shall not be performed and the costs thereof shall not be allowable without the prior written approval of the Contracting Officer.
2. Domestic Travel
 - a. Total expenditures for domestic travel shall not exceed \$500, or one hundred twenty-five percent (125%) of the amount, if any, specified elsewhere in this contract as being allotted for such travel, whichever is greater, without the prior written approval of the Contracting Officer.
 - b. The cost of travel by privately-owned automobile shall be reimbursed at the mileage rate prescribed by the Contractor's established, generally applicable travel policy¹ in lieu of actual costs; provided, however, that such reimbursement shall not exceed the otherwise allowable comparative cost of travel by common carrier.

- c. Reasonable actual costs of lodging and subsistence, or per diem in lieu of actual costs, shall be allowable to the extent that such actual costs or per diem amounts do not exceed the amounts or per diem rates prescribed by the Contractor's established, generally applicable travel policy.²
- d. Any revision to the Contractor's established, generally applicable travel policy approved by the cognizant audit agency during the period of performance of this contract shall be effective, without formal modification to this contract, upon delivery to the Contracting Officer of a copy of such revised policy together with evidence of cognizant audit agency approval thereof.

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- 1. Substitute a specified mileage rate in those situations where the Contractor does not have an established, generally applicable travel policy.
 - 2. Substitute specific ceiling amounts on actual costs and/or specified per diem rates in those situations where the Contractor does not have an established, generally applicable travel policy.

Alteration to Form HEW-315 (Rev. 8/64) Clause 26, Subcontracting, in Cost-Reimbursement Contracts with Educational Institutions

Clause 26 (Subcontracting) is amended as follows:

In paragraph (b) the words "(1) purchase of items of property or equipment having a unit value exceeding One Hundred Dollars (\$100.00), or (2) purchase orders or subcontracts exceeding One Thousand Dollars (\$1,000.00)" are deleted and the following is substituted therefor:

"(1) purchase or rental of items of personal property, other than permanent research equipment, having a unit acquisition cost of \$200 or more, (2) purchase or rental of any item of permanent research equipment having a unit acquisition cost of \$1,000 or more, or (3) any other subcontracts exceeding \$1,000"

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ARTICLE III
COMPENSATION

(Use with A. Maximum Actual Cost
CR Contracts)

The maximum actual cost to the Government for all allowable costs, accepted by the Contracting Officer, for performance of the work called for in Article I shall not exceed \$_____.

OGAP CONTRACTORS

(Include when the Contractor is an educational institution or a nonprofit organization without predetermined rates).

B. Indirect Costs
Incorporation of provisional indirect cost rates and/or final rates shall be performed in accordance with Clause 27 (Negotiated Overhead Rates) paragraph (g) of the General Provisions HEW _____ without further action of the Contracting Officer.

(With predetermined rates)

B. Indirect Costs
1. Incorporation of new predetermined, provisional, and/or final indirect cost rates shall be performed in accordance with Article _____ Negotiated Overhead Rates - Predetermined, Paragraph (h) without further action of the Contracting Officer.

C. Direct Costs

In addition to the provisions of Clause 23 (Allowable Cost, (fixed fee) and Payment), of the General Provisions the Contractor will be reimbursed for all direct costs, within the limitations stated below, which are claimed by the Contractor, and accepted by the Contracting Officer:

1. Travel expenses incurred by the Contractor exclusively in direct performance of this contract, and any other travel approved by the Contracting Officer, shall not exceed:
 - a. Cost of air travel by most direct route using "air coach" or "air tourist" (less than first class) unless it is clearly unreasonable or impracticable (as defined in FPR 1-15.205-46(f)).
 - b. Cost of rail travel by most direct route, first class with roomette or nearest equivalent; or
 - c. Cost of travel by privately owned automobile shall be reimbursed at the rate of \$0._____ per mile in lieu of actual costs. However, reimbursement for transportation by this means shall not exceed the cost of a. or b. above, whichever is less.

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- d. Actual cost of related Ground Transportation when not included in allowable per diem pay.
- e. Actual subsistence costs not to exceed \$ _____ per day.

OR

Per diem rate of \$ _____ in lieu of actual costs.

Such other costs not expressly excluded by other provisions of this contract as should, in the opinion of the Contracting Officer, be included in the cost of the work called for by this contract. Approval of such costs shall be identified as being allowable under this subparagraph.

*(Use with D. Cost Determination
educational institutions)*

"The allowability of costs shall be determined in accordance with: (1) Clause 23--Allowable Cost and Payment and Clause 27--Negotiated Overhead Rates of the General Provisions; (2) FPR Subpart 1-15.3--Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Educational Institutions; and (3) Office of Management and Budget Circular A-21, Revised--Principles for Determining Costs Applicable to Research and Development and Educational Services Under Grants and Contracts with Educational Institutions; except that costs for contractor's independent research and development shall not be allowable. (Copies of the Federal Procurement Regulations and the OMB Circular A-21 may be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402)."

E. Prior Authorization of Certain Direct Costs

In addition to those items requiring prior approval under Clause 26 (Subcontracting) of the General Provisions, prior authorization in writing by the Contracting Officer is also required for the costs listed below, unless specifically authorized under Article III-C. Their incurrence with the intent of claiming reimbursement as direct costs shall therefore be at the Contractor's own risk, if without prior authorization.

1. Rearrangement, alteration, or relocation of facilities.
2. Overtime, shift, or other incentive premium.
3. Travel for general scientific meetings and all travel outside the United States. *(Modify for foreign contracts).*

Attachment 3

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4. Any rental agreement for real or personal property.
5. Any term contract for maintenance and/or repair of Government-owned property.
6. Any office furniture or office equipment.
7. All printing, binding, and duplicating which are subject to the limitations of Government Printing and Binding Regulation in effect on the date of this contract, incorporated herein by reference.

COLLABORATIVE (CONTRACT) PROGRAMS OF THE
NATIONAL INSTITUTE OF DENTAL RESEARCH -
NATIONAL CARIES PROGRAM

Most of the collaborative (contract) research in the National Institute of Dental Research relates to the National Caries Program. The development of means to reduce further the universal disease of tooth decay was identified by the Administration as a special initiative area of biomedical research. Substantially increased funds were made available for that purpose in fiscal year 1971, with \$3,500,000 allocated to collaborative research.

Primary emphasis is placed on projects which encompass the application of existing knowledge and which will prove or disprove the findings of earlier laboratory and animal studies when applied to man; projects which seek new preventive modalities that are feasible, effective, and less demanding of the time of scarce professional manpower; and projects which assess new, promising variations of current approaches. In short, most of the collaborative research in the caries area will be targeted to the acceleration of the development of preventive methods for decreasing the incidence of caries and making this disease almost completely preventable within this decade. The collaborative program also recognizes the need for a certain amount of caries-related basic research to fill in important gaps in knowledge. Therefore, fundamental research judged most likely to produce utilizable new information will be supported.

Three factors, all of which interact, are implicated in caries: (1) susceptibility of teeth to the demineralizing action of acids, (2) presence of caries-inducing bacteria, and (3) a diet which favors the colonization and destruction activity of cariogenic organisms. Because of the complex nature of caries, it is unlikely that any one approach will completely solve the problem of its control and prevention. Efforts are therefore directed to depressing the effects of all factors to a minimum and utilizing a combination of techniques instead of concentrating on one. The state of the art in caries and specific research goals relating to these three factors are delineated in the National Institute of Dental Research's brochure "Opportunities for Participation in the National Caries Program."

All proposals are first reviewed by the National Caries Program Executive Committee for responsiveness and relevance. Those which meet these criteria are reviewed for scientific merit by an ad hoc initial review group composed mainly of non-governmental scientists, and then for policy compliance and funding priority by the Institute Contracts Review Committee.

COLLABORATIVE (CONTRACT) PROGRAMS OF THE
NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

The Institute awards contracts for research and development in three principal areas. This notice is being published for informational purposes, since no active solicitation for sources or proposals are planned at present.

1. Automation of the Clinical Laboratory.

Research, development, and evaluation of rapid, reliable automated systems and instruments, for potential application in all aspects of clinical laboratory sciences, including clinical chemistry, toxicology, hematology, microbiology, virology, blood banking, etc. Subject areas of interest include sample collection and labelling techniques, new or improved analytical methods, data handling and reduction techniques for compact computers, miniaturized and portable test systems for emergency use, all intended to increase reliability, throughput, and clinical significance.

2. Pharmacology/Toxicology.

Research, development, and evaluation in all aspects of therapeutic drug use, including synthesis, testing, assays in body fluids, and surveillance for effectiveness, side effects, and drug interactions. The principal aim is to promote safer and more effective use of drugs. Related problems include dose-response patterns, kinetics of uptake, distribution, and elimination, metabolic transformations of administered drugs, and quantitative analytical methods and instruments for identification and assay.

3. Genetics and Genetic Chemistry.

Research, development, and production in areas where technological constraints impede progress in genetics research. Representative problem areas include isolation, synthesis, separations, purification, and production procedures for material and synthetic genetic materials such as nucleic acids, related enzymes, tissue culture cells, genetically determined animals, etc.

RECORD RETENTION REQUIREMENTS FOR
GRANTEE INSTITUTIONS (NIH 5803)**POLICY CHANGE**

1. PURPOSE This issuance states the policy on the period of time for which the grantee is required to retain records relating to grants and awards received from the National Institutes of Health. It supersedes NIH Grants Policy Guide No. 5, February 5, 1971.

2. APPLICABILITY This policy applies to all grantees and to all NIH grants and awards (except student loans) regarding grant records and related documents.

3. POLICY All recipients of grants and awards made by the NIH are required to maintain grant records, identifiable by individual grant number. Original documents such as invoices, checks, time records, and payrolls in support of direct costs may be retained in grant files or in the grantees' regular files provided the grantees' accounting records contain adequate reference for identifying and locating the original documents.

a. Grants Other than Construction Grants - All records (e.g., accounting records and progress reports) shall be retained in accordance with the following:

- (1) Records may be destroyed 3 years after the end of the budget period if audit by or on behalf of the DHEW has occurred by that time.
- (2) If such audit has not occurred by that time, the records must be retained until audit or until 5 years following the end of the budget period to which they pertain, whichever occurs first.
- (3) In all cases, records must be retained until resolution of any audit questions relating to individual grants.

b. Grants Made Under NIH's Construction Authority

- (1) Records must identify the source and expenditure of all funds used to pay the cost of the construction project. Also to be retained are architectural and engineering records and other records necessary to verify compliance with specific terms and conditions of the award.
- (2) All records shall be retained for 3 years after the close of the fiscal year in which the construction is completed. Such records may be destroyed at the end of such 3-year period if the applicant has been notified of the completion of the Federal audit by such time. If the applicant has not been so notified by the end of such 3-year period, such records shall be retained (a) for 5 years after the close of the fiscal year in which the construction is completed or (b) until the grantee is notified of the completion of the Federal audit, whichever is earlier. In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of such questions.

4. *EFFECTIVE DATE* This policy is effective on date of release.

References

- (1) DHEW Grants Administration Manual, Chapter 1-100, "Retention of Records by Grantee Agencies and Institutions."
- (2) Code of Federal Regulations, Title 42-Public Health, Parts 52.24(a), 53.131(c), 57.8(e), 57.106(g), 57.406(g), 57.511(a), 57.610(a), 57.715(a), 57.808(g), 57.910(a), 57.1011(a), 58.9, 59a.7, 59a.20(a), 59a.37(d), 64.4(c).

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