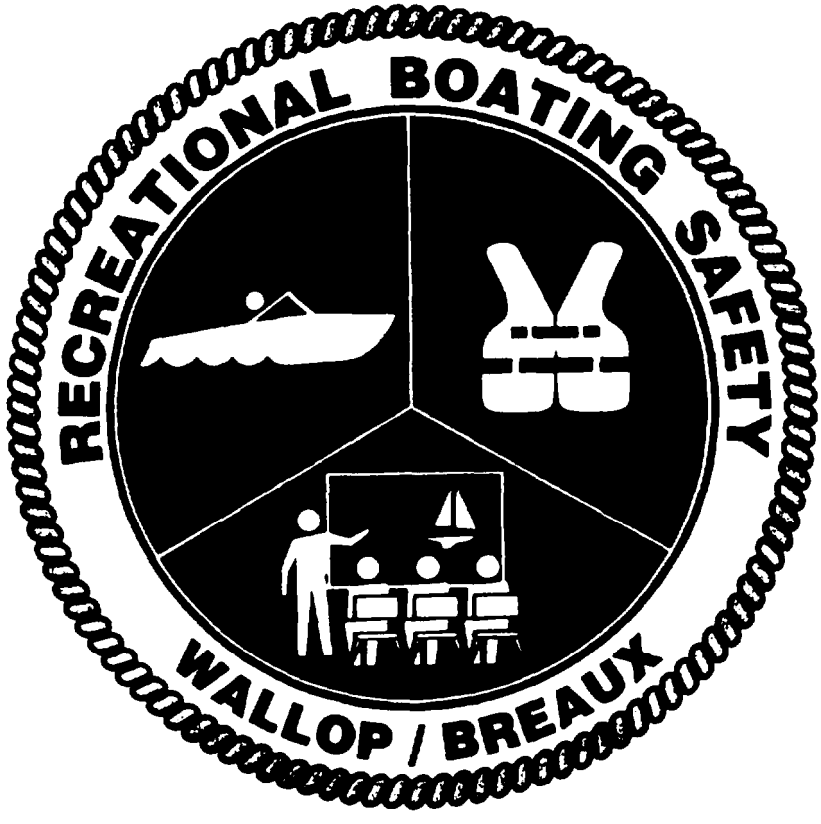
U.S. Department
of Transportation

**United States
Coast Guard**

STATE RECREATIONAL BOATING SAFETY PROGRAMS



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United States Coast Guard

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Subj: STATE RECREATIONAL BOATING SAFETY PROGRAMS

1. PURPOSE. This Publication provides a reference to the laws, regulations, and guidelines that govern the acceptance of State recreational boating safety programs and the administration of Federal financial assistance that is available to eligible States (as defined in Chapter 1). It will assist the States in applying for and administering Federal funds provided under the National Recreational Boating Safety Financial Assistance Program (Program 20.005 in the Catalog of Federal Domestic Assistance).

2. DIRECTIVES AFFECTED. The State Recreational Boating Safety Programs "State Guide," COMDTPUB P16755.3, dated 26 February 1992, is superseded by this Publication.

3. CHANGES. When the laws and regulations applicable to this program are amended, notice of the change will be provided to holders of the Publication. The Publication will be updated periodically and page changes reflecting the amendments will be distributed.

4. REPORTS AND FORMS. This Publication contains examples of the forms that are used to apply for Federal financial assistance, request reimbursement, or submit financial status reports. Copies of these forms may be obtained from the Program Administrator.

KENNETH T. VENUTO
Director of Operations Policy

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MISCELLANEOUS

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DEFINITIONS

Advance	A payment of Federal funds to a State, upon its request or through the use of predetermined payment schedules, before expenditures are made by the State. A State must justify the need for an advance.
Allocation	The amount of funds that are reserved for a State from Federal funds available during a fiscal year for the purposes of 46 U.S.C. Chapter 13 1.
Available Federal Funds	Federal funds available for allocation may include: (1) Funds appropriated for allocation during a given fiscal year; (2) Funds previously allocated to a State that were withdrawn because they were unobligated at the end of a two-year period; and, (3) Funds carried forward that were not allocated by the Commandant at the end of the previous fiscal year.
Code of Federal Regulations (CFR)	A codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government.
Cooperative Agreement	An agreement between a State and the U.S. Coast Guard (district office) that defines the relationship between the parties in carrying out recreational boating safety programs. May also be called Memorandum of Understanding or Statement of Understanding.
Department of Transportation (DOT)	A Cabinet-level Department of the Federal Government. The Coast Guard is a service in this Department except when it is operating as a service in the Department of the Navy.
Designated State Agency	The lead authority or agency designated by the Governor of a State to carry out the State's recreational boating safety program.
Eligible State	A State with a recreational boating safety program that has been approved by the Coast Guard as meeting the requirements of 46 U.S.C. 13 102 and all applicable regulations.
Federal Fiscal Year (FY)	The 12-month period beginning on 1 October and ending on the following 30 September.
Financial Assistance	A grant of Federal funds to a State in support of its recreational boating safety program.

Insular Areas	The Insular Areas are American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.
Matching Share	That portion of total program costs required to be committed by the State to qualify for Federal financial assistance.
NASBLA	National Association of State Boating Law Administrators. A national organization of State officials responsible for administering and/or enforcing State boating laws. The organization's major purpose is to promote boating safety.
Obligation	The amount of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.
OMB	The Office of Management and Budget.
Outlays	The sum of actual cash expenditures made and indirect costs incurred by a State in support of its recreational boating safety program.
Program Coordinator	Individual within the Coast Guard Office of Boating Safety assigned responsibility for the administration of Federal financial assistance for State recreational boating safety programs.
Recreational Boating Safety (RBS Program)	Coordinated activities aimed at promoting recreational boating safety.
Reimbursement	Payment by Electronic Funds Transfer of the Federal share of a State's expenditures for its boating safety program.
Secretary	The Secretary of the Department of Transportation.
Single Audit	An audit conducted by an independent auditor for the State.
State	A State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.
U.S. Coast Guard (USCG)	A military service and a branch of the armed forces of the United States. The Coast Guard is a service in the Department of Transportation, except when operating as a service in the Navy.
United States Code (U.S.C.)	The code of the laws of the United States of America.

Unliquidated Obligations	The amount of obligations incurred by a State that has not been paid.
Unobligated Balance	The portion of funds authorized by the Federal agency that has not been obligated by the State and is determined by deducting the cumulative obligations from the cumulative funds authorized.

CHAPTER 1 – INTRODUCTION

1.1 **Purpose.** This Publication provides guidance related to the Federal laws, rules implementing those laws, standards and procedures applicable to participation in the Recreational Boating Safety Federal Financial Assistance Program administered by the U.S. Coast Guard. Guidance applicable to State RBS program approval also is provided. Every effort has been made to ensure that information contained in this Publication is thorough and up-to-date. The material is intended as amplification for interpretation of the laws and regulations governing Federal funds for State RBS programs; however, it is not intended to supersede any Federal requirement and States should not rely solely on its contents.

1.2 **Applicability and Scope.** The guidance contained in this publication is applicable to the State RBS program authorized by the following chapters of Title 46, United States Code, which are provided in Enclosures (1) through (4):

a. Recreational Vessels (46 U.S.C. Chapter 43);
b. Reporting Marine Casualties (46 U.S.C. Chapter 61);
c. Numbering Undocumented Vessels (46 U.S.C. Chapter 123); and,
d. State Boating Safety Programs (46 U.S.C. Chapter 13 1).

1.3 **Eligible Participants.** States [as defined in 46 U.S.C. 2101(36) and 2102(2)] and in this Publication) may apply to the U.S. Coast Guard for approval of the boating safety program enacted by the State. States with approved programs and national nonprofit public service organizations are eligible to apply for Federal financial assistance.

a. **Eligible State** – A State that has a U.S. Coast Guard-approved RBS program as outlined in Section 2.3 of this Publication.

b. **National Nonprofit Public Service Organization** – Each year a Federal Financial Assistance Application Package is prepared and made available to all prospective grantees which provides guidance on the eligibility requirements and includes the latest application procedures for national nonprofit public service organizations.

1.4 **Agency Administration.** The Secretary of Transportation has delegated the authority to administer this program to the U.S. Coast Guard. Within the U.S. Coast Guard, the Program Director is the Director of Operations Policy. District Commanders have been delegated the authority to enter into Cooperative Agreements with States and local jurisdictions on matters related to RBS. The role of the district is "supportive" not "directive" with respect to the States. The districts' role is to facilitate the States' ability to be effective, especially in coordinating the use of U.S. Coast Guard assets. The approval of applications for Federal financial assistance and authority to enter into financial agreements is reserved for the Program Manager. Questions concerning State RBS programs may be directed to the appropriate U.S. Coast Guard Headquarters/District Office. Questions concerning the Federal financial assistance program should be directed to the Program Administrator. Following is a listing of U.S. Coast Guard Offices.

U. S. COAST GUARD HEADQUARTERS

Program Director	Director of Operations Policy (G-OP) U. S. Coast Guard Headquarters Washington, DC 20593-0001
Program Manager	Chief, Office of Boating Safety (G-OPB) U.S. Coast Guard Headquarters Washington, DC 20593-0001
Program Administrator	Chief, Program Development & Implementation Division (G-OPB-2) Office of Boating Safety U.S. Coast Guard Headquarters Washington, DC 20593-0001

U. S. COAST GUARD DISTRICTS

First District	Commander, First Coast Guard District (osr) 408 Atlantic Avenue Boston, MA 022 1 O-2209
Fifth District	Commander, Fifth Coast Guard District (aod) U.S. Coast Guard Atlantic Area 431 Crawford St. Portsmouth, VA 23704-5004
Seventh District	Commander, Seventh Coast Guard District (osr) Federal Building 909 SE First Avenue Miami, FL 33131-3050
Eighth District	Commander, Eighth Coast Guard District (osr) Hale Boggs Federal Building 501 Magazine Street New Orleans, LA 70130-3396
Ninth District	Commander, Ninth Coast Guard District (ole-rbs) 1240 East Ninth Street Cleveland, OH 44 199-2060
Eleventh District	Commander, Eleventh Coast Guard District (Poo-3) Bldg. 5 l-1 Coast Guard Island Alameda, CA 94501-5100

Thirteenth District	Commander, Thirteenth Coast Guard District (osr) Jackson Federal Building 915 Second Avenue Seattle, WA 98174-1067
Fourteenth District	Commander, Fourteenth Coast Guard District (oax) Prince Kalanianaole Federal Building 300 Ala Moana Boulevard Honolulu, HI 96850-4982
Seventeenth District	Commander, Seventeenth Coast Guard District (moc) P.O. Box 25517 Juneau, AK 99802-1217

1.5 Changes. This Publication will periodically be updated when laws and regulations applicable to the State RBS program or the Federal financial assistance program are amended or revised. Changes will be provided to all addressees on the distribution list maintained by the Program Administrator.

CHAPTER 2 – STATE RECREATIONAL BOATING SAFETY (RBS) PROGRAMS

2.1 Purpose. This Chapter provides guidance on the general requirements, standards and procedures for State RBS programs.

2.2 Applicability and Scope. This Chapter is applicable, in general, to the requirements to receive USCG approval of State RBS programs. Each of the authorizing statutes listed in Chapter 1 and the implementing regulations provide the minimum requirements. The material in this Chapter is a summary of the requirements of laws and regulations applicable to State RBS programs and is not intended to supersede any existing laws and regulations.

2.3 Program Approval Requirements. Requirements for USCG approval of a State RBS program are set forth in 46 U.S.C. 13 102. USCG (Program Manager) shall approve a State RBS program and the State will be eligible to receive Federal financial assistance if the program includes:

a. **A vessel numbering system approved by the Secretary. The** State shall provide for facilities, personnel and systems needed to administer the approved State vessel numbering system in accordance with the provisions of 46 U.S.C. Chapter 123 [Enclosure (3)] and the implementing regulations in 33 CFR Parts 173 and 174 [Enclosure (6)]. A State shall compile and submit the annual "Certification of Numbered Vessels" statement to the USCG not later than 3 1 January of each year (see Section 6.6 of this Publication).

Revisions to the approved State numbering system require USCG approval [46 U.S.C. 12302(f)]. States must submit to the appropriate USCG Program Coordinator one copy of the revised State law, implementing regulations, applicable forms, and policy statements, if any, that pertain to the numbering system revisions.

b. **A cooperative boating safety assistance program with the USCG.** A Cooperative Agreement between the USCG and a State sets forth the respective responsibilities for recreational boating safety functions/activities and for such other arrangements as may be agreed on. In addition, agreements between States relating to comity and uniformity of laws and regulations and permitting maximum use of boating safety resources are encouraged. An agreement between neighboring States may be made part of the USCG/State Cooperative Agreement. The Cooperative Agreement should include provisions for the following:

(1) The specific water areas wherein each party will provide primary law enforcement and safety patrols or any other agreed activity.

(2) Mutually acceptable conditions whereby the Agreement may be terminated, reconsidered, continued, or expanded. [See section 2.4]

2.3.b (3) Identification of the legal authority and responsibilities of both parties and a provision that these are not abrogated by the Agreement.

(4) Mutual recognition and honoring of the U.S. Coast Guard Report of Boarding form (CG-4100) and local boat examination forms, and recognition of the Coast Guard Auxiliary Vessel Safety Check (VSC) decal, when examination includes State requirements, and similar State "safe boat" decals.

(5) Investigation and reporting of accidents involving recreational craft. [The Freedom of Information Act (FOIA) requires release of information from Agency files unless that information falls under one of FOIA's exemptions. Exemption (b)(3) of the FOIA requires an agency to withhold information that is specifically exempted from disclosure by a Federal statute. 46 U.S.C. 6102(b) requires State casualty reports to be treated by the Coast Guard in the same manner State agencies would do so under State law. Accordingly, agreements shall refer to any applicable State law, and where appropriate, provide that the Coast Guard will handle all information received from the State in the manner required by State law. Since the State statute could be modified during the period of the agreements, reference to the State statute should be made rather than incorporating the specific limitations.]

(6) Training of personnel at both Federal and State facilities or through other agreed means.

(7) Coordination of search and rescue efforts on all waters.

(8) Issuing permits for marine parades and regattas.

(9) Coordination of public boating education efforts.

(10) Referral of numbering and other violations of State boating regulations to the States for civil penalty processing.

(11) Referral of manufacturer-related or other Federal violations to the USCG for disposition, if applicable.

NOTE: The Cooperative Agreement will be signed by the appropriate State official and the USCG District Commander responsible for State boating liaison activities in that particular State. Federal/State Relations – Recreational Boating Safety, COMDTINST 16750.8 (series) requires that Cooperative Agreements be reviewed by the USCG and the State on a biennial basis.

2.3.b. NOTE: State Aids to Navigation agreements are governed by 33 CFR Part 66.05 and are normally separate from other cooperative agreements. Since Aids to Navigation agreements impinge on Coast Guard programs not directly related to recreational boating safety, such agreements should not be made a part of this cooperative agreement. Aids to Navigation agreements, if needed, shall incorporate the provisions described in the Code of Federal Regulations and the Aids to Navigation Administration Manual, COMDTMST Ml 6500.7 (series.) A copy of such agreements shall be filed with Commandant (G-OPB-2).

c. **Sufficient patrol and other activity to ensure adequate enforcement of applicable State boating safety laws and regulations. The** State shall provide for facilities, equipment, and personnel to maintain sufficient patrol and other law enforcement activities to:

(1) Ensure the enforcement of State boating safety laws and regulations.

(2) Ensure the enforcement of applicable Federal laws and regulations as may be authorized.

(3) Avoid duplication of efforts with Federal law enforcement activities in a given area at a given time and provide the most effective law enforcement possible with the vessels and personnel available.

(4) Promote public awareness and acceptance of recreational boating safety laws and regulations.

d. **An adequate State boating safety education program.** This program shall include the dissemination of information concerning the hazards of operating a vessel when under the influence of alcohol or drugs.

(1) The program shall meet or exceed the minimum standards adopted by NASBLA [Enclosure (1 O)].

(2) The program will be available throughout the State and throughout the year, either in classrooms or through correspondence courses.

(3) The State and the USCG will cooperate whenever possible in developing any public boating safety education program.

(4) States may use volunteer instructors qualified in boating safety education. However, such use does not relieve the State from its responsibility to maintain and supervise the State boating safety education program.

2.3.d. (5) The value of volunteer services may not be counted in determining the State matching share of program costs.

e. **A system, approved by the Secretary, for reporting marine casualties.** In accordance with 46 U.S.C. 6102 [Enclosure (2)] and 33 CFR Parts 173 and 174 [Enclosure (6)], the system shall:

(1) Provide a uniform State system for reporting marine casualties.

(2) Prescribe the types of casualties to be reported and the manner of reporting.

(3) Provide that the State shall compile and submit to USCG reports, information, and statistics on casualties reported to the State as required by 33 CFR Part 174 [Enclosure (6)]. Reports should include information and statistics concerning the number of casualties in which the use of alcohol or drugs contributed to the casualty. See section 6.7 of the Publication for additional information about individual boating accident reports.

NOTE: An electronic copy of each State's accident and investigative report data, including any alcohol/drug test results, shall be forwarded to the Office of Boating Safety (G-OPB-1) at Coast Guard Headquarters within 30 days of receipt of the initial casualty or accident report. States that lack electronic data transfer technology may forward paper copies of the accident and investigative reports to Commandant (G-OPB-I), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001.

2.4 Program Duration. A State RBS program approved by the U.S. Coast Guard shah remain in effect until such time as the State program is changed where it is no longer consistent with the above provisions and the State is so notified by the Coast Guard. The Cooperative Agreement (required under section 2.3.b of this chapter) can be cancelled by either the USCG or the State with at least 30 days notice to the other party. Approval of a State's RBS program is rescinded automatically upon cancellation of the Cooperative Agreement.

CHAPTER 3 – FEDERAL ASSISTANCE AND STATE ALLOCATIONS

3.1 Purpose. This Chapter provides guidance on the availability, eligibility, and allocation of Federal financial assistance provided for State RBS programs.

3.2 Applicability and Scope. The guidance provided in this Chapter is applicable to Federal financial assistance for State RBS programs administered by the USCG. The material is intended as amplification for further interpretation of the provisions of laws and regulations on the availability, eligibility, and allocation of Federal funds, and is not intended to supersede any Federal requirement.

3.3 Availability. Federal financial assistance for State RBS programs from the Boat Safety Account of the Aquatic Resources (Wallop/Breaux) Trust Fund is authorized by 46 U.S.C. 13 106(a) [Enclosure (5)].

3.4 **Eligibility.** Eligibility with approved RBS programs may receive Federal financial assistance from the Boat Safety Account established by Section 9504(a)(2) of the Internal Revenue Code of 1986, if the State demonstrates to the U.S. Coast Guard's satisfaction that:

a. The program submitted by a State is consistent with Chapters 61, 123, and 13 1 of Title 46 U.S.C. [Enclosures (2), (3), and (5)] and the Federal regulations implementing those statutes.

b. Amounts received will be used to further develop and carry out a State RBS program containing the minimum requirements of 46 U.S.C. 13 102(c) [Enclosure (5)].

c. Sufficient State matching amounts are available from general State revenue, undocumented vessel numbering and operator license fees, State marine fuel taxes, or from a fund constituted from the proceeds of those taxes and established to finance a State RBS program. The matching amount must be monetary.

NOTE: 49 CFR Part 18 [Enclosure (7)] contains uniform administrative requirements that apply to all Federal grants except where inconsistent with Federal statutes [49 CFR 18.4(a)]. Because 46 U.S.C. 13102 [Enclosure (5)] precludes the use of in-kind contributions in computing a State's matching share for the RBS program, 49 CFR 18.24 is not applicable to the RBS program.

d. The program submitted by the State designates a State lead agency or authority to carry out or coordinate carrying out the State RBS program, including the requirement that the designated State agency or authority submit required reports that are necessary and reasonable to carry out the program and that are in the form prescribed by the Secretary.

3.4. e. The State will provide for a drug-free workplace in accordance with 49 CFR Part **29.**

3.5 Distribution of Federal Financial Assistance. Federal funds appropriated for State RBS programs will be distributed as follows:

a. Not less than one percent and not more than two percent of the amount appropriated in a fiscal year shall be used by the USCG for the costs of administering State RBS programs [**46** U.S.C. 13 106(a)(2)].

b. Not more than 5 percent of the amount available for allocation and distribution in a fiscal year may be allocated for national boating safety activities of national nonprofit public service organizations [**46** U.S.C. 13 103(c)].

c. The balance shall be allocated and distributed for State RBS programs.

3.6. Computation of State Allocations. 46 U.S.C. 13 108 [Enclosure **(5)]** requires the USCG to determine, during the second quarter of a FY and on the basis of computations made under 46 U.S.C. 13 105 and submitted by the States for the preceding FY, the percentage of the amounts available to which each eligible State is entitled for the next FY. In accordance with 46 U.S.C. 13 103(a), State allocations shall be determined as follows:

a. One-third allocated equally each FY among eligible States.

b. One-third allocated among eligible States that maintain a State vessel numbering system approved under 46 U.S.C. 12302 and a marine casualty reporting system approved under 46 U.S.C. 6102. The amount allocated each FY to each eligible State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States.

c. One-third allocated so that the amount allocated to each eligible State will be in the same ratio as the total State expenditures for the RBS program during the prior fiscal year bears to the amounts expended by all eligible States for RBS programs during that FY.

3.7. Availability of Allocations. Beginning in FY99, amounts allocated to a State are available for obligation by that State for a period of two years **after** the date of allocation. The date of allocation is the date the States are formally notified in writing by the USCG of the amount of allocation. Federal funds unobligated by a State at the end of the two years shall be withdrawn and **shall** be available with other amounts to be allocated during that FY. States will be notified of the potential loss of funds.

NOTE: Notification of amount of allocation is normally provided in December.

3.8. **Limitation on Amounts Distributed.** 46 U.S.C. 13103(b) [Enclosure (5)] limits the amount of Federal funds that a State can receive in a FY to not more than one-half of the total cost incurred by that State in developing, carrying out, and financing that State's RBS program in that FY.

NOTE: In compliance with 46 U.S.C. 13 103(b) and 48 U.S.C. 1469a(d), the USCG will enforce the statutory requirement governing the State RBS Federal Financial Assistance Program that local matching funds be provided by the Insular Areas for allocation amounts in excess of $200,000.

CHAPTER 4 – FINANCIAL ADMINISTRATION

4.1 Purpose. The purpose of this Chapter is to provide guidance on the general requirements, standards and procedures for the administration of Federal financial assistance provided for State recreational boating safety (RBS) programs.

4.2 Applicability and Scope. Administrative requirements and standards for Federal financial assistance are published in the Code of Federal Regulations (49 CFR Part 18) and OMB Circular A-87, which are provided in Enclosures (7) and **(8),** respectively, of this publication. The material contained in this Chapter is intended as amplification for interpreting the requirements of applicable laws and regulations and to provide established USCG procedures. However, the contents of the Chapter are not intended to supersede any Federal requirement.

4.3 Availability of Federal Funds. The following general provisions are applicable to Federal financial assistance provided for the RBS program.

a. A State's allocation of Federal financial assistance remains available for expenditure or obligation by that State for RBS program functions/activities for two years following the date the allocation notice is issued by the USCG.

b. A State may apply for all or part of its Federal allocation, but not more than the amount of non-Federal matching funds provided by the State for the FY.

(1) If a State applies for less than the amount allocated to that State for the FY, the balance of the allocation remains available for the remainder of the two years (see Section 3.7).

(2) A State may apply for its remaining allocation if sufficient State matching amounts become available during the FY. If not, the balance may be carried forward and added to the allocation for the subsequent FY, subject to the matching share provision. The State may not apply for Federal funds in excess of the total amount available to that State.

(3) If the State agency's authority to expend Federal funds is subject to appropriation by the State Legislature, the State may not request more than the amount authorized by the State legislature.

c. Federal funding for a State RBS program is provided for the twelve-month period **from** October 1 to September 30. When the USCG enters into a Federal Financial Assistance Agreement with a State (Exhibit **4-** 1, page 4-l 1), the entire RBS program is approved. The Financial Agreement includes anticipated total RBS program costs. When **the** agreement is accepted, the State is committed to provide the non-Federal share unless the Financial Agreement is subsequently amended (see Sections 4.8 and 4.9). Failure to meet this commitment may result in disallowance of all or part of the requested Federal share.

4.4 State Program. An approved State RBS program must contain the program elements (functions/activities) listed in Section 2.3 of this Publication. Federal financial assistance is provided to supplement the State matching amounts provided for the RBS program and is intended for use in accomplishing the program purposes as provided by the authorizing laws. Unless changed by subsequent State law, a State RBS program approved by the USCG under 46 U.S.C. 13 102 continues in effect, whether or not the program is supported by Federal financial assistance.

4.5 Application for Federal Assistance. The Application for Federal Assistance (AFA) for State **RBS** programs consists of:

Financial Agreement Between DOTAJSCG and the State*
Application for Federal Assistance (Cover Sheet) – SF-424 (7-97)*
Budget Information – Non-Construction Programs – SF-424A (7-97)
Section C, D, E, and F, - SF-424A (7-97) Page 2
Section F, Item 25 (Cont'd) – SF-424A Page 2A
Assurances – Non-Construction Programs – SF-424B (7-97)*
Budget Information – Construction Programs, - SF-424C (7-97)
Assurances – Construction Programs, - SF-424D (7-97)*
Program Narrative
Drug-Free Workplace Act Certification*
Certification Regarding Lobbying, or
Disclosure of Lobbying Activities – SF-LLL*

*** - specifies forms that require an original authorized signature.**

NOTE: To ensure States, U.S. Territories, and nonprofit organizations do not discriminate in their programs and activities, the USCG Civil Rights Directorate conducts pre-award Title VI compliance reviews of grant applications from State agencies and private, non-profit organizations requesting funds under the National Recreational Boating Safety Program. States will receive guidance directly from the Office of Civil Rights (G-H) at Coast Guard Headquarters on Title VI compliance. A compliance statement may be made part of the Program Narrative.

a. The information contained in the application package is the basis upon which the Program Manager determines whether the proposal meets eligibility requirements and the standards for approval. Once approved, the AFA becomes a contractual agreement between the USCG and the State. The AFA package and applicable instructions are included as Exhibits 4-1 through 4-14 of this Chapter and are available **from** the Program Administrator.

b. The application must be submitted by the State authority or agency designated to carry out or coordinate carrying out of the State RBS program.

4.5.c. A signed original and two copies of the AFA must be submitted to the Program Administrator. **EXCEPTION: ORIGINAL SIGNATURES ARE REQUIRED ON ALL 3 COPIES OF THE FINANCIAL AGREEMENT BETWEEN THE U.S. COAST GUARD AND THE STATE.**

d. The application requires a narrative description of all ongoing and planned recreational boating safety activities that are anticipated by the State during the program period, regardless of the source of funds for these activities. The Program Narrative must address each program function/activity to be funded, even though the application is submitted as a single program. Instructions for preparing the Program Narrative are included as Exhibit 4-10. A Program Narrative that does not provide sufficient detail on the goals and objectives of a State's RBS program may result in the Program Administrator delaying or denying approval of a grant application.

e. An amendment to the grant application must be sent to the Program Administrator if the budget information changes by 10% or more of the total program, or when the scope or nature of the program is modified. Only revised portions of the application need to be sent, e.g., a revised SF-424A and program narrative, with an explanation of the reasons for the changes.

4.6 Intergovernmental Review. If a State has selected the RBS program for review under Executive Order 12372, the State review process must be followed. A 60-day comment period is provided by Executive Order 12372. Any comments must accompany the application. If the program was not selected for review or no comments were made, this should be indicated in item 16 of the Application for Federal Assistance (SF-424).

4.7 Review and Approval of Applications. Applications will be reviewed by the USCG Program Administrator.

a. If the review identifies omissions or raises questions, the applicant will be contacted to obtain additional information to resolve the issues.

b. When determined to be fully satisfactory, the application will be approved and the Financial Agreement executed by the Program Manager. A copy of the approved application and one signed original Financial Agreement will be sent to the State.

4.8 Financial Agreement. The Financial Agreement is used to commit Federal financial assistance for carrying out work covered by an approved Application for Federal Assistance. The Agreement may also include other conditions, either explicitly or by reference. **All 3 copies of the Financial Agreement must bear original signature-s.** Upon execution by the Program Manager, the Financial Agreement is a contractual obligation of the Federal Government for payment of a proportionate share of the allowable costs of the State RBS program. Signature by an authorized official of the State commits the State to provide the non-Federal share to carry out the work described in the application.

NOTE: Section B of the Financial Agreement specifies that amounts received shall be used to develop and carry out the RBS program objectives, and to pay travel and associated costs for attendance of State RBS program personnel at the annual conference of the National Association of State Boating Law Administrators and the appropriate regional Boating Law Administrators' association.

4.9 Amendment to Financial Agreement. An amendment to the Financial Agreement must be submitted to the Program Manager for approval prior to the close of the original Agreement period. If the amendment involves changes in any of the documents supporting the kgreement, attach a copy of the applicable revised document. An amendment must be submitted for the Program Manager's approval in any of the following circumstances:

a. The addition or deletion of any program function/activity.

b. Increasing or decreasing the total Federal funding obligated by the Agreement.

c. Decreasing the total State funding obligated on the Agreement.

d. The reallocation of funds between functions/activities if the total reallocation exceeds 10 percent of the current total approved budget, and the Federal share of the total RBS program exceeds $100,000.

4.10 **Responsibility.** It is the responsibility of the State to implement adequate procedures for the proper management of the Federal financial assistance received for the State RBS program. The State shall provide the USCG with periodic financial reports as required in Chapter 6 of this Publication.

4.11 **Financial Management Systems.** States will follow their own laws and procedures to expend and account for Federal funds, including subgrants to others. However, States, as well as their subgrantees and cost-type contractors, must have sufficient control and accounting procedures to permit preparation of required reports and to establish that Federal funds have not been used for unauthorized purposes.

4.12 **Standards for Financial Management Systems.** Federal standards for financial management systems are outlined in 49 CFR Part 18.20 [Enclosure (7)]. Financial management systems established by the States to administer the RBS program must meet the following conditions. Other aspects may be added at the discretion of the designated State agency.

a. The system must provide accurate, current, and complete disclosure of the financial status of the RBS program.

b. The records must identify adequately the source and application of funds, i.e., where the funds came from (Federal, State) and what the funds were disbursed for (personnel, tinge benefits, equipment, etc.). The records must also contain the following information for each function/activity:

4.12.b. (1) Amount of obligations.

(2) Unobligated balance.

(3) Amount of outlays.

(4) Amount of program income.

c. The financial management system will provide for effective control over and accountability for all funds, property, and other assets.

d. The system must provide comparison of budgeted amounts and actual expenditures by function/activity and fiscal period.

e. The system must include procedures for determining allowable costs and, where applicable, the allocation of costs between RBS and other programs.

f. All accounting records must be supported by source documentation.

g. Federal regulations encourage reimbursement to the States for funds expended in a State RBS program on behalf of the Federal Government. If funds are advanced to the State by the Federal Government, the system must include procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the State.

NOTE: The RBS Program is a reimbursment program. Federal funds will not be advanced without written justification from the State to the USCG. Justifications will be evaluated by the Program Administrator for approval/disapproval.

h. The system shall provide for organization-wide audits at least every two years to determine the fiscal integrity of financial transactions and reports and compliance with laws, regulations, and administrative requirements.

4.13 Budget Information. The financial elements of the State RBS program are defined in the Budget Information (SF-424A) of the approved application.

a. Budget elements are defined as follows:

(1) By function/activity (Administration, Law Enforcement, Education, Navigational Aids (NAVAIDS), Boat Registration/Titling, and Public Access Sites).

(2) By object class (Personnel, Fringe Benefits, Travel, etc.).

(3) By Federal fiscal quarter.

4.13.b. The State must monitor expenditures by each budget classification, compare actual expenditures to the anticipated rate of expenditure, compare expenditures to performance, assure that expenditures by category are within established budgets, and, under the conditions outlined in Section 4.14, formally request approval by the USCG of budget revisions.

4.14. Budget Revision. Budget revision refers to the shifting of funds, both Federal and non-Federal, from one function/activity within the approved financial plan to another. The need for revision of the budget should be considered whenever the financial status or program performance review indicates that there has been significant deviation from the cost or performance estimates made at the time of the Financial Agreement. It is necessary for proper management that the performance program and the budget be kept current.

a. States shall request prior approval from the USCG when a revision is necessary for any of the following:

(1) There is a change in scope or objective of the program.

(2) The revisions involve the addition of items requiring approval in accordance with the provisions of OMB Circular No. A-87 [Enclosure (8)].

(3) The Federal share of the RBS program exceeds $100,000 and the cumulative amount of transfers among program functions/activities exceeds, or is expected to exceed, ten percent of the program budget.

(4) A transfer of funding from a non-construction activity to a construction activity or vice versa.

b. States shall promptly notify the USCG when, as a result of a change in the scope of the program, the amount of Federal funds requested in the State's application is expected to exceed actual needs by more than 10 percent of the Federal award.

c. Other changes to the budget do not require approval. These changes include:

(1) The use of State funds in furtherance of program objectives over and above the minimum share included in the approved budget.

(2) The transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

4.15 Audit Requirements. Federal standards covering audit procedures are contained in 49 CFR Part 18.26 [Enclosure (7)]. It provides for grantees and subgrantees to obtain audits in accordance with the Single Audit Act of 1984 (3 1 U.S.C. 7501-7) and Federal agency implementing regulations.

4.15. a. Audits shall be conducted by the State or an independent auditor in accordance with generally accepted government auditing standards for financial and compliance audits.

b. The provisions of 49 CFR Part 18 [Enclosure (7)] do not limit the authority of the USCG to audit State programs. However, if independent audits conducted by the States meet the requirements of 49 CFR Part 18, the USCG shall rely on them and any additional audit work shall build upon the work already done.

c. Specific guidance for audit compliance requirements and suggested audit procedures for this program are provided in Chapter 6 of this Publication.

4.16 **Allowable Costs.** Costs incurred in carrying out the RBS program are divided into two major types – direct and indirect – and are governed by the principles set forth in OMB Circular No. A-87 [Enclosure (8)].

a. Direct costs are those that can be clearly identified as being incurred in performance of RBS activities. Typical direct costs are:

(1) Compensation of employees for their time and efforts devoted specifically for RBS activities.

(2) Cost of materials and equipment acquired specifically for RBS activities.

(3) Other items of expense incurred specifically to carry out RBS activities.

(4) Services furnished specifically for RBS by other agencies.

b. Indirect costs are those (1) incurred for a common or joint purpose benefiting more than one cost objective and (2) not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved.

(1) Indirect costs are allowable only if an approved cost allocation plan is in effect to distribute indirect costs to the several direct functions benefited. If a State agency already has a cost allocation plan that has been audited and approved by its cognizant Federal agency, supporting documentation should be included with the application for Federal financial assistance that is sent to the U.S. Coast Guard. If such a plan has not been developed, the State agency should assemble adequate supporting documentation and contact the Federal agency responsible for the approval and audit of its indirect cost rates and cost allocation plans.

(2) Guidelines for determining items that may be included in indirect costs and methods of allocation are available in OMB Circular No. A-87 [Enclosure (8)].

c. Specific examples of costs that are allowable under the provisions of this Federal financial assistance program are:

4.16.c. (1) Costs of administering and enforcing the State RBS program.

(2) Costs of facilities, equipment, and supplies for RBS education and law enforcement.

(3) Personnel costs for employees who work in the State RBS programs (see Section 4.18 of this Chapter).

(4) Costs of RBS training, including salaries of instructors, costs of operating training facilities, costs of training equipment and supplies, and costs of travel and per diem related to such training.

(5) Costs for public RBS education, e.g., the cost of safety-related exhibits at boat shows, or educational programs developed for the general public, various segments of the boating community, and the public school system.

(6) Costs related to administering and operating State vessel numbering and titling systems, including investigations of stolen boats.

(7) Costs of establishing local **watercraft** controls required for the safety of boaters.

(8) Costs of establishing and enhancing existing waterway markers and other appropriate aids to navigation to the extent they benefit the **RBS** program. Neither State funds nor Federal financial assistance can be used to maintain markers and other navigational aids for which the USCG is responsible.

(9) Costs for emergency assistance to recreational boaters.

(10) Costs related to safety inspections of recreational boats.

(11) Costs of inspecting boat liveries, livery boats, and boats carrying six passengers or less for hire.

(12) Costs of issuing permits for and patrolling races or regattas where such permits and patrols are required to ensure the safety of participants and spectators.

(13) Costs of attending RBS meetings and conferences, both in-State and out-of-State, when such meetings and conferences are clearly beneficial to RBS.

(14) Costs of RBS research projects.

(15) State payments to political subdivisions for allowable costs in support of the State **RBS** program.

(16) Costs for the investigation of accidents involving recreational boats, including costs for body or vessel **recovery** that are directly related to a recreational boating **accident** or the investigation thereof.

4.16.c.(17) Costs for acquisition, construction, repair and maintenance of public access sites identified in the State application approved by the USCG.

(a) Costs for public access sites other than for the State RBS program are not allowable.

(b) Maintenance means all commonly accepted practices necessary to keep the public access site operating in a state of good repair and to protect it from deterioration resulting **from** normal wear and tear. Activities that allow the facility to function include routine recurring maintenance such as minor repairs, and non-routine cyclical maintenance, which is major maintenance or renovation activities conducted at intervals normally greater than 1 year. General upkeep (mowing lawns, daily cleaning, etc.) is **not** an allowable cost of the State RBS program budget.

4.17 Equipment. A State will use, manage, and dispose of equipment acquired with funds from the Federal RBS financial assistance program in accordance with State laws and procedures.

4.18 Personnel Compensation. Many States have personnel whose duties are not limited to the RBS program. For example, RBS duties may be performed by fish and game or conservation personnel who enforce RBS laws as well as hunting or fishing laws. Section B. 10. of Attachment B, OMB Circular No. A-87 [Enclosure **(8)],** requires that the salaries and wages of such personnel be supported by appropriate time distribution records that equitably distribute the time and effort.

a. A State may establish its own procedure to comply with the requirements of OMB Circular No. A-87, or it may use the alternative method below, which has been approved by the Department of Health and Human Services.

b. **Alternative Method for Time Distribution.** Each pay period, or at least once a month, prepare a time sheet that covers all employees whose costs are chargeable to more than the RBS program and includes the following information:

(1) Name and Social Security number of each employee.

(2) Total salary of each employee.

(3) Total hours each employee worked.

(4) Percent of employee's time charged to program.

(5) Hours for each employee that were charged to the program.

(6) Amount of employee's salary charged to the program.

(7) Certification by the next higher supervisor.

4.19 Program Income. For purposes of the State RBS program, program income is the gross income directly generated by an RBS program activity during the period the program is supported by Federal financial assistance. Regulations governing program income can be found in 49 CFR 18.25 [Enclosure (7)].

a. During the period of the Financial Agreement, the costs of activities related to the generation of RBS program income are allowable when the program income is used to support the State RBS program. If RBS program income supports additional State programs, the allowable costs charged to the RBS program must be in direct ratio to that portion of program income that is used to support the RBS program.

b. Program income may be used to meet the non-Federal matching share requirement.

4.20 Payments. After it has expended part or all of its non-Federal share, a State may submit a request for payment by submitting an original and one copy of the "Request for Advance or Reimbursement" (SF-270) to the Program Coordinator. [See Section 6.4.b.]

a. Payments may be made by the reimbursement or the advance method.

(1) **Reimbursement metbod.** This is the preferred method of payment. The State expends funds for the RBS program under its usual procedures. When submitting the quarterly Financial Status Report (SF-269 or SF-269A), the State determined the portion of program expenditures that are considered to be the Federal share of the outlays reported, not to exceed the amount of the State's allocation. A Request For Advance or Reimbursement (SF-270) is submitted for reimbursement of the Federal share of outlays that were made by the State.

(2) Advance method. Requests for advance payment may be allowed on a case-by-case basis when justification is submitted and when the requirements for an advance as set forth in 49 CFR 18.21 are met. To comply with Department of the Treasury regulations (3 1 CFR Part 205), the State must minimize the elapsed time between the receipt of funds and their disbursement. That State must be able to demonstrate that proper procedures are in place to meet this requirement.

b. Payments will be made by Electronic Funds Transfer from the Department of the Treasury. It is the responsibility of the State to ensure that the USCG Finance Center has on file a current Vendor Express Form (ACH), which provides information on the State's agency and financial institution.

FINANCIAL AGREEMENT BETWEEN

DEPARTMENT OF TRANSPORTATION/UNITED STATES COAST GUARD

AND

THE STATE OF _____

AGREEMENT NO. ____.01

The United States of America (herein called the Government), acting through the United States Coast Guard pursuant to 46 U.S.C. 13106, agrees to pay the Government's share of allowable costs incurred in accomplishing the State Recreational Boating Safety Program objectives described in the application of the State of _____ (herein called the Applicant or State), subject to:

A. Purpose of Assistance. The purpose of the assistance is to permit the State to assume the primary share of boating safety education, assistance, and enforcement activities; to assist the State in carrying out a State Recreational Boating Safety Program; and to encourage greater State participation and uniformity in boating safety.

B. Allocation. To assist the State in financing its Recreational Boating Safety Program, the Government agrees to contract with and distribute to the State the sum of $_____ subject to 46 U.S.C. 13103(b), 13104(a), and 13108(a)(3) and (b). Amounts received shall be used to develop and carry'out the Fiscal Year State Recreational Boating Safety Program objectives, and to pay travel and associated costs for attendance of State RBS program personnel at the annual conference of the National Association of State Boating Law Administrators and the appropriate regional Boating Law Administrators' association.

C. State Matching Funds. The State agrees to provide $ _____ (non-Federal amounts indicated in Part III of the Application) to complete the proposed Fiscal Year ___ Recreational Boating Safety Program objectives described in the Application. State matching amounts shah be derived from general State revenues, undocumented vessel numbering and license fees, State marine fuels taxes, or from a fund constituted from the proceeds of those taxes and established to finance the State Recreational Boating Safety Program.

D. Program. The State certifies to the U.S. Coast Guard that its State Recreational Boating Safety Program includes:

1. A vessel numbering system either approved or administered by the Secretary under 46 U.S.C. Chapter 123 and meeting the requirements of 33 CFR Part 174. The State will periodically review vessel registration files to ensure that the annual report to the Coast Guard reasonably reflected the number of currently numbered vessels in the State.

2. A cooperative agreement with the Coast Guard that provides for joint responsibilities concerning law enforcement, accident investigation, search and rescue, marine events, and Coast Guard Auxiliary assistance on sole State waters.

3. Sufficient patrol and other activity to ensure adequate enforcement of applicable State boating safety laws and regulations.

4. A State recreational boating safety education program meeting or exceeding the minimum standards adopted by the National Association of State Boating Law Administrators, and including the dissemination of information concerning the hazards of operating a vessel when under the influence of alcohol or drugs.

5. A marine casualty reporting system approved by the Secretary and meeting the requirements of 46 U.S.C. 6102 and 33 CFR Part 174.

Exhibit 4-1

E. Assurances. The Applicant certifies that the State lead authority or agency (herein called the Agency) designated to implement or coordinate the implementation of the State Recreational Boating Safety Program will:

1. Submit the reports required in 33 CFR 174.12 I and 174.123, 49 CFR Part 18, and OMB Circular No. A- 133 in a timely manner.

2. Give any authorized representative of the Coast Guard or the Comptroller General access to and the right to examine all records, books, papers, or documents related to the assistance.

3. Submit to the Coast Guard Program Manager any proposed legislation or regulations concerning recreational boating safety on waters subject to the jurisdiction of the United States.

4. Unless otherwise precluded by Federal statute or regulation, comply with the requirements of State Recreational Boating Safety Programs, COMDT'PUB P 16755.3A.

F. Certification:

I, _____, acting as Attorney for the Agency on this day of _____, do certify that I have examined the Agreement and fmd that acceptance by the Agency has been authorized and that the execution thereof is proper and in accordance with the laws of the State of _____. Following signature, the Agreement, in my opinion, is a legal obligation of the State in accordance with the terms thereof.

_____
(Signature of Attorney)

In witness whereof, the State has caused this Agreement to be executed in its behalf and thereafter the Government has caused it to be executed in its behalf:

STATE OF _____

BY _____ WITNESS _____

(Title)_____ **(Title)** _____

(Date)_____ **(Date)** _____

UNITED STATES COAST GUARD

BY _____ **(Date)** _____

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	Stale Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

.egal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐

B. TYPE OF APPLICATION:

☐ New ☐ ContInwtion ☐ Revision

IfRevision,enter ● ppmpriadeletter(s)Inbox(es) ☐ ☐

A. Increase Award B. Decrease Award c. Increase Duration
D, Decrease Duration Other*(specify):*

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. county
c. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

6. NAME OF FEDERAL AOENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Dale	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. state	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. 0.12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FORREVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. No ☐

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

● .TypafhnaofAuhrImdRepmwMM	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Dab Signed

Exhibit 4-2

Previous Edltbn Usable
Authorized for Local Reproduction

standard Form 424 *(Rev. 787)*
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources. gathering and maintaining the data needed. and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.

2. Date application submittal to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project. leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

   --"New" means a new assistance award.

   -'Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

   --"Revision" means any change in the Federal Government's financial obligation or contingent liability fmm an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

IO. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

I1. Enter a brief descriptive title of the project. If mom than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g. State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

IS. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item IS.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Assistance No. (b)	Estimated Unobligated Funds		New or Revised Budget			
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Overall Total (g)	Percent (h)
1. ADMINISTRATION	20.005	$	$	$	$	$	%
2. LAW ENFORCEMENT	20.005	$	$	$	$	$	%
3. EDUCATION	20.005	$	$	$	$	$	%
4. NAVAIDS	20.005	$	$	$	$	$	%
5. BOAT REG/TITLING	20.005	$	$	$	$	$	%
6. PUBLIC ACCESS	20.005	$	$	$	$	$	%
7. TOTALS		$	$	$	$	$	100%

SECTION B - BUDGET CATEGORIES

8. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY						
	1. ADMIN	2. LAW ENF	3. EDUCATION	4. NAVAIDS	5. BOAT REG/TITLING	6. PUBLIC ACCESS	TOTAL
a. Personnel	$	$	$	$	$	$	$
b. Fringe Benefits	$	$	$	$	$	$	$
c. Travel	$	$	$	$	$	$	$
d. Equipment	$	$	$	$	$	$	$
e. Supplies	$	$	$	$	$	$	$
f. Contractual	$	$	$	$	$	$	$
g. Construction	$	$	$	$	$	$	$
h. Other	$	$	$	$	$	$	$
i. Total Direct Charges (sum of 8a-8h)	$	$	$	$	$	$	$
j. Indirect Charges	$	$	$	$	$	$	$
k. TOTALS (sum of 8i-8j)	$	$	$	$	$	$	$
s. Program Income	$	$	$	$	$	$	$

Exhibit 4-3

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SECTION C - NON-FEDERAL, RESOURCES

(a) Grant Program	(b) Applicant	(c) state	(d) Other Sources	(e) TOTALS
10.		$		
11.				
12.				
13.				
14. TOTAL (mm of lines 10-15)	$	$	$	$

SECTION b - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
IS. Federal	$	$	$	$	$
16. Non-Federal					
17. TOTAL (sum of lines 15 and 16)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
18.	$	$	$	$
19.				
20.				
21.				
22. TOTAL (sum of lines n-21)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

23. Direct Charges:	24. Indirect Charges:

25. Remarks:

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SECTION F - Item 25 - REMARKS (Cont'd)

(Equipment means tangible, nonexpendable, personal property having a useful life of more than 1 year/acquisition cost of $5,000 or more per unit).

FUNCTION/ACTIVITY	ITEM	UNIT COST	TOTAL COST

NOTE: Group items by function/activity and indicate total for each

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Exhibit 4-

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General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget. adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the later case. Sections A,B,C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines I-4, Columos **(a) and** (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program requiting budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columor (c) **through (g).**

For new *applications,* leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e). (f), and (g) the appropriate amounts of funds needed to support the project for the first funding paiod (usually a year).

Lines I-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c)Od (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). 'The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line **5** – Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines I-4, Column (a), Section A. When additional sheets are prepared for Section A. provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i -- Show the totals of Lines 6a to 6h in each column.

Line **6j** – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Line 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g). Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Exhibit 4-6

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resource

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (c) – Enter totals of Columns (b), (c), and(d).

Line 12 – Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the fiscal year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – provide any other explanations or comments deemed necessary.

OMB Approval No. 0348-0040

ASSURANCES – NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 47284763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPMs Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis or race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973. as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended. relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.). as amended, relating to nondiscrimination in the sale. rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9 Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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Exhibit 4-7

10. Will comply. if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measure-s under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO I 1990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C.§§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C.§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966. as amended (I6 U.S.C. 470). EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care. handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Fedaal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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OMB Approved No. 0348-0041

BUDGET INFORMATION -- Construction Programs

NOTE: *Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case you will be notified.*

COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Column a-b)
1. Administrative and legal expenses	$ .00	.00	.00
2. Land, structures, rights-of-way, appraisals, etc.	$ .00	.00	.00
3. Relocation expenses and payments	$ .00	.00	.00
4. Architectural and engineering fees	$ .00	.00	.00
5. Other architectural and engineering fees	$ .00	.00	.00
6. Project inspection fees	$ .00	.00	.00
7. Site work	$ .00	.00	.00
8. Demolition and removal	$ .00	.00	.00
9. Construction	$ .00	.00	.00
10. Equipment	$ .00	.00	.00
11. Miscellaneous	$ .00	.00	.00
12. SUBTOTAL	$ .00	.00	.00
13. Contingencies (sum of lines 1-11)	$ .00	.00	.00
14. SUBTOTAL	$ .00	.00	.00
15. Project (program) income	$ .00	.00	.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	$ .00	.00	.00
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: Enter eligible costs from line 16c Multiply x _____% (Consult Federal agency for Federal percentage share). Enter the resulting Federal share.			$ .00

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Exhibit 4-8

INSTRUCTIONS FOR THE SF-424C

This sheet is to be used for the following types of applications: (l) "New" (means a new [previously unfunded] assistance award); (2) "Continuation" (means funding in a succeeding budget period which stemmed from a prior agreement to fund); and (3) "Revised" (means any changes in the Federal government's financial obligations or contingent liability from an existing obligation). If there is no change in the award amount there is no need to complete this form. Certain Federal agencies may require only an explanatory letter to effect minor (no cost) changes. If you have questions please contact the Federal agency.

Column a. – If this is an application for a "New" project, enter the total estimated cost of each of the items listed on lines l through I6 (as applicable) under "COST CLASSIFICATIONS."

If this application entails a change to an existing award, enter the eligible amounts *approved under the previous award* for the items under "COST CLASSIFICATION."

Column *b.* – If this is an application for a "New" project, enter that portion of the cost of each item in Column a. which is *not* allowable for Federal assistance. Contact the Federal agency for assistance in determining the allowability of specific costs.

If this application entails a change to an existing award, enter the adjustment [+ or (-)] to the previously approved costs (from column a.) reflected in this application.

Column c. – This is the net of lines I through 16 in columns "a." and "b."

Line 1 – Enter estimated amounts needed to cover administrative expenses. Do not include costs which are related to the normal functions of government. Allowable legal costs are generally only those associated with the purchase of land which is allowable for Federal participation and certain services in support of construction of the project.

Line 2 – Enter estimated site and right(s)-of-way acquisition costs (this includes purchase, lease, and/or easements).

Line 3 – Enter estimated costs related to relocation advisory assistance, replacement housing, relocation payments to displaced persons and businesses, etc.

Line 4 – Enter estimated basic engineering fees related to construction (this includes start-up services and preparation of project performance work plan).

Line 5 – Enter estimated engineering costs, such as surveys, tests, soil borings, etc.

Line 6 – Enter estimated engineering inspection costs.

Line 7 – Enter estimated costs of site preparation and restoration which are not included in the basic construction contract.

Line 9 – Enter estimated cost of the construction contract.

Line 10 – Enter estimated cost of office, shop, laboratory, safety equipment, etc. to be used at the facility, if such costs are not included in the construction contract.

Line 11 – Enter estimated miscellaneous costs.

Line 12 – Total of items l through I I.

Line 13 – Enter estimated contingency costs. (Consult the Federal agency for the percentage of the estimated construction cost to use.)

Line 14 – Enter *the* total of lines 12 and 13.

Line 15 – Enter estimated program income to be earned during the grant period, e.g., salvaged materials, etc.

Line 16 – Subtract line 15 from line 14.

Item 17 – this block is for the computation of the Federal share. Multiply the total allowable project costs from line 16, column "c." by the Federal percentage share (this may be up to 100 percent; consult Federal agency for Federal percentage share) and enter the product on line 17.

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ASSURANCES – CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program, If you have questions. please contact the Awarding Agency. Further, certain federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

I. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without pa-mission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.

5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.

6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

7. Will establish safeguards to prohibit employees from using their positions for a purpose. that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 47284763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900. Subpart F).

9. Will comply with the Lead-Baaed Paint Poisoning Prevention Act (42 U.S.C. §§ 4802 et seq.) which prohibits the use of lead baaed paint in construction or rehabilitation of residence structures.

10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972. as amended (20 U.S.C. §§1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) which prohibit discrimination of the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended, relating to non-discrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (I) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and (j) the requirements on any other non-discrimination Statute(s) which may apply to the application.

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Exhibit 4-9

11. Will comply. or has already complied. with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and I8 U.S.C. § 874). the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333) regarding labor standards for federally assisted construction subagreements.

14. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) Environmental Policy Act of 1969 (P.L. 9 I -190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 1 1988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water unda the Safe Drinking Wata Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

19. Will comply with all applicable requirements of all otha Federal laws, Executive Orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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INSTRUCTIONS FOR SF-424E

BOATING SAFETY PROGRAM NARRATIVE

Prepare the Program Narrative in accordance with the following instructions.

1. **OBJECTIVES AND NEED FOR THIS ASSISTANCE.**

   Pinpoint boating safety and related problems in your State that require a solution. Examples: Increase in accidents/fatalities attributed to increase in boating population, high-speed boats, not wearing PFD's, etc. Demonstrate the need for the assistance and state the principal and subordinate objectives of your State program for the Fiscal Year. Include relevant data based on studies.

2. **RESULTS OR BENEFITS EXPECTED.**

   Identify the results and benefits you expect to achieve if the objectives are met. Provide a description of your State boaters, how your resources will be used, and the benefits your State boaters may expect.

3. **APPROACH.**

   a. Provide details on planned actions, alternatives and milestones to reach a solution to the problem of each boating safety program function/activity identified in the budget. Briefly describe what you hope to accomplish this Fiscal Year and toward resolving long-range problems and issues.

   b. Provide for each program function/activity a quarterly quantified projection of the accomplishments to be achieved, such as number of boaters attending a safety course, number of boats inspected, etc., and how the Federal funds will be used to accomplish the desired results. Accomplishments that cannot be quantified, should be listed in chronological order to show schedule of desired results and target dates.

   c. Identify data to be collected and maintained and describe the criteria to be used to evaluate the results and success of the program. Explain the methodology to be used to determine whether the needs identified above are being met.

   d. List other State agencies, boating organizations, and other benefactors and a description of their efforts or contributions to the State boating program.

4. **GEOGRAPHIC LOCATION.**

   For public access projects, give the precise location of the site, the area to be served by the project, and include maps or other graphic aids.

Exhibit 4- 10

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DRUG-FREE WORKPLACE ACT CERTIFICATION
(Boating Safety Grant – CFDA No. 20.005)

STATE/TERRITORY OF _____

The _____ certifies that it will establish and
(Agency)
continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution. dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying actions that will be taken against employees for violation of such prohibition.

(b) Establishing an ongoing drug-free awareness program to inform employees about –

(I) The dangers of drug abuse in the workplace;
(2) The Applicant's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(c) Making it a requirement that each employee to be engaged in the performance of the grant or cooperative agreement be given a copy of the statement required by paragraph (a).

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant or cooperative agreement, the employee will -

(1) Abide by the terms of the statement; and
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

(e) Notifying the Federal agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise- receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected grant or cooperative agreement.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted –
(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirement of the Rehabilitation Act of 1973, as amended; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

_____
Agency

_____
Name and Title of Authorized Representative

_____
Signature Date

Exhibit 4-11

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CERTIFICATION REGARDING LOBBYING
(Boating Safety Grant – CFDA No. 20.005)

STATE/TERRITORY OF _____

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 3 1, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $ 100,000 for each such failure.

_____
AGENCY

_____
NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

_____
SIGNATURE **DATE**

Exhibit 4- 12

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DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form lo disclose lobbying activities pursuant to 31 USC. 1352

(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreemenl d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** ☐ a. bid/offer/application b. initial award c. post-award	**3. Report Type:** ☐ a. initial filing b. material change For Material Change Only: year_____quarter_____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____ *if known :* **Congressional District,** *if known:*	**5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:** **Congressional District,** *if known:*	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable:* _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* $	
10. a. Name and Address of Lobbying Registrant (if individual. *last* name, *first* name, MI):	**b. Individuals Performing Services** (*including address if different from No. 10a* *(last* name, *first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
		Authorized for Local Reproduction Standard Form LLL (Rev. 7-98)

Exhibit 4-I 3

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure torm shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 3 1 U S.C section 1352 The filing of a form is required for each payment or agreement to make payment IO any lobbying entity for influencing or attemptmg to influence an officer or employee of any agency, a Member of Congress. an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for hoth the initial tiling and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information

1 Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action

2 Identify the status of the covered Federal action

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the repotting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee. e.g., the first subawardee of the prime is the I' tier. Subawards include but are not limited IO subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee." then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation. United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g.. Rquest for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g.. "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

IO (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of1 995 engaged by the reporting entity identified in item 4 IO influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from IO (a). Enter Last Name. First Name, and Middle Initial (MI).

I I The certifying official shag sign and date the form, print his/her name, title. and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average IO minutes per response. including time for reviewing instructions. searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of infonnation, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-0046), Washington, DC 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction
Standard Form - LLL-A

Exhibit 4-14

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CHAPTER 5 – PROCUREMENT

5.1 **Purpose**. This Chapter supplements the basic administrative requirements of 49 CFR 18.36 [Enclosure (7)] related to the procurement of property and/or services under the RBS program.

5.2 Applicability and Scope. This Chapter is applicable, in general, to the procedures for procurement of property and services under the State RBS program.

5.3 Procurement Procedures. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.

5.4 Contract Provisions. Any clauses or conditions required by Federal statutes and Executive Orders and their implementing regulations must be included in any contract or purchase order.

a. No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to –

(1) Specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

(2) Express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

b. The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

5.5 Responsibilities. The State is responsible for:

a. The settlement of administrative issues (source evaluation, protests, disputes and claims) resulting from State procurement actions without recourse to the Federal Government.

b. The supervision and inspection of services, materials, supplies and construction provided under contract, purchase order, or agreement to ensure compliance with stipulations, specifications, or conditions.

c. The maintenance of records for detailed documentation of procurement.

NOTE: As required by Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962), States purchasing more than $10,000 worth of a particular Environmental Protection Agency (EPA) designated product in a year, and using some Federal funds for these purchases, are required to establish an Affirmative Procurement Program (APP) for those particular products. The APP must include the following four elements: (1) a preference program; (2) a promotion program; (3) estimation, certification, and verification procedures; and (4) procedures for annual review and monitoring. A current list of EPA designated products and additional information on the EPA's Comprehensive Procurement Guideline (CPG) program can be found at the following web site: http://www.epa.gov/epaoswer/non-hw/procure/products.htm

Further information on RCRA's applicability to grants can be found in the following publications: OMB Circular A-102, located at web site: http://www.whitehouse.gov/omb/circulars/index.html and Department of Transportation (DOT) Order 4600.17A, located at web site: http://www.dot.gov/ost/m60/grant/regs.htm

CHAPTER 6 – REPORTING AND RECORDS RETENTION

6.1 Purpose. This Chapter provides guidance on the maintenance of records and the completion and submission of financial reports for State RBS program expenditures under 46 U.S.C. 13 105 and 13 106 [Enclosure (5)] and of other reports required of the States for the RBS program. Exhibit 6-l is a schedule of reports and their due dates.

6.2 Applicability and Scope. The guidance provided in this Chapter is applicable to reporting and records retention for Federal financial assistance for State RBS programs administered by the U.S. Coast Guard. The material is a summary of the requirements of the regulations in 49 CFR 18.41 and 18.42 [Enclosure (7)] and 33 CFR Parts 173 and 174, [Enclosure (6)] and is not intended to supersede any existing laws and regulations.

6.3 Responsibility. Under 46 U.S.C. 13 102 [Enclosure (5)], the designated State authority or agency shall submit required reports in the form prescribed by the USCG. States participating in the RBS program are responsible for managing the day-to-day operations of grant and subgrant activities as required under 49 CFR 18.40 [Enclosure (7)]. States must monitor each program function or activity to ensure compliance with applicable Federal requirements and that performance goals are being achieved.

6.4 Financial Reports. The designated State authority or agency shall submit financial reports in accordance with the requirements in 49 CFR 18.41 [Enclosure (7)].

a. **Financial Status Report.** Standard Form 269 (Long Form) or Standard Form 269A (Short Form) is used to report the State's RBS program outlays. Exhibits 6-2 and 6-3 are copies of the prescribed forms and the instructions for their completion.

(1) An SF-269 or SF-269A for each function/activity of a State's RBS program is required to be submitted to the Program Administrator not later than 30 days after the end of each quarter. A final report shall be submitted within 90 days after the end of the FY. The SF-269 should be prepared on a cash basis.

(2) The USCG will use the SF-269 or SF-269A to monitor program outlays to ensure that goals for the program activities are achieved.

(a) Program outlays must be allowable State RBS expenditures under 46 U.S.C. 13105(a) and 13106(b) [Enclosure(S)] and meet the requirements of OMB Circular A-87 [Enclosure (8)]. RBS outlays reported on the SF-269 or SF-269A must occur during the period covered by the report. Subject to the amount of Federal funds available, States shall determine the Federal share of total program outlays reported for the period.

(b) The Federal share cannot exceed one-half of the total program outlays.

6.4.a (3) Only actual State outlays from line 10.b of the SF-269 or SF-269A will be considered for purposes of computing allocations under 46 U.S.C. 13 103(a)(3). Any unliquidated obligations remaining when the final SF-269 or SF-269A for the FY is submitted shall be carried forward and added to any unobligated funds shown in columns (c) and/or (d) of Section A, SF-424A (Budget Information), of the State's application for the next FY.

(4) Amounts authorized by the Financial Agreement but not expended at the end of the FY are unobligated Federal funds that shall be carried forward as part of the next FY program.

b. **State Boating Safety Program Expenditures.** The State Boating Safety Program Expenditures [Exhibit 6-4] is a supplemental report form. This form was developed for States to report expenditures by object class (the same way the proposed budget is broken down in Section B of the SF-424A) and enables comparison of actual program outlays to what was projected in the States' applications.

(1) This form does not have an OMB approval number and submission is voluntary.

(2) Exhibit 6-4 contains instructions on how to complete the supplemental report.

c. **Request for Advance or Reimbursement.** Standard Form 270 [Exhibit 6-5] is used to request payment of the Federal share of program outlays. Normally, the SF-270 should be submitted with the SF-269 or SF-269A to request reimbursement of the Federal share of program outlays for the corresponding quarter. An advance of Federal funds may be authorized on a case-by-case basis when a State justifies the need.

(1) Whether requesting reimbursement or an advance, the State shall determine the frequency for submitting the SF-270. However, requests may not be submitted more than monthly.

(2) Exhibit 6-5 contains instructions on how to complete the SF-270.

d. **Federal Cash Transactions Report.** Standard Form 272 is required only when Federal funds are advanced to the State. When the Federal payment is a reimbursement to the State for the Federal share of program outlays, a Federal Cash Transaction Report is not required. Exhibit 6-6 is a copy of the SF-272 and the instructions for its completion.

(1) A State that receives an advance of Federal funds must submit a Federal Cash Transaction Report no later than 15 days after the end of each quarter until the amount advanced has been totally expended.

6.4.d (2) The SF-272 will be used to ensure that the State is in compliance with cash management requirements.

6.5 Performance Report. The annual Performance Report should accompany the final Financial Status Report (SF-269 or SF-269A) and must be submitted within 90 days after the end of the FY. The Performance Report will contain brief information on the following:

a. A comparison of actual accomplishments to the objectives established for the period in the Program Narrative submitted with the application for the FY.

b. The reasons for slippage if established objectives were not met.

c. Additional pertinent information including, when appropriate, analysis and explanation of cost variances.

6.6 Certification of Numbered Vessels. One-third of a State's allocation of Federal financial assistance is based on the number of vessels numbered in that State in ratio to the number of vessels numbered in all eligible States. Not later than 3 1 January of each year, the State must submit a "Certification of Numbered Vessels" [Exhibit 6-7] to report the number of current State Certificates of Number outstanding as of 3 1 December of the preceding year. Only vessels that are validly numbered in accordance with Federal requirements in 33 CFR Parts 173 and 174 [Enclosure (6)] can be counted for purposes of the allocation. The certification should not include documented vessels, vessels that are exempted from display of the State-issued number, or numbers issued to manufacturers or dealers. The State should ensure that lapsed registrations are purged and that only active files are counted for purposes of the certification.

NOTE: The "Report of Certificates of Number Issued to Boats" (CGHQ-3923) [Exhibit 6-8], which is due 1 March of each year, will continue to be used to compile statistical data on vessels for other RBS purposes. In addition to vessels numbered in accordance with Federal requirements, a State may use the "Comments" section of CGHQ-3923 to reflect documented vessels that are required to be registered in the State and vessels that are issued Certificates of Number but are exempted from display of the State-issued number.

6.7 Boating Accident Report. In accordance with 33 CFR Parts 173 and 174, a Boating Accident Report [Exhibits 6-9 and 6-10, or comparable State form] must be filed whenever an accident results in loss of life or disappearance from a vessel; an injury that requires medical treatment beyond first aid; or property damage in excess of $2,000 or complete loss of the vessel. States are required to forward copies of the reports or electronically transmit report data to the USCG within 30 days of their receipt of the report. The report data forwarded to the USCG is entered into the national database of recreational boating accident statistics.

6.8 Audit Reports. The Single Audit Act of 1984 (31 U.S.C. 7501-70) requires States that receive $100,000 or more a year in Federal funds to have an audit made for that year. OMB Circular A-l 33 [Enclosure (9)] provides Federal requirements for implementation of the Single Audit Act.

a. **Frequency.** Audits will be made annually unless the State has a constitutional or statutory requirement for less frequent audits. For those States, the USCG will permit biennial audits.

b. **Scope of Audit.** The Single Audit Act provides that:

(1) The audit shall be performed by an independent auditor in accordance with generally accepted government auditing standards for financial and compliance audits.

(2) The audit shall cover the entire operations of a State or, at its option, may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year.

c. **Program Compliance Requirements.** Program compliance requirements and special audit procedures for the State RBS program are contained in Appendix (B) to OMB Circular A-l 33. This document is available from the Government Printing Office, Superintendent of Documents, Washington, DC 20402-9325.

d. **Submission of Audit Reports.** A copy of the RBS program audit report must be submitted by the State to the Program Administrator. In addition, the State shall provide its comments on the findings and recommendations in the audit report, including a plan for any corrective actions taken or proposed.

6.9 Retention and access requirements for records. All financial and programmatic records, supporting documents, statistical records, and other State records that are required in support of the RBS program must be maintained for three years following the date of the final Financial Status Report for the grant period.

a. Copies made by microfilming, photocopying, or electronic methods may be substituted for the original records.

b. Access to records shall be provided to the USCG, the DOT Inspector General, and the Comptroller General of the United States, or any of their authorized representatives. Unless required by Federal, State or local law, grantees are not required to permit public access to their records.

c. Retention and access requirements are further defined in 49 CFR 18.41 [Enclosure (7)].

SCHEDULE OF REPORTS AND DUE DATES

FINANCIAL REPORTS

Standard Form	Frequency	Period Covered	Due Date
Financial Status Report SF-269 (Long Form) or SF-269A (Short Form) (REV 7-97)	Quarterly and Annually (Final Report)	10/01/FY-12/31/FY 01/01/FY-03/31/FY 04/01/FY-06/30/FY 07/01/FY-09/30/FY 1010/FY-09/30/FY	0113INR 04130NR 07/31 NR 10/31/YR 12/31/YR
'State Boating Safety Program Expenditures (Not OMB approved)	"	"	"
*Supplemental form to the SF-269A. Developed for States to report expenditures by object class.			
Request for Advance or Reimbursement SF-270 (REV 7-97)	Not more than Monthly	As stated on report	———
'Federal Cash Transactions Report SF-272 (REV. 7-97)	Quarterly	Same as for SF-269	15 days after and of quarter
'SF-272 is used only If funds are pald in advance. If RBS grants are paid on a reimbursement basis, this form is not used.			

NON-FINANCIAL REPORTS

Application for Federal Assistance	Annually		04/01IFY
Performance Report	Annually	10/01/FY-09/30/FY	12/31/FY
Certification of Numbered Vessels	Annually	01/01/YR-12/31/YR	01131YR
Report of Certificates of Number Issued to Boats	Annually	01/01/YR-12/31/YR	03701 NR
Boating Accident Report	Whenever an accident results in: Loss of life or disappearance from a vessel; an injury which requires medical treatment beyond first ald: or property damage In excess of $500 or complete loss of the vessel.		Within 30 days of report to State

FY = Federal Fiscal Year **YR = Calendar Year**

Exhibit 6-1

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FINANCIAL STATUS REPORT

(Long Form)

(Follow instructions on the beck)

1. Federal Agency and Organizational Element to Which Report is Submitted	2. Federal Grant or Other Identifying Number Assigned By Federal Agency	OMB Approval No. 0348-0039	Page of pages
3. Recipient Organization (Name and complete address, including ZIP code)			
4. Employer Identification Number	5. Recipient Account Number or Identifying Number	6. Final Report ☐ Yes ☐ No	7. Basis ☐ Cash ☐ Accrual
8. Funding/Grant Period *(See instructions)* From: (Month, Day, Year)	To (Month. Day. Year)	9. Period Covered by this Report From: (Month. Day, Year)	To: (Month, Day. Year)

10. Transactions:	I Previously Reported	II This Period	III Cumulative
a. Total outlays			
b. Refunds, rebates, etc.			
c. Program income used in accordance with the deduction alternative			
d. Net outlays *(Line a, less the sum of lines b and c)*			
Recipient's share of net outlays, consisting of:			
e. Third party (in-kind) contributions			
f. Other Federal awards authorized to be used to match this award			
g. Program income used in accordance with the matching or cost sharing alternatives			
h. All other recipient outlays not shown on lines e, f or g			
i. Total recipient share of net outlays *(Sum of lines e, f, g and h)*			
j. Federal share of net outlays *(line d less line i)*			
k. Total Unliquidated obligations			
l. Recipient's share of unliquidated obligations			
m. Federal share of unliquidated obligations			
n. Total Federal share *(sum of lines j and m)*			
o. Total Federal funds authorized for this funding period			
p. Unobligated balance of Federal funds *(Line o minus line n)*			
Program income, consisting of:			
q. Disbursed program income shown on lines c and/or g above			
r. Disbursed program income using the addition alternative			
s. Undisbursed program income			
t. Total program income realized *(Sum of lines q, r and s)*			

11. Indirect Expense	a. Type of Rate *(Place "X" in appropriate box)* ☐ Provisional ☐ Predetermined ☐ Final ☐ Fixed			
	b. Rate	c. Base	d. Total Amount	e. Federal Share

12. *Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.*

13. Certification: **I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.**

Typed or Printed Name and Title	Telephone (Area code, number and extension)
Signature of Authorized Certifying Official	Date Report Submitted

Previous Edition Usable — 269-104 — Standard Form 269 (Rev. 7-97)

NSN 7540614124285 — Prescribed by OMB Circulars A-102 and A-110

Exhibit 6-2

FINANCIAL STATUS REPORT
(Long Form)

Public reporting burden for this collectlon of information IS estimated lo average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathenng and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, Including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0039), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET.

Please type or print legibly. The following general Instructions explain how to use the form itself. You may need additional information to complete certain items correctly, or to decide whether a specific item is applicable to this award. Usually, such information will be found in the Federal agency's grant regulations or in the terms **and conditions** of the award (e.g., how to calculate the Federal share, the **permissible** uses of program income, the **value of in-kind contributions, etc.). You may also contact the Federal agency directly.**

Item	Entry
1, 2, and 3.	Self-explanatory.
4.	Enter the Employer Identification Number (EM) assigned by the U.S. Internal Revenue Service.
5.	Space reserved for an account number or other identifying number assigned by the recipient.
6.	Check yes only if this is the last report for the period shown in item 8.
7.	Self-explanatory.
8.	Unless you have received other instructions from the awarding agency, enter the beginning and ending dates of the current funding period. If this is a multi-year program, the Federal agency might require cumulative repotting through consecutive funding periods. In that case. enter the beginning and ending dates of the grant period, and in the rest of these instructions, substitute the term "grant period" for "funding period."
9.	Self-explanatory.
IO.	The purpose of columns I, II, and III is lo show the effect of this reporting period's transactions on cumulative financial status. The amounts entered in column I will normally be the same as those in column III of the previous report in *the same funding period*. If this is the first or only report of the funding period, leave columns I and II blank. If you need to adjust amounts entered on previous reports, footnote the column I entry on this report and attach an explanation.
10a.	Enter total gross program outlays. Include disbursements of cash realized as program income if that income will also be shown on lines 10c or 10g. Do not include program income that will be shown on lines 1 Or or 10s. For reports prepared on a cash basis, outlays arc the sum of actual cash disbursements for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied. and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of m-kind contributions applied. and the net increase or decrease in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subgrantees and other payees, and other amounts becoming owed under programs for which no current services or performances arc required, such as annuities, insurance claims, and other benefit payments.
10b.	Enter any receipts related to outlays reported on the form that arc being treated as a reduction of expenditure rather than income, and were not already netted out of the amount shown as outlays on line 10a.
10c.	Enter the amount of program income that was used in accordance with the deduction altomative.
Note:	Program income used in accordance with other alternatives is entered on lines q, r, and s. Recipients repotting on a cash basis should enter the amount of cash income received; on an accrual basis, enter the program income. earned. Program income may or may not have been included in an application budget and/or a budget on the award document. If actual income is from a different source or is significantly different in amount, attach an explanation or use the remarks section.
10d,	e, f, g, h, I and j. Self-explanatory.
10k.	Enta the total amount of unliquidated obligations, including unliquidatcd obligations to subgrantees and contractors. Unliquidated obligations on a cash basis are obligations incurred. but not yet paid. On an accrual basis, they are obligations incurred, but for which an outlay has not yet boon recorded. Do not include any amounts on line I Ok that have been included on lines 10a and 10j. On the final report, line 10k must be zero.
10l.	Self-explanatory.
10m.	On the final report, line 1 Om must also be zero.
10n,	0, p. q, r, s and t. Self-explanatory.
11a.	Self-explanatory.
11b.	Enter the indirect cost rate in effect during the reporting period.
11c.	Enter the amount of the base against which the rate was applied.
11d.	Enta the total amount of indirect costs charged during the report period.
11e.	Enter the Federal share of the amount in I Id.
Note:	If more than one rate was in effect during the period shown in item 8, attach a schedule showing the bases against which the different rates were applied, the respective rates, the calendar periods they were in effect, amounts of indirect expense charged to the project. and the Federal share of indirect expense charged to the project to date.

SF-269 Back (Rev. 7-97)

FINANCIAL STATUS REPORT

(Short Form)

(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted	2. Federal Grant or Other Identifying Number Assigned By Federal Agency	OMB Approval No. 0348-0038	Page of pages
3. Recipient Organization (Name and complete address, including ZIP code)			

4. Employer Identification Number	5. Recipient Account Number or Identifying Number	6. Final Report ☐ Yes ☐ No	7. Basis ☐ Cash ☐ Accrual
8. Funding/Grant Period (See *instructions*) From: (Month, Day, Year)	To: (Month, Day, Year)	9. Period Covered by this Report From: (Month. Day, Year)	To: (Month. Day, Year)

10. Transactions:	I Prevbusly Reported	II This Period	III Cumulative
a. Totaloutlays			
b. Recipient share of outlays			
c. Federal share of outlays			
d. Total unliquidated obligations			
e. Recipient sham of unliquidated obligations			
f. Federal sham of unliquidated obligations			
g. Total Federal share *(Sum of lines c and f)*			
h. Total Federal funds authorized for this funding period			
i. Unobligated balance of Federal funds *(Line h minus line g)*			

11. Indirect Expense	a. Type of Rate *(Place "X" in appropriate box)* ☐ Provisional ☐ Predetermined ☐ Final ☐ Fixed			
	b. Rate	c. Base	d. Total Amount	e. Federal Share

12. *Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.*

13. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations am for the purposes set forth in tha award documents.

Typed or Printed Name and Title	Telephone (Area code, number and extension)
Signature of Authorized Certifying Official	Date Report Submitted

NSN 7540-01-218-4387 269-202 Standard Form 269A (Rev. 7-97)

Prescribed by OMB Circulars A-102 and A-I 10

Exhibit 6-3

FINANCIAL STATUS REPORT

(Short Form)

Public reporting burden for this collection of information is estimated to average 90 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed. and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-0038). Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Please type or print legibly. The following general instructions explain how to use the form itself. You may need additional information to complete certain items correctly, or to decide whether a specific item is applicable to this award. Usually, such information will be found in the Federal agency's grant regulations or in the terms and conditions of the award. You may also contact the Federal agency directly.

Item	Entry
1, 2, and 3.	Self-explanatory
4.	Enter the Employer Identification Number (EIN) assigned by the U.S. Internal Revenue Service.
5.	Space reserved for an account number or other identifying number assigned by the recipient.
6.	Check *yes* only if this is the last report for the period shown in item 8.
7.	Self-explanatory.
8.	Unless you have received otha instructions from the awarding agency, enter the beginning and ending dates of the current funding period. If this is a multi-year program, the Federal agency might require cumulative reporting through consecutive funding periods. In that case, enter the beginning and ending dates of the grant period, and in the rest of these instructions, substitute the term "grant period" for "funding period."
9.	Self-explanatory.
10.	The purpose of columns I, II, and III is to show the effect of this reporting period's transactions on cumulative financial status. The amounts entered in column I will normally be the same as those in column III of the previous report in *the same funding period.* If this is the first or only report of the funding period, leave columns I and II blank. If you need to adjust amounts entered on previous reports, footnote the column I entry on this report and attach an explanation.
10a.	Enter total program outlays less any rebates, refunds, or other credits. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays arc the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of inkind contributions applied, and the net increase or decrease in the amounts owed by the recipient for goods and other property received, for services pa-formed by employees, contractors, subgrantees and other payees, and otha amounts becoming owed under programs for which no current services or performances arc required, such as annuities, insurance claims, and other benefit payments.
10b.	Self-explanatory.
10c.	Self-explanatory.
10d..	Enter the total amount of unliquidated obligations, including unliquidatcd obligations to subgrantees and wntractors. Unliquidatcd obligations on a cash basis are obligations incurred, but not yet paid. On an accrual basis, they arc obligations incurred, but for which an outlay has not yet been recorded. Do not include any amounts on line 10d that have been included on lines 10a, b, or c. On the final report, line 10d must be zero.
10e.	f, g,h, and i. Self-explanatory.
11a.	Self-explanatory
11b.	Enter the indirect cost rate in effect during the reporting period.
11c.	Enta the amount of the base against which the rate was applied.
11d.	Enta the total amount of indirect costs charged during the report period.
11e.	Enter the Federal share of the amount in 11d.
Note:	If more than one rate was in effect during the period shown in item 8, attach a schedule showing the bases against which the different rates were applied. the respective rates, the calendar periods they were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

'U.S. Government Printing Office:1993 – 342-197/81289

State:

Period Covered By Report:

STATE BOATING SAFETY PROGRAM EXPENDITURES

From: To:

	GRANT PROGRAM FUNCTION OR ACTIVITY						
OBJECT CLASS CATEGORIES	1. ADMIN	2 LAW ENF	3. EDUCATION	4. NAVAIDS	5. BOAT REG/ TITLING	6. PUBLIC ACCESS	7. TOTAL
a. Personnel	$	$	$	$	$	$	$
b. Fringe Benefits	$	$	$	$	$	$	$
c. Travel	$	$	$	$	$	$	$
d. Equipment	$	$	$	$	$	$	$
e. Supplies	$	$	$	$	$	$	$
f. Contractual	$	$	$	$	$	$	$
g. Construction	$	$	$	$	$	8	$
h. Other	$	$	$	$	$	$	$
i. Total Direct Outlays (sum of a-h)	$	$	$	$	$	$	$
j. Indirect Costs	$	$	$	$	$	$	$
k. Total Outlays (wmofiandj)	$	$	$	$	$	$	$
l. Non-Federal share of Outlays	$	$	$	$	$	$	$
m. Federal Share of Outlays	$	$	$	$	$	$	$

Exhibit 6-4

STATE BOATING SAFETY PROGRAM EXPENDITURES

This form is a supplemental document for repotting expenditures under the Coast Guard Recreational Boating Safety (RBS) State Grant Program. The form defines the dollar amounts of outlays for the reporting period by object class **categories within each RBS function/activity.**

The form is requested **quarterly and annually. It should be attached to Standard Form 269, "Financial Status Report (Long Form)" (Rev. 7-97), or the Standard Form 269A, "Financial Status Report (Short Form)" (Rev. 7-97). Stabs have the optlon of using either the SF 269 or the SF 269A.**

INSTRUCTIONS

Top of form: Provide the name of the State and the dates (beginning and ending) covered by the report.

Lines a. through h.: Enter the amount of outlays during the stated time period for each object class category in each RBS function/activity.

Line i.. Self-explanatory.

Line j.: Self-explanatory.

Line k.: Self-explanatory.

NOTE: For quarterly reports, the total on line k., column 7, should be the same as the amount reported on line 10a., column II, of the accompanying SF 269 or SF 269A. For final annual reports. the total on line k., column 7, should be the same as the amount reported on line l Oa.. column III, of the accompanying SF 269 or SF 269A.

Line l.: Self-explanatory.

Line m. Self-explanatory,

NOTE: The sum of lines l. and m. should be the same as the total shown in each column of line k.

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

OMB APPROVAL NO. 0348-0004

PAGE ____ OF ____ PAGES

TYPE OF PAYMENT REQUESTED

a. "X" one or both boxes: ☐ ADVANCE ☐ REIMBURSEMENT

b. "X" the applicable box: ☐ FINAL ☐ PARTIAL

2. BASIS OF REQUEST: ☐ CASH ☐ ACCRUAL

3 FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST

6 EMPLOYER IDENTIFICATION

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER

8. PERIOD COVERED BY THIS REQUEST

FROM *(month, day, year)*

TO *(month, day, year)*

9. RECIPIENT ORGANIZATION

Name

Number and Street

City, State and ZIP Code

10. PAYEE *(Where check is to be sent if different than item 9)*

Name

Number and Street:

City, State and ZIP Code:

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES →		(a)	(b)	(c)	TOTAL
a. Total program outlays to date	*(As of date)*	$	$	$	$
b. Lear: Cumulative program income					
c. Net program outlays *(Line a minus lineb)*					
d. Estimated net cash outlays for advance period					
e Total *(Sum of lines c & d)*					
f. Non-Federal share of amount on line e					
g. Federal sham of amount on line e					
h. Federal payments previously requested					
i. Federal share now requested *(Line g minus line h)*					
j. Advances required by month, when requested by Federal grantor for use in making prescheduled advances	1st month				
	2nd month				
	3rd month				

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	$
b. *Less.* Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested *(Line a minus line b)*	$

AUTHORIZED FOR LOCAL REPRODUCTION

(Continued on Reverse)

STANDARD FORM 270 (Rev. 7-97)
Prescribed by OMB Circulars A-102 and A-110

Exhibit 6-5

13.	CERTIFICATION	
I certify that to the best of my knowledge and belief the data on the reverse are correct and that all outlays were made in accordance with the grant conditions or other agreement and that Payment is due and has not been previously requested.	SIGNATURE OR AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
	TYPED OR PRINTED NAME AND TITLE	TELEPHONE (AREA CODE. NUMBER. EXTENSION

This space for agency use

Public reporting burden for this collection of information is estimated to average 60 minutes per response. including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden. to the Office of Management and Budget, Paperwork Reduction Project (0348-0004). Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED **FORM TO THE OFFICE OF MANAGEMENT** AND BUDGET. **SEND IT** TO **THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, IO, 11 e, I If, 11 g, 1 li, I2 and 13 are self explanatory, specific instructions for other items are as follows:

Item	*Entry*
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items I 1 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item I 1 can be obtained in a timely manner from other reports.
11	The purpose of the vertical columns (a), (b), and (c) is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the *first* page.
I la	Enter in "as of date," the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11 b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
I ld	Only when making request for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

FEDERAL CASH TRANSACTIONS REPORT

(See instructions on the beck. If report is for more than one grant or assistance agreement, attach completed Standard form 272A.)

OMB APPROVAL No. 0348-0003

1. Federal sponsoring agency end organizational element to which this report is submitted

2. RECIPIENT ORGANIZATION

Name:

Number and Street

City, state and ZIP Code:

3. FEDERAL EMPLOYER IDENTIFICATION NO. →

4. Federal grant or other identification number

5. Recipient's account number or identifying number

6. Letter of credit number

7. Last payment voucher number

Give total number for this period

8. Payment Vouchers credited to your account

9. Treasury checks received *(whether or not deposited)*

10. PERIOD COVERED BY THIS REPORT

FROM *(month, day, year)* | To (mom. day. *year)*

11. STATUS OF FEDERAL CASH *(See specific instructions on the back)*	
a. Cash on hsnd beginning of reporting period	$
b. Letter of credit withdrawls	
c. Treasury chock payments	
d. Total receipts *(Sum of lines b and c)*	
• . Total cash available (Sum *of lines a and* 9	
f. Gross disbursements	
g. Federal share of program income	
h. Not disbursements *(Line f minus line g)*	
i. Adjustments of prior periods	
j. Cash on hand end of period	$

12. THE AMOUNT SHOWN ON LINE 11j, ABOVE, REPRESENTS CASH REQUIREMENTS FOR THE ENSUING *Days*

13. OTHER INFORMATION	
a. Interest income	$
b. Advances to subgrantees or subcontractors	$

14. REMARKS *(Attach additional sheets of plain paper, If mom space is required)*

15. CERTIFICATION

I certify to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purpose and conditions of the grant or agreement.

AUTHORIZED CERTIFYING OFFICIAL

SIGNATURE

DATE REPORT SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE *(Area Code, Number, Extension)*

THIS SPACE FOR AGENCY USE

NSN 7540-01-016-5434
272-103

STANDARD FORM 272 (Rev. 7-97)
Prescribed by OMB Circulars A-102 and A-110

Exhibit 6-6

INSTRUCTIONS

Public reporting burden for this collection of information is estimated to average 120 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, io the Office of Management and Budget, Paperwork Reduction Project (0348-0003), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Please type or print legibly. Items 1, 2, 8, 9, IO, I Id, I Ie. 11 h. and 15 are self explanatory, specific instructions for other items are as follows:

Item	*Entry*
3	Enter Employer Identification Number (EIN) assigned by the U.S. Internal Revenue Service or the FICE (institution) code.
4	If this report covers more than one grant or other agreement, leave items 4 and 5 blank and provide the information on Standard Form 272A, Report of Federal Cash Transactions - Continued. Enter Federal grant number, agreement number, or other identifying numbers if requested by sponsoring agency.
5	This space reserved for an account number or other identifying number that may be assigned by the recipient.
6	Enter the later of credit number that applies to this report. If all advances were made by Treasury check, enter "NA" for not applicable and leave items 7 and 8 blank.
7	Enter the voucher number of the last letter-of-credit payment voucher (Form TUS 5401) that was credited to your account.
I la	Enter the total amount of Federal cash on hand at the beginning of the reporting period including all of the Federal funds on deposit, imprest funds, and undeposited Treasury checks.
I I b	Enter total amount of Federal funds received through payment vouchers (Form TUS 540 I) that were credited to your account during the reporting period.
I Ic	Enter the total amount of all Federal funds received during the reporting period through Treasury checks, whether or not deposited.
I If	Enter the total Federal cash disbursements, made during the reporting period, including cash received as program income. Disbursements as used here also include the amount of advances and payments less refunds to subgrantees or contractors; the gross amount of direct salaries and wages, including the employee's share of benefits if treated as a direct cost, interdepartmental charges for supplies and services, and the amount to which the recipient is entitled for indirect costs.
I Ig	Enter the Federal share of program income that was required to be used on the project or program by the terms of the grant or agreement.
I Ii	Enter the amount of all adjustments pertaining to prior periods affecting the ending balance that have not been included in any lines above. Identify each grant or agreement for which adjustment was made, and enter an explanation for each adjustment under "Remarks." Use plain sheets of paper if additional space is required.
I Ij	Enter the total amount of Federal cash on hand at the end of the reporting period. This amount should include all funds on deposit, imprest funds, and undeposited funds (line e, less line h, plus or minus line i).
12	Enter the estimated number of days until the cash on hand, shown on line I Ij, will be expended. If more than three days cash requirements are on hand, provide an explanation under "Remarks" as to why the drawdown was made prematurely, or otha reasons for the excess cash. The requirement for the explanation does not apply to prescheduled or automatic advances.
13a	Enter the amount of interest earned on advances of Federal funds but not remitted to the Federal agency. If this includes any amount earned and not reitted to the Federal sponsoring agency for ova 60 days, explain unda "Remarks." Do not report interest earned on advances to States.
13b	Enta the amount of advance to secondary recipients included in item I 1 h.
14	In addition to providing explanations as required above, give additional explanation deemed necessary by the recipient and for information required by the Federal sponsoring agency in compliance with governing legislation. Use plain sheets of paper if additional space is required.

STANDARD FORM 272 (Rev. 7-97) Back

FEDERAL CASH TRANSACTIONS REPORT

CONTINUATION

(This form is completed and attached to Standard Form 272 only when reporting more than one grant or assistance agreement.)

OMB APPROVAL No. 03484003

1 FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

RECIPIENT ORGANIZATION *(Give name only as shown in item 2. SF-272)*

3 PERIOD COVERED BY THIS REPORT *(As shown on SF-272)*

FROM *(month. day, year)* | TO *(month, day, year)*

List information below for each gmnt or other agreement covered by this report. Use additional forms if mom space is required.

FEDERAL GRANT OR OTHER IDENTIFICATION NUMBER *(Show a subdivision by other dentifying numbers if required by the Federal Sponsoring Agency)* *(a)*	RECIPIENT ACCOUNT NUMBER OR OTHER IDENTIFYING NUMBER *(b)*	FEDERAL SHARE OF NET DISBURSEMENTS	
		NET DISBURSEMENTS *(Gross disbursements less program income received)* FOR REPORTING PERIOD *(c)*	CUMULATIVE NET DISBURSEMENTS *(d)*
5. TOTALS (Should correspond with amounts shown in SF 272 as follows: column (c) the same as line 1 lh; column (d) the sum of lines 1 lh and 1 ll of the SF-272 and cumulative disbursements shown in last report. Attach explanation of any differences.)		$	$

Public reporting burden for this collection of information is estimated to average 120 minutes per response, including time for reviewing instructions, searching existing date sources, gathering end maintaining the data needed, and completing end reviewing the collection of information. send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden. to the Office of Management end Budget, Paperwork Reduction Project (03484003). Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

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272-203

STANDARD FORM 272A (Rev. 747)
Prescribed by OMB Circulars A-102 end A-I 10

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CERTIFICATION OF NUMBERED VESSELS

As of December 31, 20___, there were _____ currently registered vessels in the State of _____ that display the State vessel registration number in accordance with the Federal regulations in 33 CFR, Sections 173.15 and 173.27.

I certify the above information to be true and correct to the best of my knowledge and belief.

RESPONSIBLE STATE AGENCY _____

CERTIFYING OFFICIAL _____

SIGNATURE OF CERTIFYING OFFICIAL _____

DATE _____

Exhibit 6-7

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RECREATIONAL BOATS ONLY*

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CGHQ 3923 (Rev.12-90)

REPORT OF CERTIFICATES OF NUMBER ISSUED TO BOATS

Numbered Ia accordance with 33 CFR Parts 173 & 174

(Total Valid State Certificates Outstanding As of 31 December 20___)

FOR STATE/TERRITORY OF

HULL MATERIAL	UNDER 16 FEET					16 TO LESS THAN 26 FEET					26 TO LESS THAN 40 FEET				
	POWER			AUXILIARY SAIL		POWER			AUXILIARY SAIL		POWER			AUXILIARY SAIL	
	INBOARD	OUTBOARD	STERNDRIVE*	I-M	OUTBOARD	INBOARD	OUTBOARD	STERNDRIVE*	INBOARD	OUTBOARD	INBOARD	OUTBOARD	STERNDRIVE*	INBOARD	OUTBOARD
Wood															
Fiberglass															
Metal															
Inflatable															
Other															

HULL MATERIAL	40 TO 65 FEET					OVER 65 FEET					[redacted]				
	POWER			AUXILIARY SAIL		POWER			AUXILIARY SAIL		POWER			AUXILIARY SAIL	
	INBOARD	OUTBOARD	STERNDRIVE*	INBOARD	OUTBOARD	INBOARD	OUTBOARD	STERNDRIVE*	INBOARD	OUTBOARD	INBOARD	OUTBOARD	STERNDRIVE*	INBOARD	OUTBOARD
Wood															
Fiberglass															
Metal															
Inflatable															
Other															

*The term "sterndrive" includes inboard/outboards and jet drives.

HULL MATERIAL	OTHER BOATS					
	NOT MECHANICALLY PROPELLED			PERSONAL WATER-CRAFT	OTHER BOATS	TOTAL
	ROWBOATS	SAILBOATS	CANOES/ KAYAKS			
Wood						
Fiberglass						
Metal						
Inflatable						
Other						

SCOPE OF CURRENT NUMBERING SYSTEM

*TOTALS:
Commercial Passenger: _____
Commercial Fishing: _____
c a m - w Other: _____

COMMENTS (Continue on plain paper or reverse)

I Certify that to the best of my knowledge and belief, the data above are correct.

Signature _____ Date _____

Exhibit 6-8

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DEPARTMENT OF TRANSPORTATION U.S. COAST GUARD CG-3865 (Rev. 9/95)	BOATING ACCIDENT REPORT STATE ASSIGNED CASE NO _____	FORM APPROVED OMB NO. 2115-0010

THE OPERATOR/OWNER OF A VESSEL USED FOR RECREATIONAL PURPOSES IS REQUIRED TO FILE A REPORT IN WRITING WHENEVER AN ACCIDENT RESULTS IN: LOSS OF LIFE OR DISAPPEARANCE FROM A VESSEL; AN INJURY WHICH REQUIRES MEDICAL TREATMENT BEYOND FIRST AID; OR PROPERTY DAMAGE IN EXCESS OF $2000 OR COMPLETE LOSS OF THE VESSEL. REPORTS IN DEATH AND INJURY CASES MUST BE SUBMITTED WITHIN 48 HOURS. REPORTS IN OTHER CASES MUST BE SUBMITTED WITHIN 10 DAYS. REPORTS MUST BE SUBMITTED TO THE REPORTING AUTHORITY IN THE STATE WHERE THE ACCIDENT OCCURRED. THIS FORM IS PROVIDED TO ASSIST THE OPERATOR IN FILING THE REQUIRED WRITTEN REPORT.

COMPLETE ALL BLOCKS (INDICATE THOSE NOT APPLICABLE BY "NA")

ACCIDENT DATA

DATE OF ACCIDENT	TIME AM PM	NAME OF BODY OF WATER	LOCATION (GIVE LOCATION PRECISELY)
NUMBER OF VESSELS INVOLVED	NEAREST CITY OR TOWN	COUNTY	STATE / ZIP CODE

WEATHER (CHECK ML APPLICABLE)	WATER CONDITIONS	TEMPERATURE (ESTIMATE)	WIND	VISIBILITY
[ ] CLEAR [1 RAIN [[ ]CLOUDY [ ] SNOW [ ] FOG [ ] HAZY [	[ ] CALM (WAVES LESS THAN 6") [ ] CHOPPY (WAVES 6" TO 2') [ ] ROUGH (WAVES 2' TO 6') [ ] VERY ROUGH (GREATER THAN 6') [ ] STRONG CURRENT	A [ ] R°F WATER ____ °F	[ ] NONE [ ] LIGHT (0-6 MPH) [ ] MODERATE (7-14 MPH) [ ] STRONG (15-25 MPH) [ ] STORM (OVER 25 MPH)	DAY NIGHT [ ] GOOD [ ] [1 FAIR [1 [ ] POOR [1

NAME OF OPERATOR	OPERATOR ADDRESS

OPERATOR TELEPHONE NUMBER	DATE OF BIRTH	OPERATOR'S EXPERIENCE	INSTRUCTION IN BOATING SAFETY
( ) [ ] MALE [ ] FEMME	MO DAY YR	[ ] NONE [ ] UNDER 100 HOURS [ ] ≥ 100 HOURS	[ ] STATE COURSE [ ] U.S. POWER SQUADRON [ ] USCG AUXILIARY [ ] AMERICAN RED CROSS [ ] NONE

NAME OF OWNER	OWNER ADDRESS

OWNER TELEPHONE NUMBER	NUMBER OF PEOPLE ON BOARD	NUMBER OF PEOPLE BEING TOWED	RENTED BOAT?
( )			[ ] YES [ ] No

BOAT NO. 1 (THIS VESSEL)

BOAT REGISTRATION OR DOCUMENTATION NUMBER	STATE	HULL IDENTIFICATION NUMBER	BOAT NAME
BOAT MANUFACTURER	LENGTH	MODEL	YEAR BUILT

TYPE OF BOAT	HULL MATERIAL	ENGINE	PROPULSION	PERSONAL FLOTATION DEVICES (PFDS): WAS BOAT ADEQUATELY EQUIPPED WITH COAST GUARD APPROVED PFDS?
[ ] OPEN MOTORBOAT [ ] CABIN MOTORBOAT [ ] AUXILIARY SAIL [ ] SAIL (ONLY) [ ]ROWBOAT [ ] CANOE/KAYAK [ ] PERSONAL WATERCRAFT [ ] PONTOONBOAT [ ] HOUSEBOAT [ ] OTHER (SPECIFY)	[ ] WOOD [ ] ALUMINUM [ ] STEEL [ ] FIBERGLASS [ ] RUBBER/VINYL/CANVAS [ ] RIGID HULL INFLATABLE [ ] OTHER (SPECIFY)	[ ] OUTBOARD [ ] INBOARD [ ] INBOARD-STERNDRIVE (I/O) [ ] AIRBOAT	[ ] PROPELLER [ ] WATER JET [ ] AIR THRUST [ ] MANUAL [ ] SAIL	[ ] YES [ ] NO WERE PFDS ACCESSIBLE? [ ] YES [ ] NO

FUEL	NUMBER OF ENGINES	FIRE EXTINGUISHERS
[ ] GASOLINE [ ] DIESEL [ ] ELECTRIC	TOTAL HORSEPOWER	ON BOARD? [ ] YES [ ] NO USED? [ ] YES [ ] NO

OPERATION AT TIME OF ACCIDENT (CHECK ML APPLICABLE)	ACTIVITY AT TIME OF ACCIDENT (CHECK ANY IF APPLICABLE)	TYPE OF ACCIDENT	WHAT CONTRIBUTED TO ACCIDENT (CHECK ALL APPLICABLE)
[ ] CRUISING [ ] CHANGING DIRECTION [ ] CHANGING SPEED [ ] DRIFTING [ ] TOWING [ ] BEING TOWED [ ] ROWING/PADDLING [ ] BAILING [ ] LAUNCHING [ ] DOCKING/UNDOCKING [ ] AT ANCHOR [ ] TIED TO DOCK/MOORED [ ] OTHER (SPECIFY)	[ ] FISHING [ ] TOURNAMENT [ ] HUNTING [ ] SWIMMING/DIVING [ ] MAKING REPAIRS [ ] WATERSKIING/TUBING/ETC. [ ] RACING [ ] WHITEWATER SPORTS [ ] FUELING [ ] STARTING ENGINE [ ] NON-RECREATIONAL [ ] OTHER (SPECIFY)	[ ] GROUNDING [ ] CAPSIZING [ ] FLOODING/SWAMPING [ ] SINKING [ ] FIRE OR EXPLOSION (FUEL) [ ] FIRE OR EXPLOSION (OTHER) [ ] SKIERMISHAP [ ] COLLISION WITH VESSEL [ ] COLLISION WITH FIXED OBJECT [ ] COLLISION WITH FLOATING OBJ. [ ] FALLS OVERBOARD [ ] FALLS IN BOAT [ ] STRUCK BY BOAT [ ] STRUCK BY MOTOR/PROPELLER [ ] STRUCK SUBMERGED OBJECT [ ] OTHER (SPECIFY)	[ ] WEATHER [ ] EXCESSIVE SPEED [ ] IMPROPER LOOKOUT [ ] RESTRICTED VISION [ ] OVERLOADING [ ] IMPROPER LOADING [ ] HAZARDOUS WATERS [ ] ALCOHOL USE [ ] DRUG USE [ ] HULL FAILURE [ ] MACHINERY FAILURE [ ] EQUIPMENT FAILURE [ ] OPERATOR INEXPERIENCE [ ] OPERATOR INATTENTION [ ] CONGESTED WATERS [ ] PASSENGER/SKIER BEHAVIOR [ ] DAM/LOCK [ ] OTHER (SPECIFY)

ESTIMATED SPEED		
[ ] NONE	[ ] UNDER 10 MPH	[ ] 10 - 20 MPH
[ ] 21 - 40 MPH	[ ] OVER 40 MPH	[ ] HIT AND RUN

Exhibit 6-9

DECEASED (IF MORE THAN 2 FATALITIES, ATTACH ADDITIONAL FORMS)

NAME OF VICTIM	ADDRESS OF VICTIM	WAS PFD WORN? [ ] YES [ ] NO
DATE OF BIRTH [ ] MALE [ ] FEMALE	DEATH CAUSED BY [ ] DROWNING [ ] OTHER	[ ] DISAPPEARANCE
NAME OF VICTIM	ADDRESS OF VICTIM	WAS PFD WORN? [ ] YES [ ] NO
DATE OF BIRTH [ ] MALE [ ] FEMALE	DEATH CAUSED BY [ ] DROWNING [ ] OTHER	[ ] DISAPPEARANCE

INJURED (IF MORE THAN 2 INJURIES, ATTACH ADDITIONAL FORMS)

NAME OF VICTIM	ADDRESS OF VICTIM	
DATE OF BIRTH	MEDICAL TREATMENT BEYOND FIRST AID? [ ] YES [ ] NO ADMITTED TO HOSPITAL? [ ] YES [ ] NO	DESCRIBE INJURY

WAS PFD WORN? [ ] YES [ ] NO PRIOR TO ACCIDENT? [ ] YES [ ] NO AS A RESULT OF ACCIDENT? [ ] YES [ ] NO
WAS IT INFLATABLE? [ ] YES [ ] NO

NAME OF VICTIM	ADDRESS OF VICTIM	
DATE OF BIRTH	MEDICAL TREATMENT BEYOND FIRST AID? [ ] YES [ ] NO ADMITTED TO HOSPITAL? I I YES [1 NO	DESCRIBE INJURY

WAS PFD WORN? I I YES I 1 NO PRIOR TO ACCIDENT7 [ ] YES [ ] NO AS A RESULT ff ACCIDENT? [ ] YES [ ] NO
WAS IT INFLATABLE? [ ] YES [ ] NO

OTHER PEOPLE ABOARD THIS BOAT (IF MORE THAN 2 PEOPLE, ATTACH ADDITIONAL FORMS)

NAME	ADDRESS	
DATE OF BIRTH	WAS PFD WORN? [ ] YES [ ] NO AS A RESULT OF ACCIDENT I 1 YES [ ] NO	PRIOR TO ACCIDENT? [ ] YES [ ] NO WAS IT INFLATABLE? [I YES I 1 NO
NAME	ADDRESS	
DATE OF BIRTH	WAS PFD WORN? [ ] YES [ ] NO AS A RESULT OF ACCIDENT I] YES I] No	PRIOR TO ACCIDENT? [ ] YES [ ] NO WAS IT INFLATABLE? [ ] YES [ ] NO

BOAT NO. 2 (IF MORE THAN 2 VESSELS, ATTACH ADDITIONALIDENTIFYING INFORMATION)

NAME OF OPERATOR	OPERATOR ADDRESS	
OPERATOR TELEPHONE NUMBER ( )	BOAT REGISTRATION OR DOCUMENTATION NUMBER	STATE
NAME OF OWNER	OWNER ADDRESS	
OWNER TELEPHONE NUMBER ( )		

P - A G E

ESTIMATED AMOUNT: THIS BOAT AND CONTENTS:	OTHER BOAT(S) AND CONTENTS:	OTHER PROPERTY:
$	$	$

DESCRIBE PROPERTY DAMAGED

WITNESSES NOT ON THIS VESSEL

NAME	ADDRESS	TELEPHONE NUMBER ( )
NAME	ADDRESS	TELEPHONE NUMBER ( )

PERSON COMPLETING REPORT

NAME	ADDRESS	TELEPHONE NUMBER ( )
SIGNATURE	QUALIFICATION [ ] OPERATOR [ ] OWNER [ ] INVESTIGATOR [ ] OTHER	DATE SUBMITTED

CAUSES BASED ON (CHECK ONE): [ ]THIS REPORT [ ] INVESTIGATION [ ] INVESTIGATION AND THIS REPORT [ ] OTHER

NAME OF REVIEWING OFFICE	DATE RECEIVED	RECREATIONAL [ ] NON-REPORTABLE [ ] COMMERCIAL [ ]
PRIMARY CAUSE		SECONDARY CAUSE

ACCIDENT DESCRIPTION

DESCRIBE WHAT HAPPENED (SEQUENCE OF EVENTS. INCLUDE FAILURE OF EQUIPMENT. INCLUDE A DIAGRAM IF NEEDED. CONTINUE ON ADDITIONAL SHEETS IF NECESSARY. INCLUDE ANY INFORMATION REGARDING THE INVOLVEMENT OF ALCOHOL AN/OR DRUGS IN CAUSING OR CONTRIBUTING TO THE ACCIDENT. INCLUDE ANY DESCRIPTIVE INFORMATION ABOUT THE USE OF PFD'S.)

An agency may not conduct or sponsor and a person is not required to respond to an information collection, unless it displays a currently valid OMB Control Number. The Coast Guard estimates that the average burden for this report form is 30 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-OPB-1), U.S. Coast Guard, Washington, DC 20593-0001 or Office of Management and Budget, Paperwork Reduction Project (2115-0010), Washington, DC 20503.

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BOATING ACCIDENT REPORT

ADDENDUM

FOR REPORTING AUTHORITY

NAME OF OPERATOR:_____ DATE OF ACCIDENT:_____

ALCOHOL For operator and each passenger Indicate:

	TEST FOR ALCOHOL TAKEN7	TYPE OF TEST	TEST RESULTS	BAC
OPERATOR	I] YES I] NO	I] BLOOD [ ] BREATH [ ] URINE I] OTHER	[ ] POSITIVE [ ] NEGATIVE	____%
PASSENGER	TEST FOR ALCOHOL TAKEN? [ ] YES [ ] NO	TYPE OF TEST I] BLOOD [ ] BREATH [ ] URINE [ ] OTHER	TEST RESULTS [ ] POSITIVE I] NEGATIVE	BAC ____%
PASSENGER	TEST FOR ALCOHOL TAKEN? [ ] YES I] NO	TYPE OF TEST I] BLOOD I] BREATH [ ] URINE I] OTHER	TEST RESULTS [ ] POSITIVE [ ] NEGATIVE	BAC ____%
PASSENGER	TEST FOR ALCOHOL TAKEN? I] YES I] NO	TYPE OF TEST [ ] BLOOD [ ] BREATH [ ] URINE [ ] OTHER	TEST RESULTS I] POSITIVE I] NEGATIVE	BAC ____%
PASSENGER	TEST FOR ALCOHOL TAKEN7 I] YES [ ] NO	TYPE OF TEST [ ] BLOOD [ ] BREATH [ ] URINE [ ] OTHER	TEST RESULTS [ ] POSITIVE [ ] NEGATIVE	BAC ____%

DRUGS For operator and each passenger indicate:

OPERATOR	TEST FOR DRUGS TAKEN? [ ] YES [ ] NO	RESULTS [ ] POSITIVE [ ] NEGATIVE
PASSENGER	TEST FOR DRUGS TAKEN? [ ] YES [ ] NO	RESULTS [ ] POSITIVE [ ] NEGATIVE
PASSENGER	TEST FOR DRUGS TAKEN? [ ] YES [ ] NO	RESULTS [ ] POSITIVE [ ] NEGATIVE
PASSENGER	TEST FOR DRUGS TAKEN? [ ] YES [ ] NO	RESULTS [ ] POSITIVE [ ] NEGATIVE
PASSENGER	TEST FOR DRUGS TAKEN? [ ] YES [ ] NO	RESULTS [ ] POSITIVE [ ] NEGATIVE

NAME OF REVIEWING OFFICE	REVIEWED BY

Exhibit 6-10

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CHAPTER 7 – PROGRAM FACILITIES

7.1 **Purpose (General).** This Chapter provides guidance for the acquisition, construction and repair of facilities necessary to support State RBS program activities.

7.2 Applicability and Scope. The guidance provided in this Chapter is applicable, in general, to facilities acquired, constructed, and repaired with RBS program funds. The material is intended as guidance for further interpreting requirements of applicable laws and regulations, and is not intended to supersede any Federal requirements.

7.3 Eligible Purposes. A program facility must be necessary to carry out program functions/activities and should be needed for a duration of time adequate to justify the capital investment. Program facilities include those facilities necessary to accomplish recreational boating law enforcement, vessel registration and titling, or training and education activities, e.g., offices, classrooms, or facilities for storage and repair of boats, vehicles and equipment.

7.4 Documentation. Budget Information **(SF-424C)** and a narrative providing the following information for each facility being acquired, constructed or repaired should be submitted with the program application:

a. Need. Explain why a new facility is needed or an existing facility needs enlargement, improvement, or repair.

b. **Objective.** Provide a concise statement of what the project will accomplish in terms of the stated need. For example:

(1) Construct a **2,000-square** foot shed at (specified location) on Lake George to house patrol boats during the boating season.

(2) Renovation of regional vessel registration/titling office in Johnson City.

(3) Construct a **3,000-square** foot combination office/classroom facility for RBS program personnel at (station) on Lake Mead.

c. **Location.** Identify the specific location of the facility to be constructed or improved.

d. **Approach.** Describe the work and how it will be done. Detailed site plans and specifications are not needed unless specifically requested by the Program Administrator.

7.4 e. Estimated Cost. Provide the work schedule, estimated total cost, amount of Federal and/or State funds to be used, and the anticipated cost by year for the project.

7.5 Allowable Costs. Costs for development and construction of facilities designed or intended for multiple use (e.g., facilities designed or used for vessel registration/titling that are also used to issue fishing and hunting licenses) shall be allocated among the various programs that receive benefits from the facility. If the non-RBS program purposes are incidental to the primary use, costs need not be allocated.

7.6 Maintenance. Maintenance means all commonly accepted practices necessary to keep the facility operating in a state of good repair and to protect it from deterioration resulting from normal wear and tear. Activities that allow the facility to function include routine recurring maintenance such as minor repairs, and non-routine cyclical maintenance, which is major maintenance or renovation activities conducted at intervals normally greater than one year. General upkeep (mowing lawns, daily cleaning, etc.) is not an allowable cost of the State RBS program budget.

7.7 **Real Property**. Real property acquired with Federal funds for a facility to be used in the State RBS program shall be administered in accordance with Federal regulations in 49 CFR 18.3 1 [Enclosure (7)].

a. Title to real property shall vest in the State or its subgrantee.

b. Real property must continue to serve the purposes for which it was acquired, and the State or its subgrantee shall not dispose of or encumber its title or other interests in the property.

c. When the real property is no longer needed for the originally authorized purpose, the State or the subgrantee will request disposition instructions from the Program Administrator.

NOTE: (Refer to Chapter 5, Section 5.4.a. for additional guidance.)

CHAPTER 8 -- PUBLIC ACCESS SITES

8.1 **Purpose (General).** This Chapter provides guidance on the development and construction of facilities that provide access to water resources for the use and enjoyment of recreational boaters.

8.2 Applicability and Scope. The guidance provided in this Chapter is applicable, in general, to all public access sites acquired, constructed, and repaired by RBS program funds. The material is intended as guidance for further interpreting requirements of laws and regulations applicable to State recreational boating public access sites. The guidance in this Chapter is not intended to supersede any Federal requirements.

8.3 Eligible Puruoses. RBS public access sites shall have objectives related to the following:

a. Elimination of overcrowding and congestion of waterways to enhance the safety of recreational boaters.

b. Equitable access to waters of the State for various forms of recreational boating, such as, cruising, water-skiing, fishing, hunting, or use of personal water-craft, and shall address the needs of the handicapped.

c. Developing or improving areas to enhance use and enjoyment of water resources by recreational boaters.

d. Providing for the protection and safety of the facilities and the users of the facilities.

8.4 Documentation. Budget information **(SF-424C)** and a narrative providing the following information for each public access site being acquired, developed, or repaired should be submitted with the program application.

a. Need. State the reason why a new facility is needed or an existing facility needs to be improved, e.g., reduce congestion, repair damage.

b. **Objective**. Provide a concise statement of what the project will accomplish in terms of stated need. For example:

(1) Develop a six-lane boat launching ramp, parking for 75 vehicle/boat trailer units, and toilet facilities on Lake Mead at (the specified location).

(2) Reduce congestion by construction of an additional boat launching ramp and 25 additional parking spaces for vehicle/boat trailer units at (existing site) on Lake George.

(3) Renovation of (existing site) to provide access for the handicapped.

8.4. c. Location. Identify the specific location of the facility to be constructed or improved and provide a map designating the location.

d. **Approach**. Describe the work and how it will be done. Detailed site plans and specifications are not needed unless specifically requested by the Program Administrator. If applicable, describe third party arrangements for operation of the facility, including how revenue from any user fees will be handled.

e. **Estimated Cost.** Provide the work schedule, estimated total cost, and the anticipated cost by year for accomplishing the objectives. The work schedule shall include the components of the major structures to be constructed such as boat ramps, parking lots, or toilet facilities.

8.5 Allowable Costs. Costs are allowable only for those public access sites that are identified in RBS applications approved by the Coast Guard. The costs for development and construction of facilities designed for multiple use shall be allocated among the various programs that receive benefits from the facility. If the non-RBS program purposes are incidental to the primary use, costs need not be allocated.

8.6 Maintenance. Maintenance means all commonly accepted practices necessary to keep the public access site operating in a state of good repair and to protect it from deterioration resulting from normal wear and tear. Activities that allow the facility to function include routine recurring maintenance such as minor repairs, and non-routine cyclical maintenance, which is major maintenance or renovation activities conducted at intervals normally greater than one year. General upkeep (mowing lawns, daily cleaning, etc.) is not an allowable cost of the State RBS program budget.

8.7 **Real Property**. Real property acquired with Federal funds for a public access site under the RBS program shall be administered in accordance with Federal regulations in 49 CFR 18.31 [Enclosure (7)].

a. Title to real property shall vest in the State or its subgrantee.

b. Real property must continue to serve the purposes for which it was acquired, and the State or its subgrantee shall not dispose of or encumber its title or other interests in the property.

c. When the real property is no longer needed for the originally authorized purpose, the State or the subgrantee will request disposition instructions from the Program Administrator.

NOTE: (Refer to Chapter 5, Section 5.4.a. for additional guidance.)

8.8 Special Provision. The following provision is specifically applicable to public access sites supported by Federal financial assistance provided for the State RBS program: On-site notification shall be maintained at each facility to make the public aware that the public access site is supported by Federal gasoline excise taxes administered by the U.S. Coast Guard to assist the State's RBS program.

TITLE 46, UNITED STATES CODE

CHAPTER 43 – RECREATIONAL VESSELS

Sec.

4301. Application.
4302. Regulations.
4303. Inspection and testing.
4304. Importation of nonconforming vessels and equipment.
4305. Exemptions.
4306. Federal preemption.
4307. Prohibited acts.
4308. Termination of unsafe operation.
4309. Investigation and reporting.
43 10. Repair and replacement of defects.
43 11. Penalties and injunctions.

§ 4301. Application

(a) This chapter applies to a recreational vessel and associated equipment carried in the vessel on waters subject to the jurisdiction of the United States (including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988) and, for a vessel owned in the United States, on the high seas.

(b) Except when expressly otherwise provided, this chapter does not apply to a foreign vessel temporarily operating on waters subject to the jurisdiction of the United States.

(c) Until there is a final judicial decision that they are navigable waters of the United States, the following waters lying entirely in New Hampshire are declared not to be waters subject to the jurisdiction of the United States within the meaning of this section: Lake Winnisquam, Lake Winnipesaukee, parts of the Merrimack River, and their tributary and connecting waters.

§ 4302. Regulations

(a) The Secretary may prescribe regulations—

(1) establishing minimum safety standards for recreational vessels and associated equipment, and establishing procedures and tests required to measure conformance with those standards, with each standard—

(A) meeting the need for recreational vessel safety; and
(B) being stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or use of associated equipment (including fuel systems, ventilation systems, electrical systems, sound-producing devices, firefighting equipment, lifesaving devices, signaling devices, ground tackle, life- and grab-rails, and navigational equipment) on recreational vessels and classes of recreational vessels subject to this chapter, and prohibiting the installation, carrying, or use of associated equipment that does not conform with safety standards established under this section; and

(3) requiring or permitting the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

(b) Each regulation prescribed under this section shall specify an effective date that is not earlier than 180 days from the date the regulation was published, unless the Secretary finds that there exists a recreational vessel safety hazard so critical as to require an earlier effective date. However, this period may not be more than 24 months for cases involving, in the discretion of the Secretary, major product design, retooling, or major changes in the manufacturing process.

(c) In prescribing regulations under this section, the Secretary shall, among other things—

(1) consider the need for and the extent to which the regulations will contribute to recreational vessel safety;

(2) consider relevant available recreational vessel safety standards, statistics, and data, including public and private research, development, testing, and evaluation;

(3) not compel substantial alteration of a recreational vessel or item of associated equipment that is in existence, or the construction or manufacture of which is begun before the effective date of the regulation, but subject to that limitation may require compliance or performance, to avoid a substantial risk of personal injury to the public, that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(4) consult with the National Boating Safety Advisory Council established under section 13 110 of this title about the considerations referred to in clauses (1)-(3) of this subsection.

(d) Section 8903 of this title does not apply to a vessel being operated for bona fide dealer demonstrations provided without fee to business invitees. However, if on the basis of substantial evidence, the Secretary decides under this section that requiring vessels so operated to be under the control of licenses individuals is necessary for boating safety, then the Secretary may prescribe regulations requiring the licensing of individuals controlling these vessels in the same manner as provided in chapter 89 of this title for individuals in control of vessels carrying passengers for hire.

§ 4303. Inspection and testing

(a) Subject to regulations, supervision, and reviews that the Secretary may prescribe, the Secretary may delegate to a person, private or public agency, or organization, or to an office or employee under the supervision of that person or agency, any work, business, or function related to the testing, inspection, and examination necessary for compliance enforcement and for the development of data to enable the Secretary to prescribe regulations under section 4302 of this title.

(b) The Secretary may—

(1) conduct research, testing, and development necessary to carry out this chapter, including the procurement by negotiation or otherwise of experimental and other recreational vessels or associated equipment for research and testing purposes; and

(2) subsequently sell those vessels.

§ 4304. Importation of nonconforming vessels and equipment

The Secretary and the Secretary of the Treasury may authorized by joint regulations the importation of any nonconforming recreational vessel or associated equipment on conditions, including providing a bond, that will ensure that the recreational vessel or associated equipment will be brought into conformity with applicable safety regulations and standards of the Government before the vessel or equipment is operated on waters subject to the jurisdiction of the United States.

§ 4305. Exemptions

If the Secretary considers that recreational vessel safety will not be adversely affected, the Secretary may issue an exemption from this chapter or a regulation prescribed under this chapter.

§ 4306. Federal preemption

Unless permitted by the Secretary under section 4305 of this title, a State or political subdivision of a State may not establish, continue in effect, or enforce a law or regulation establishing a recreational vessel or associated equipment performance or other safety standard or imposing a requirement for associated equipment (except insofar as the State or political subdivision may, in the absence of the Secretary's disapproval, regulate the carrying or use of marine safety articles to meet uniquely hazardous conditions or circumstances within the State) that is not identical to a regulation prescribed under section 4302 of this title.

§ 4307. Prohibited acts

(a) A person may not—

(1) manufacture, construct, assemble, sell or offer for sale, introduce or deliver for introduction into interstate commerce, or import into the United States, a recreational vessel, associated equipment, or component of the vessel or equipment unless—

(A)(i) it conforms with this chapter or a regulation prescribed under this chapter; and

(ii) it does not contain a defect which has been identified, in any communication to such person by the Secretary or the manufacturer of that vessel, equipment or component, as creating a substantial risk of personal injury to the public; or

(B) it is intended only for export and is so labeled, tagged, or marked on the recreational vessel or equipment, including any markings on the outside of the container in which it is to be exported;

(2) affix, attach, or display a seal, document, label, plate, insignia, or other device indicating or suggesting compliance with standards of the United States Government on, in, or in connection with, a recreational vessel or item of associated equipment that is false or misleading; or

(3) fail to provide a notification as required by this chapter or fail to exercise reasonable diligence in carrying out the notification and reporting requirements of this chapter.

(b) A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

§ 4308. Termination of unsafe operation

If an official charged with the enforcement of this chapter observes a recreational vessel being operated without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition (as defined in regulations prescribed under this chapter) and, in the judgment of the official, the operation creates an especially hazardous condition, the official may direct the individual in charge of the recreational vessel to take immediate and reasonable steps necessary for the safety of individuals on board the vessel, including directing the individual in charge to return to a mooring and to remain there until the situation creating the hazard is corrected or ended.

§ 4309. Investigation and reporting

(a) A recreational vessel manufacturer to whom this chapter applies shall establish and maintain records and reports and provide information the Secretary may require to enable the Secretary to decide whether the manufacturer has acted or is acting in compliance

with this chapter and regulations prescribed under this chapter. On request of an officer, employee, or agent authorized by the Secretary, a recreational vessel manufacturer shall permit the officer, employee, or agent to inspect, at reasonable times, factories or other facilities, and records related to deciding whether the manufacturer has acted or is acting in compliance with this chapter and regulations prescribed under this chapter.

(b) Information reported to or otherwise obtained by the Secretary or the representative of the Secretary under this section containing or related to a trade secret or other matter referred to in section 1905 of title 18, or authorized to be exempt from public disclosure by section 552(b) of title 5, is confidential under section 1905. However, on approval of the Secretary, the information may be disclosed to other officers, employees, or agents concerned with carrying out this chapter or when it is relevant in a proceeding under this chapter.

§ 4310. Repair and replacement of defects

(a) In this section, "associated equipment" includes only items or classes of associated equipment that the Secretary shall prescribe by regulation after deciding that the application of the requirements of this section to those items or classes of associated equipment is reasonable and in furtherance of this chapter.

(b) If a recreational vessel or associated equipment has left the place of manufacture and the recreational vessel manufacturer discovers or acquires information that the manufacturer decides, in the exercise of reasonable and prudent judgment, indicates that a recreational vessel or associated equipment subject to an applicable regulation prescribed under section 4302 of this title either fails to comply with the regulation, or contains a defect that creates a substantial risk of personal injury to the public, the manufacturer shall provide notification of the defect or failure of compliance as provided by subsections (c) and (d) of this section within a reasonable time after the manufacturer has discovered the defect.

(c) (1) The notification required by subsection (b) of this section shall be given to the following persons in the following manner:

(A) by certified mail to the first purchaser for other than resale, except that the requirement for notification of the first purchaser shall be satisfied if the recreational vessel manufacturer exercises reasonable diligence in establishing and maintaining a list of those purchasers and their current addresses, and send the required notice to each person on that list at the address appearing on the list.

(B) by certified mail'to subsequent purchasers if known to the manufacturer.

(C) by certified mail or other more expeditious means to the dealers and distributors of the recreational vessels or associated equipment.

(2) The notification required by subsection (b) of this section is required to be given only for a defect or failure of compliance discovered by the recreational vessel manufacturer within a reasonable time after the manufacturer has discovered the defect or failure, except that the manufacturer's duty of notification under paragraph (l)(A) and (B) of this subsection applies only to a defect or failure of compliance discovered by the manufacturer within one of the following appropriate periods:

(A) if a recreational vessel or associated equipment required by regulation to have a date of certification affixed, 5 years from the date of certification.

(B) if a recreational vessel or associated equipment not required by regulation to have a date of certification affixed, 5 years from the date of manufacture.

(d) The notification required by subsection (b) of this section shall contain a clear description of the defect or failure to comply, an evaluation of the hazard reasonably related to the defect or failure, a statement of the measures to correct the defect or failure, and an undertaking by the recreational vessel manufacturer to take those measures only at the manufacturer's cost and expense.

(e) Each recreational vessel manufacturer shall provide the Secretary with a copy of all notices, bulletins, and other communications to dealers and distributors of that manufacturer, and to purchasers of recreational vessels or associated equipment of that manufacturer, about a defect related to safety in the recreational vessels or associated equipment, and any failure to comply with the regulation or order applicable to the recreational vessels or associated equipment. The Secretary may publish or otherwise disclose to the public information in the notices or other information the Secretary has that the Secretary considers will assist in carrying out this chapter. However, the Secretary may disclose any information that contains or relates to a trade secret only if the Secretary decides that the information is necessary to carry out this chapter.

(f) If, through testing, inspection, investigation, or examination of reports, the Secretary decides that a recreational vessel or associated equipment to which this chapter applies contains a defect related to safety or fails to comply with an applicable regulation prescribed under this chapter and notification under this chapter is appropriate, the Secretary shall notify the recreational vessel manufacturer of the defect or failure. The notice shall contain the findings of the Secretary and shall include a synopsis of the information on which they are based. The manufacturer may then provide the notification required by this chapter to the persons designated in this chapter or dispute the Secretary's decision. If disputed, the Secretary shall provide the manufacturer with an opportunity to present views and establish that there is no such defect or failure. When the Secretary considers it to be in the public interest, the Secretary may publish notice of the proceeding in the Federal Register and provide interested persons, including the National Boating Safety Advisory Council, with an opportunity to comment. If, after presentation by the manufacturer, the Secretary decides that the recreational vessel or associated equipment contains a defect related to safety or fails to comply with an

applicable regulation, the Secretary may direct the manufacturer to provide the notifications specified in this chapter.

(g) The Secretary may prescribe regulations to carry out this section, including the establishment of procedures that require dealers and distributors to assist manufacturers in obtaining information required by this section. A regulation prescribed under this subsection does not relieve a manufacturer of any obligation imposed by this section.

§ 4311. Penalties and injunctions

(a) A person willfully operating a recreational vessel in violation of this chapter or a regulation prescribed under this chapter shall be fined not more than $5,000, imprisoned for not more than one year, or both.

(b) A person violating section 4307(a)(1) of this title is liable to the United States Government for a civil penalty of not more than $2,000, except that the maximum civil penalty may be not more than $100,000 for a related series of violations. When a corporation violates section 4307(a)(1), any director, officer, or executive employee of the corporation who knowingly and willfully ordered, or knowingly and willfully authorized, a violation is individually liable to the Government for the penalty, in addition to the corporation. However, the director, officer, or executive employee is not liable individually under this subsection if the director, officer, or executive employee can demonstrate by a preponderance of the evidence that-

(1) the order or authorization was issued on the basis of a decision, in exercising reasonable and prudent judgment, that the defect or the nonconformity with standards and regulations constituting the violation would not cause or constitute a substantial risk of personal injury to the public; and

(2) at the time of the order or authorization, the director, officer, or executive employee advised the Secretary in writing of acting under this clause and clause (1) of this subsection.

(c) A person violating any other provision of this chapter or other regulation prescribed under this chapter is liable to the Government for a civil penalty of not more than $1,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.

(d) When a civil penalty of not more than $200 has been assessed under this chapter, the Secretary may refer the matter of collection of the penalty directly to the United States magistrate of the jurisdiction in which the person liable may be found for collection procedures under supervision of the district court and under an order issued by the court delegating this authority under section 636(b) of title 28.

(e) The district courts of the United States have jurisdiction to restrain a violation of this chapter, or to restrain the sale, offer for sale, introduction or delivery for introduction

into interstate commerce, or importation into the United States, of a recreational vessel or associated equipment that the court decides does not conform to safety standards of the Government. A civil action under this subsection shall be brought by filing a petition by the Attorney General for the Government. When practicable, the Secretary shall give notice to a person against whom an action for injunctive relief is contemplated and provide the person with an opportunity to present views and, except for a knowing and willful violation, shall provide the person with a reasonable opportunity to achieve compliance. The failure to give notice and provide the opportunity does not preclude the granting of appropriate relief by the district court.

(f) A person is not subject to a penalty under this chapter if the person--

(1) establishes that the person did not have reason to know, in exercising reasonable care, that a recreational vessel or associated equipment does not conform with the applicable safety standards of the Government or that the person was not advised by the Secretary or the manufacturer of that vessel, equipment or component that the vessel, equipment or component contains a defect which creates a substantial risk of personal injury to the public; or

(2) holds a certificate issued by the manufacturer of that recreational vessel or associated equipment to the effect that the recreational vessel or associated equipment conforms to all applicable recreational vessel safety standards of the Government, unless the person knows or reasonably should have known that the recreational vessel or associated equipment does not so conform.

(g) Compliance with this chapter or standards, regulations, or orders prescribed under this chapter does not relieve a person from liability at common law or under State law.

TITLE 46, UNITED STATES CODE

CHAPTER 61 – REPORTING MARINE CASUALTIES

Sec.

6 101. Marine casualties and reporting.
6 102. State marine casualty reporting system.
6103. Penalty.
6 104. Commercial fishing industry vessel casualty statistics.

§ 6101. Marine casualties and reporting

(a) The Secretary shall prescribe regulations on the marine casualties to be reported and the manner of reporting. The regulations shall require reporting the following marine casual ties:

(1) death of an individual.
(2) serious injury to an individual.
(3) material loss of property.
(4) material damage affecting the seaworthiness or efficiency of the vessel.
(5) significant harm to the environment.

(b) A marine casualty shall be reported within 5 days as provided in this part and regulations prescribed under this part. Each report filed under this section shall include information as to whether the use of alcohol contributed to the casualty.

[(c) Repealed. Pub.L. 98-498, § 212(b)(l)(B), Oct. 19, 1984, 98 Stat. 2306]

(d) (1) This part applies to a foreign vessel when involved in a marine casualty on the navigable waters of the United States.

(2) This part applies, to the extent consistent with generally recognized principles of international law, to a foreign vessel constructed or adapted to carry, or that carrier, oil in bulk as cargo or cargo residue involved in a marine casualty described under subsection (a)(4) or (5) in waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.

(e) A marine casualty not resulting in the death of an individual shall be classified according to the gravity of the casualty, as prescribed by regulation, giving consideration to the extent of injuries to individuals, the extent of property damage, the dangers that the casualty creates, and the size, occupation, and means of propulsion of each vessel involved.

(e) (1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vessel operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

(A) embarks or disembarks passengers in the United States; or

(B) transports passengers traveling under any form of air and sea ticket package marketed in the United States.

(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

(A) is thorough and timely; and

(B) produces findings and recommendations to improve safety on passenger vessels.

(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

(A) seek a multinational investigation of the casualty under auspices of the International Maritime Organization; or

(B) conduct an investigation of the casualty under chapter 63 of this title.

§ 6102. State marine casualty reporting system

(a) The Secretary shall prescribe regulations for a uniform State marine casualty reporting system for vessels. Regulations shall prescribe the casualties to be reported and the manner of reporting. A State shall compile and submit to the Secretary reports, information, and statistics on casualties reported to the State, including information and statistics concerning the number of casualties in which the use of alcohol contributed to the casualty.

(b) The Secretary shall collect, analyze, and publish reports, information, and statistics on marine casualties together with findings and recommendations the Secretary considers appropriate. If a State marine casualty reporting system provides that information derived from casualty reports (except statistical information) may not be publicly disclosed, or otherwise prohibits use by the State or any person in any action or proceeding against a person, the Secretary may use the information provided by the State only in the same way that the State may use the information.

§ 6103. Penalty

(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to report a casualty as required under section 6101 of this title or a regulation prescribed under section 6101 or 6102 is liable to the United States Government for a civil penalty of not more than $25,000.

(b) A person failing to comply with section 6104 of this title or a regulation prescribed under that section is liable to the Government for a civil penalty of not more than $5,000.

§ 6104. Commercial fishing industry vessel casualty statistics

(a) The Secretary shall compile statistics concerning marine casualties from data compiled from insurers of fishing vessels, fish processing vessels, and fish tender vessels.

(b) A person underwriting primary insurance for a fishing vessel, fish processing vessel, or fish tender vessel shah submit periodically to the **Secretary** data concerning marine casualties that is required by regulations prescribed by the Secretary.

(c) After consulting with the insurance industry, the Secretary shall prescribe regultions under this section to gather a statistical base for analyzing vessel risks.

(d) The Secretary may delegate to a qualified person that has knowledge and experience in the collection of statistical insurance data the authority of the Secretary under this section to compile statistics **from** insurers.

TITLE 46, UNITED STATES CODE

CHAPTER 123 - NUMBERING UNDOCUMENT VESSELS

Sec.

12301. Numbering vessels.
12302. Standard numbering system.
12303. Exemption from numbering requirements.
12304. Certificates of numbers.
12305. Displaying numbers.
12306. Safety certificates.
12307. Regulations on numbering and fees.
12308. Providing vessel numbering and registration information.
12309. Penalties.

§ 12301. Numbering vessels

(a) An undocumented vessel equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel principally is operated.

(b) The Secretary shall require an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered.

§ 12302. Standard numbering system

(a) The Secretary shall prescribe by regulation a standard numbering system for vessels to which this chapter applies. On application by a State, the Secretary shall approve a State numbering system that is consistent with the standard numbering system. In carrying out its numbering system, a State shall adopt any definitions of relevant terms prescribed by regulations of the Secretary.

(b) A State with an approved numbering system is the issuing authority within the meaning of this chapter. The Secretary is the issuing authority in a State in which a State numbering system has not been approved.

(c) When a vessel is numbered in a State, it is deemed in compliance with the numbering system of a State in which it temporarily is operated.

(d) When a vessel is removed to a new State of principal operation, the issuing authority of that State shall recognize the validity of the number issued by the original State for 60 days.

(e) If a State has a numbering system approved after the Secretary issues a number, the State shall recognize the validity of the number issued by the Secretary for one year.

(f) When the Secretary decides that a State numbering system is not being carried out consistent with the standard numbering system or the State has changed the system without the Secretary's approval, the Secretary may withdraw approval after giving notice to the State, in writing, stating the reasons for the withdrawal.

§ 12303. Exemption from numbering requirements

(a) When the Secretary is the authority issuing a number under this chapter, the Secretary may exempt a vessel or class of vessels from the numbering requirements of this chapter under conditions the Secretary may prescribe.

(b) When a State is the issuing authority, it may exempt from the numbering requirements of this chapter a vessel or class of vessels exempted under subsection (a) of this section or otherwise as permitted by the Secretary.

§ 12304. Certificates of numbers

(a) A certificate of number is granted for a number issued under this chapter. The certificate shall be pocketsized, shall be at all times available for inspection on the vessel for which issued when the vessel is in operation, and may be valid for not more than 3 years. The certificate of number for a vessel less than 26 feet in length and leased or rented to another for the latter's noncommercial operation of less than 7 days may be retained on shore by the vessel's owner or representative at the place from which the vessel departs or returns to the possession of the owner or the owner's representative. A vessel that does not have the certificate of number on board shall be identified when in operation, and comply with requirements, as the issuing authority prescribes.

(b) The owner of a vessel numbered under this chapter shall provide—

(1) the issuing authority notice of the transfer of any part of the owner's interest in the vessel or of the destruction or abandonment of the vessel, within a reasonable time after the transfer, destruction, or abandonment; and

(2) notice of a change of address within a reasonable time of the change, as prescribed by regulation.

§ 12305. Displaying numbers

A number required by this chapter shall be painted on, or attached to, each side of the forward half of the vessel for which it was issued, and shall be the size, color, and type as may be prescribed by the Secretary. No other number may be carried on the forward half of the vessel.

§ 12306. Safety certificates

When a State is the authority issuing a number under this chapter, it may require that the individual in charge of a numbered vessel have a valid safety certificate issued under conditions set by the issuing authority, except when the vessel is subject to manning requirements under part F of this subtitle.

§ 12307. Regulations on numbering and fees

The authority issuing a number under this chapter may prescribe regulations and establish fees to carry out the intent of this chapter. The fees shall apply equally to residents and nonresidents of the State. A State issuing authority may impose only conditions for vessel numbering that are—

(1) prescribed by this chapter or regulations of the Secretary about the standard numbering system; or

(2) related to proof of payment of State or local taxes.

§ 12308. Providing vessel numbering and registration information

A person may request from an authority issuing a number under this chapter the numbering and registration information of a vessel that is retrievable from vessel numbering system records of the issuing authority. When the issuing authority is satisfied that the request is reasonable and related to a boating safety purpose, the information shall be provided on paying the cost of retrieving and providing the information requested.

§ 12309. Penalties

(a) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than $5,000, imprisoned for not more than one year, or both.

(b) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $1,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.

(c) When a civil penalty of not more than $200 has been assessed under this chapter, the Secretary may refer the matter of collection of the penalty directly to the United States magistrate of the jurisdiction in which the person liable may be found for collection procedures under supervision of the district court and under an order issued by the court delegating this authority under section 636(b) of title 28.

TITLE 46, UNITED STATES CODE

CHAPTER 125 – VESSEL IDENTIFICATION SYSTEM

Sec.

12501. Establishment of a vessel identification system.
12502. Identification numbers, signal letters, and marking.
12503. Information available to the system.
12504. Information available from the system.
12505. Fees.
12506. Delegation of authority.
12507. Penalties.

§ 12501. Establishment of a vessel identification system

(a) The Secretary of Transportation shall establish a vessel identification system to make available information under section 12503 of this title for use by the public for law enforcement and other purposes relating to—

(1) the ownership of documented vessels;

(2) the ownership of vessels numbered under chapter 123 of this title; and

(3) the ownership of vessels titled under the law of a State.

(b) The vessel identification system shall include information prescribed by the Secretary including—

(1) identifying a vessel;

(2) identifying the owner of the vessel, including-

(A) the owner's social security number or, if that number is not available, other means of identification acceptable to the Secretary; or

(B) for an owner other than an individual –

(i) the owner's taxpayer identification number; or

(ii) if the owner does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the owner and who signed the application for documentation or numbering for the vessel;

(3) identifying the State in which it is titled or numbered;

(4) indicating whether the vessel is numbered or titled, or both;

(5) if titled in a State, indicating where evidence of a lien or other security interest may be found against the vessel in that State; and

(6) information assisting law enforcement officials.

(c) The Secretary may maintain information under this chapter in connection with any other information system maintained by the Secretary.

§ 12502. Identification numbers, signal letters, and markings

(a) For the identification of a vessel of the United States, the Secretary of Transportation—

(1) shall maintain a unique numbering system and assign a number to each vessel of the United States;

(2) may maintain a system of signal letters for a documented vessel;

(3) shall record a name selected by the owner of a documented vessel approved by the Secretary as the vessel's name of record; and

(4) may establish other identification markings.

(b) The manufacturer or owner of a vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned and any other markings the Secretary may require.

(c) Once a number is assigned under this section, it may not be used by another vessel.

(d) Once a documented vessel's name is established, the name may not be changed without the approval of the Secretary.

(e) A person may not tamper with or falsify a number or other marking required under this section.

§ 12503. Information available to the system

(a) Except as provided in subsections (b) and (c) of this section, a State or a State's delegee approved by the Secretary of Transportation may make information available to the Secretary if, in a manner and form prescribed by the Secretary, the State—

(1) identifies the vessel;

(2) identifies the owner of the vessel, including by—

(A) the owner's social security number or, if that number is not available, other means of identification acceptable to the Secretary; or

(B) for an owner other than an individual-

(i) the owner's taxpayer identification number; or

(ii) if the owner does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the owner and who signed the application for documentation or numbering for the vessel;

(3) identifies the State in which it is titled or numbered;

(4) indicates whether the vessel numbered or titled, or both;

(5) if titled in a State, indicates where evidence of a lien or other security interest may be found against the vessel in that State;

(5) includes information to assist law enforcement; and

(6) includes other information agreed to by the Secretary and the State.

(b) Except as provided in subsection (c) of this section, the Secretary also may accept information under conditions and in a manner and form prescribed by the Secretary.

(b) The Secretary shall—

(1) retain information on a vessel with a preferred mortgage under section 3 1322(d) of this title that is no longer titled in a State making information available to the Secretary under this chapter until the mortgage is discharged or the vessel is sold; and

(2) accept information under section 3 132(h) of this title only if that information cannot be provided to a State.

§ 12504. Information available from the system

For law enforcement or other purposes and under conditions prescribed by the Secretary of Transportation, the Secretary—

(1) shall make available information in the vessel identification system to a State making information available under section 12503(a) of this title; and

(2) may make available information in the vessel identification system to others.

§ 12505. Fees

(a) The Secretary of Transportation may charge a fee under section 9701 of title 3 1 for providing information to or requesting information from the vessel identification from the vessel identification system, except to—

(1) an agency; or

(2) a State making information available to the Secretary under section 12503(a) of this title.

(b) The Secretary shall deposit amounts transferred or collected under this section in the general fund of the Treasury as proprietary receipts of the Secretary and ascribed to the vessel identification system.

§ 12506. Delegation of authority

The Secretary of Transportation may delegate to an agency, a State, or a qualified person the authority to—

(1) establish and maintain the vessel identification system; and

(2) charge fees under section 12505 of this title to a person making information available to or requesting information from the vessel identification system.

§ 12507. Penalties

(a) A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person with the intent to defraud—

(1) provides false information to the Secretary of Transportation or a State issuing authority regarding the identification of a vessel under this chapter; or

(2) tampers with, removes, or falsifies the unique vessel identification number assigned to a vessel under section 12502 of this title.

(b) A person is liable to the United States Government for a civil penalty of not more than $10,000 if the person—

(1) provides false information to the Secretary or a State issuing authority regarding the identification of a vessel under this chapter;

(2) violates section 12502 of this title; or

(3) fails to comply with requirements prescribed by the Secretary under section 12505 of this title.

(c) A vessel involved in a violation of this chapter, or regulation under this chapter, and its equipment, may be seized by, and forfeited to, the Government.

(d) If a person, not an individual, is involved in a violation of this chapter, the president or chief executive of the person also is subject to any penalty provided under this section.

TITLE 46, UNITED STATES CODE

CHAPTER 131 - RECREATIONAL BOATING SAFETY

Sec.

13 101. State recreational boating safety programs.
13 102. Program acceptance.
13 103. Allocations.
13 104. Availability of allocations
13 105. Computation decisions about State amounts expended.
13 106. Authorization of appropriations.
[13107. Repealed.]
13 108. Computing amounts allocated to States and State records requirements.
13 109. Consultation, cooperation, and regulation.
13 110. National Boating Safety Advisory Council.

§ 13101. State recreational boating safety programs

(a) To encourage greater State participation and uniformity in boating safety efforts, and particularly to permit the States to assume the greater share of boating safety education, assistance, and enforcement activities, the Secretary shall carry out a national recreational boating safety program. Under this program, the Secretary shall make contracts with, and allocate and distribute amounts to, eligible States to assist them in developing, carrying out, and financing State recreational boating safety programs.

(b) The Secretary shall establish guidelines and standards for the program. In doing so, the Secretary—

(1) shall consider, among other things, factors affecting recreational boating safety by contributing to overcrowding and congestion of waterways, such as the increasing number of recreational vessels operating on those waterways and their geographic distribution, the availability and geographic distribution of recreational boating facilities in and among applying States, and State marine casualty and fatality statistics for recreational vessels;

(2) shall consult with the Secretary of the Interior to minimize duplication with the purposes and expenditures of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4-4601-l 1) the Federal Aid in Sport Fish Restoration Act of 1950 (16 U.S.C. 777-777k), and with the guidelines developed under those Acts; and

(3) shall maintain environmental standards consistent with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) and other laws and policies of the United States intended to safeguard the ecological and esthetic quality of the waters and wetlands of the United States.

(c) A State whose recreational boating safety program has been approved by the Secretary is eligible for allocation and distribution of amounts under this chapter to assist that State in developing, carrying out, and financing its program. Matching amounts shall be allocated and distributed among eligible States by the Secretary as provided in section 13 103 of this title.

§ 13102. Program acceptance

(a) The Secretary shall make a contract with, and allocate and distribute amounts from the Boating Safety Account established by section 9504 of the Internal Revenue Code of 1986 to, a State that has an approved State recreational boating safety program, if the State demonstrates to the Secretary's satisfaction that—

(1) the program submitted by that State is consistent with this chapter and chapters 61 and 123 of this title;

(2) amounts distributed will be used to develop and carry out a State recreational boating safety program containing the minimum requirements of subsection (c) of this section;

(3) sufficient State matching amounts are available from general State revenue, undocumented vessel numbering and license fees, State marine fuels taxes, or from a fimd constituted from the proceeds of those taxes and established to finance a State recreational boating safety program; and

(4) the program submitted by that State designates a State lead authority or agency that will carry out or coordinate carrying out the State recreational boating safety program supported by financial assistance of the United States Government in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable to carry out properly and efficiently the program and that are in the form prescribed by the Secretary.

(b) Amounts of the Government (except amounts from sources referred to in subsection (a)(3) of this section) may not be used to provide a State's share of the costs of the program described under this section. State matching amounts committed to a program under this chapter may not be used to constitute the State's share of matching amounts required by another program of the Government.

(c) The Secretary shall approve a State recreational boating safety program, and the program is eligible to receive amounts authorized to be expended under section 13 106 of this title, if the program includes—

(1) a vessel numbering system approved or carried out by the Secretary under chapter 123 of this title;

(2) a cooperative boating safety assistance program with the Coast Guard in that State;

(3) sufficient patrol and other activity to ensure adequate enforcement of applicable State boating safety laws and regulations;

(4) an adequate State boating safety education program, that includes the dissemination of information concerning the hazards of operating a vessel when under the influence of alcohol or drugs; and

(5) a system, approved by the Secretary, for reporting marine casualties required under section 6102 of this title.

(d) The Secretary's approval under this section is a contractual obligation of the Government for the payment of a proportionate share of the cost of carrying out the program.

§ 13103. Allocations

(a) The Secretary shall allocate amounts available for allocation and distribution under this chapter for State recreational boating safety programs as follows:

(1) One-third shall be allocated equally each fiscal year among eligible States.

(2) One-third shall be allocated among eligible States that maintain a State vessel numbering system approved under chapter 123 of this title and a marine casualty reporting system approved under this chapter so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States.

(3) One-third shall be allocated so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the amount of State amounts expended by the State for the State recreational boating safety program during the prior fiscal year bears to the total State amounts expended during that fiscal year by all eligible States for State recreational boating safety programs.

(b) The amount received by a State under this section in a fiscal year may be not more than one-half of the total cost incurred by that State in developing, carrying out, and financing that State's recreational boating safety and facilities improvement program in that fiscal year.

(c) The Secretary may allocate not more than 5 percent of the amounts available for allocation and distribution in a fiscal year for national boating safety activities of national nonprofit public service organizations.

§ 13104. Availability of allocations

(a) (1) Amounts allocated to a State shall be available for obligation by that State for a period of 2 years after the date of allocation.

(2) Amounts allocated to a State that are not obligated at the end of the 2-year period referred to in paragraph (1) shall be withdrawn and allocated by the Secretary in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

(b) Amounts available to the Secretary for State recreational boating safety programs for a fiscal year that have not been allocated at the end of the fiscal year shall be allocated among States in the next fiscal year in addition to amounts otherwise available for allocation to States for that next fiscal year.

§ 13105. Computation decisions about State amounts expended

(a) Consistent with regulations prescribed by the Secretary, the computation by a State of amounts expended for the State recreational boating safety program shall include—

(1) the acquisition, maintenance, and operating costs of land, facilities, equipment, and supplies;

(2) personnel salaries and reimbursable expenses;

(3) the cost of training personnel;

(4) public boat safety education;

(5) the costs of carrying out the program; and

(6) other expenses that the Secretary considers appropriate.

(b) The Secretary shall decide an issue arising out of the computation made under subsection (a) of this section.

§ 13106. Authorization of appropriations

(a) (1) Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)). The amount shall be allocated as provided under section 13 103 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under

subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

(2) The Secretary shall use not less than one percent and not more than two percent of the amount available each fiscal year for State recreational boating safety programs under this chapter to pay the costs of investigations, personnel, and activities related to administering those programs.

(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes shall **include—**

(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

(5) conducting boating safety inspections and marine casualty investigations;

(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

(8) providing State recreational vessel numbering and titling programs.

(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under paragraphs (2) and (3) of section 4(b) of the Act of August **9, 1950** (16 U.S.C. **777c(b)), $5,000,000** is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which **$2,000,000** shall be available to the Secretary only to ensure compliance with chapter 43 of this title [section

4301 et seq. Of this title]. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.

[§ 13107. Repealed. Pub.L. 98-369, Title X, § 1016(c)(l), July 18, 1984, 98 State. 1020]

§ 13108. Computing amounts allocated to States and State records requirements

(a) Amounts allocated and distributed under section 13 103 of this title shall be computed and paid to the States as follows:

(1) During the second quarter of a fiscal year and on the basis of computations made under section 13 105 of this title and submitted by the States for the preceding fiscal year, the Secretary shall determine the percentage of the amounts available to which each eligible State is entitled for the next fiscal year.

(2) Notice of the percentage and of the dollar amount, if it can be determined, for each State shall be provided to the States at the earliest practicable time.

(3) If the Secretary determines that an amount made available to a State for a prior fiscal year is greater or less than the amount that should have been made available to the State for the prior fiscal year, because of later or more accurate State expenditure information, the amount for the current fiscal year may be increased or decreased by the appropriate amount.

(b) The Secretary shall schedule the payment of amounts, consistent with the program purposes and applicable regulations prescribed by the Secretary of the Treasury, to minimize the time elapsing between the transfer of amounts from the Treasury and the subsequent disbursement of the amounts by a State.

(c) The Secretary shall notify a State authority or agency that further payments will be made to the State only when the program complies with the prescribed standards or a failure to comply substantially with standards is corrected if the Secretary, after reasonable notice to the designated State authority or agency, finds that—

(1) the State recreational boating safety program submitted by the State and accepted by the Secretary has been so changed that it no longer complies with this chapter or standards prescribed by regulations; or

(2) in carrying out the State recreational boating safety program, there has been a failure to comply substantially with the standards prescribed by regulations.

(d) The Secretary shall provide for the accounting, budgeting, and other fiscal procedures that are necessary and reasonable to carry out this section properly and efficiently. Records related to amounts allocated under this chapter shall be made available to the Secretary and the Comptroller General to conduct audits.

§ 13109. Consultation, cooperation, and regulation

(a) In carrying out responsibilities under this chapter, the Secretary may consult with State and local governments, public and private agencies, organizations and committees, private industry, and other persons having an interest in boating safety.

(b) The Secretary may advise, assist, and cooperate with the States and other interested public and private agencies in planning, developing, and carrying out boating safety programs. Acting under section 141 of title 14, the Secretary shall ensure that fullest cooperation between the State and United States Government authorities in promoting boating safety by making agreements and other arrangements with States when possible. Subject to chapter 23 of title 14, the Secretary may make available, on request of a State, the services of members of the Coast Guard Auxiliary to assist the State in promoting boating safety on State waters.

(c) The Secretary may prescribe regulations to carry out this chapter.

§ 13110. National Boating Safety Advisory Council

(a) The Secretary shall establish a National Boating Safety Advisory Council. The Council shall consist of 21 members appointed by the Secretary, whom the Secretary considers to have a particular expertise, knowledge, and experience in recreational boating safety.

(b) (1) The membership of the Council shall consist of—

(A) 7 representatives of State officials responsible for State boating safety programs;

(B) 7 representatives of recreational vessel manufacturers and associated equipment manufacturers; and

(C) 7 representatives of national recreational boating organizations and from the general public, at lest 5 of whom shall be representatives of national recreational boating organizations.

(2) Additional individuals from the sources referred to in paragraph (1) of this subsection may be appointed to panels of the Council to assist the Council in performing its duties.

(3) At least once a year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Council.

(c) In addition to the consultation required by section 4302 of this title, the Secretary shall consult with the Council on other major boating safety matters related to this chapter. The Council may make available to Congress information, advice, and recommendations that the Council is authorized to give to the Secretary.

(d) When attending meetings of the Council, a member of the Council or a panel may be paid at a rate not more than the rate for GS- 18. When serving away from home or regular place of business, the member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for individuals employed intermittently in the Government service. A payment under this section does not make a member of the Council an officer or employee of the United States Government for any purpose.

(e) The Council shall terminate on September 30, 2000.

CODE OF FEDERAL REGULATIONS – TITLE 33
NAVIGATION AND NAVIGABLE WATERS

PART 173 – VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

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Appendix A – Issuing Authorities and Reporting Authorities

Authority: 46 U.S.C. 6101, 12302; 49 CFR 1.46.
Source: CGD 72-54R, 37 FR 21399, Oct. 7, 1972, unless otherwise noted.

Subpart A -- General

§ 173.1 Purpose.

This part prescribes requirements for numbering vessels and for reporting casualties and accidents to implement sections 6 101, 6102, 1230 1 and 12302 of Title 46, United States Code.

[CGD 89-048, 54 FR 27002, June 27, 1989]

§ *173.3* Definitions.

As used in this part:
(a) [Reserved]
(b) ***Issuing authority*** means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a number system has not been approved. Issuing authorities are listed in Appendix A of this part.
(c) *Operator* means the person who is in control or in charge of a vessel while it is in use.
(d) *Owner* means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.
(e) *Person* means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.
(f) *Reporting authority* means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of this part.
(g) State means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.
(h) *State ofprincipal* use means the State on whose waters a vessel is used or to be used most during a calendar year.
(i) Use means operate, navigate, or employ.

[CGD 72-54R, 37 FR 21399, October 7, 1972, as amended by CGD 77-117A, 43 FR 17941, Apr. 17, 1978; CGD 89-048, 54 FR 2702, June 27, 1989]

Subpart B -- Numbering

§ 173.11 Applicability.

This subpart applies to each vessel equipped with propulsion machinery of any type used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States except:

(a) Foreign vessels temporarily using waters subject to U.S. jurisdiction;
(b) Military or public vessels of the United States, except recreational-type public vessels;
(c) A vessel whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;
(d) Ships' lifeboats;
(e)A vessel which has or is required to have a valid marine document as a vessel of the United States.

§ 173.13 Exemptions.

Where the Coast Guard issues numbers, the following classes of vessels are exempt, under Section 12303 of Title 46, United States Code, from the numbering provisions of Sections 12301 and 12302 of Title 46, United States Code, and this part:

(a) A vessel that is used exclusively for racing.
(b) A vessel equipped with propulsion machinery of less than 10 horsepower that:
(1) Is owned by the owner of a vessel for which a valid certificate of number has been issued;
(2) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed in § 173.27; and
(3) Is used as a tender for direct transportation between that vessel and the shore and for no other purpose.

§ 173.15 Vessel number required.

(a) Except as provided in § 173.17, no person may use a vessel to which this part applies unless:
(1) It has a number issued on a certificate of number by the issuing authority in the State in which the vessel is principally used; and
(2) The number is displayed as described in § 173.27.
(b) This section does not apply to a vessel for which a valid temporary certificate has been issued to its owner by the issuing authority in the State in which the vessel is principally used.

§ 173.17 Reciprocity.

(a) Section 12302(c) of Title 46, United States Code, states:

When a vessel is numbered in a State, it is deemed in compliance with the numbering system of a State in which it temporarily is operated.

(b) Section 12302(d) of Title 46, United States Code, states:

When a vessel is removed to a new State of principal operation, the issuing authority of that State shall recognize the validity of the number issued by the original State for 60 days.

[CGD 89-048, 54 FR 27002, June 27,1989]

§ 173.19 Other numbers prohibited.

No person may use a vessel to which this part applies that has any number that is not issued by an issuing authority for that vessel on its forward half.

§ 173.21 Certificate of number required.

(a) Except as provided in §§ 173.13 and 173.17, no person may use a vessel to which this part applies unless it has on board:
(1) A valid certificate of number or temporary certificate for that vessel issued by the issuing authority in the State in which the vessel is principally used; or

(2) For the vessel described in paragraph (b) of this section, a copy of the lease or rental agreement, signed by the owner or his authorized representative and by the person leasing or renting the vessel, that contains at least:

(i) The vessel number that appears on the certificate of number; and
(ii) The periodof time for which the vessel is leased or rented.

(b) Section 12304(a) of Title 46, United States Code, states in part: The certificate of number for a vessel less than 26 feet in length and leased or rented to another for the latter's noncommercial operation of less than 7 days may be retained on shore by the vessel's owner or representative at the place from which the vessel departs or returns to the possession of the owner or the owner's representative.

[CGD 72-54R, 37 FR 2 1399, Oct. 7, 1972, as amended by CGD 77-117A, 43 FR 1794 1, Apr. 27, 1978; CGD 89-048, 54 FR 27002, June 27, 1989]

§ 173.23 Inspection of certificate.

Each person using a vessel to which this part applies shall present the certificate or lease or rental agreement required by $173.21 to any Federal, State, or local law enforcement officer for inspection at his request.

§ 173.25 Location of certificate of number.

No person may use a vessel to which this part applies unless the certificate or lease or rental agreement required by $173.2 1 is carried on board in such a manner that it can be handed to a person authorized under §173.23 to inspect it.

§ 173.27 Numbers: Display; size; color.

(a) Each number required by $173.15 must:
(1) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by paragraph (b) or required by paragraph (c) of this section;
(2) Be in plain vertical block characters of not less than 3 inches in height;
(3) Contrast with the color of the background and be distinctly visible and legible;
(4) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (Example: DC 5678 EF or DC-5678-EF); and
(5) Read from left to right.
(b) When a vessel is used by a manufacturer or by a dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel.
(c) On vessels so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.
(d) Each number displayed on a tender exempted under $173 .13 must meet the requirements of paragraph (a) of this section and have a space or hyphen that is equal to the width of a letter other than "I" or a number other than "1" between the suffix and the number. (Example: DC 5678 EF 1 or DC-5678-EF-1.)

§ 173.29 Notification to issuing authority.

A person whose name appears as the owner of a vessel on a certificate of number shall, within 15 days, notify the issuing authority in a manner prescribed by the issuing authority of:
(a) Any change in his address;
(b) The theft or recovery of the vessel;
(c) The loss or destruction of a valid certificate of number;
(d) The transfer of all or part of his interest in the vessel; and
(e) The destruction or abandonment of the vessel.

§ 173.31 Surrender of certificate of number.

A person whose name appears as the owner of a vessel on a certificate of number shall surrender the certificate in a manner prescribed by the issuing authority within 15 days after it becomes invalid under paragraph (b), (c), (d), or (e) of $173.77.

§ 173.33 Removal of number.

The person whose name appears on a certificate of number as the owner of a vessel shall remove the number and validation sticker from the vessel when:
(a) The vessel is documented by the Coast Guard;
(b) The certificate of number is invalid under paragraph (c) of § 173.77; or
(c) The vessel is no longer principally used in the State where the certificate was issued.

§ 173.35 Coast Guard validation sticker.

No person may use a vessel except a vessel exempted in § 173.13 that has a number issued by the Coast Guard unless it has the validation sticker issued with the certificate of number displayed within 6 inches of the number.

<u>Subpart C – Casualty and Accident Reporting</u>

§ 173.51 Applicability.

(a) This subpart applies to each vessel used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States that:
(1) Is used by its operator for recreational purposes; or
(2) Is required to be numbered under this part.
(b) This subpart does not apply to a vessel subject to inspection under Title 46 U.S.C. Chapter 33.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 84-099, 52 FR 47533, Dec. 14, 1987]

§ 173.53 Immediate notification of death or disappearance.

(a) When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, by the quickest means available, notify the nearest reporting authority listed in Appendix A of this part of:
(1) The date, time, and exact location of the occurrence;
(2) The name of each person who dies or disappeared;
(3) The number and name of the vessel; and
(4) The names and addresses of the owner and operator.

(b) When the operator of a vessel cannot give the notice required by paragraph (a) of this section, each person on board the vessel shall notify the casualty reporting authority or determine that the notice has been given.

§ 173.55 Report of casualty or accident.

(a) The operator of a vessel shall submit the casualty or accident report prescribed in § 173.57 to the reporting authority prescribed in § 173.59 when, as a result of an occurrence that involves the vessel or its equipment:

(1) A person dies;

(2) A person is injured and requires medical treatment beyond first aid;

(3) Damage to the vessel and other property totals more than $500 or there is a complete loss of the vessel; or

(4) A person disappears from the vessel under circumstances that indicate death or injury.

(b) A report required by this section must be made:

(1) Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence;

(2) Within 48 hours of the occurrence if a person is injured and requires medical treatment beyond first aid, or disappears from a vessel; and

(3) Within 10 days of the occurrence or death if an earlier report is not required by this paragraph.

(c) When the operator of a vessel cannot submit the casualty or accident report required by paragraph (a) of this section, the owner shall submit the casualty or accident report.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 76-155, 44 FR 5308, Jan. 25, 1979; CGD 82-015, 54 FR 5610, Feb. 6, 1989]

§ 173.57 Casualty or accident report.

Each report required by § 173.55 must be in writing, dated upon completion, and signed by the person who prepared it and must contain, if available, at least the following information about the casualty or accident:

(a) The numbers and names of each vessel involved.

(b) The name and address of each owner of each vessel involved.

(c) The name of the nearest city or town, the county, the State, and the body of water.

(d) The time and date the casualty or accident occurred.

(e) The location on the water.

(f) The visibility, weather, and water conditions.

(g) The estimated air and water temperatures.

(h) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.

(i) The name and address of each operator of each vessel involved.

(j) The number of persons on board or towed on skis by each vessel.

(k) The name, address, and date of birth of each person injured or killed.

(1) The cause of each death.

(m) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.

(n) The name and address of each owner of property involved.

(o) The availability and use of personal flotation devices.

(p) The type and amount of each fire extinguisher used.

(q) The nature and extent of each injury.

(r) A description of all property damage and vessel damage with an estimate of the cost of all repairs.

(s) A description of each equipment failure that caused or contributed to the cause of the casualty.

(t) A description of the vessel casualty or accident.
(u) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, or explosion or other).
(v) The opinion of the person making the report as to the cause of the casualty, including whether or not alcohol or drugs, or both, was a cause or contributed to causing the casualty.
(w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.
(x) The name, address, and telephone number of each witness.
(y) The manufacturer's hull identification number, if any, of the reporting operator's vessel.
(z) The name, address, and telephone number of the person submitting the report.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 84-099, 52 FR 47533, Dec. 14, 1987]

§ 173.59 Where to report.

A report required by $173.55 must be submitted to:
(a) The reporting authority listed in Appendix A of this part where the vessel number was issued, or, if the vessel has no number, where the vessel is principally used; or
(b) The reporting authority where the casualty or accident occurred, it is occurred outside the State where the vessel is numbered or principally used.

Subpart D – Issue of Certificate of Number

§ 173.71 Application for certificate of number.

Any person who is the owner of a vessel to which $173.11 applies may apply for a certificate of number for that vessel by submitting to the issuing authority, listed in Appendix A of this part, where the vessel will principally be used:
(a) An application on a form and in a manner prescribed by the issuing authority; and
(b) The fee required by the issuing authority.

§ 173.73 Duplicate certificate of number.

If a certificate of number is lost or destroyed, the person whose name appears on the certificate as the owner may apply for a duplicate certificate by submitting to the issuing authority that issued the certificate:
(a) An application on a form or in a manner prescribed by the issuing authority; and
(b) The fee required by the issuing authority, if any.

§ 173.75 Temporary certificate.

A temporary certificate valid for not more than 60 days after it is issued may be issued by an issuing authority pending the issue of a certificate of number. A temporary certificate is not valid after the date that the owner receives the certificate of number from the issuing authority.

§ 173.77 Validity of certificate of number.

(a) Except as provided in paragraphs (b), (c), (d), and (e) of this section, a certificate of number is valid until the date of expiration prescribed by the issuing authority.

(b) A certificate of number issued by an issuing authority is invalid after the date upon which:
(1) The vessel is documented or required to be documented under Part 67 of Title 46, Code of Federal Regulations;
(2) The person whose name appears on the certificate of number as owner of the vessel transfer all of his ownership in the vessel; or
(3) The vessel is destroyed or abandoned.
(c) A certificate of number issued by an issuing authority is invalid if:
(1) The application for the certificate of number contains a false or fraudulent statement; or
(2) The fees for the issuance of the certificate of number are not paid.
(d) A certificate of number is invalid 60 days after the day on which the vessel is no longer principally used in the State where the certificate was issued.
(e) The certificate of number is invalid when the person whose name appears on the certificate involuntarily loses his interest in the numbered vessel by legal process.

§ 173.79 Expiration of Coast Guard certificate of number.

A certificate of number issued by the Coast Guard expires 3 years from the date it is issued.

§ 173.81 Coast Guard forms for numbering and casualty reporting.

(a) In a State where the Coast Guard is the issuing authority, the following Coast Guard forms must be used:
(1) Each application for a certificate of number or renewal must be made on two-part Form CG-3876 and 3876A, Application for Number and Temporary Certificate.
(2) Each notification required by §173.29(b) must be made on Form CG-2921, Notification of Change in Status of Vessel.
(3) Each notification required by §173.29(a) must be made on Form CG-3920, Change of Address Notice.
(4) Each notification required by § 173.29(c) must be made in writing.
(5) Each application for a duplicate certificate of number must be made on two-part Form CG-3919 and CG-3919A, Application for Duplicate Certificate of Number and Temporary Duplicate Certificate.
(6) Each vessel casualty required to be reported by $173.55 must be made on Form Cg-3865.
(b) Each surrender of a certificate of number required by § 173.3 1 may be made in any form but must contain a written statement as to why the certificate is being surrendered.

§ 173.83 Availability of Coast Guard forms.

In a State where the Coast Guard is the issuing authority, forms required by $173.81 are available at all manned Coast Guard shore units, except light and loran stations and except for Form CG-3865, at all first- and second-class and some third- and fourth-class post offices.

§ 173.85 Coast Guard fees.

(a) In a State where the Coast Guard is the issuing authority the fees for numbering are:

(1) Original number and two validation stickers --$6;
(2) Renewal of number and two validation stickers--$6;
(3) Duplicate certificate of number--$1; and
(4) Replacement of lost or destroyed validation sticker-$0.25 each.

(b) Fees must be paid by check or money order made payable to the "U.S. Coast Guard," except when the application is made in person by the owner, the fee may be paid in cash.

APPENDIX A – ISSUING AUTHORITIES AND REPORTING AUTHORITIES

(a) The State is the issuing authority and reporting authority in:

STATE

Alabama – AL.
American Samoa – AS.
Arizona – AZ.
Arkansas – AR.
California – CF.
Colorado – CL.
Connecticut – CT.
Delaware – DL.
District of Columbia – DC.
Florida – FL.
Georgia – GA.
Guam-GM.
Hawaii – HA.
Idaho – ID.
Illinois – IL.
Indiana – IN.
Iowa – IA.
Kansas – KA.
Kentucky – KY.
Louisiana – LA.
Maine – ME.
Maryland – MD.
Massachusetts – MS.
Michigan – MC.
Minnesota – MN.
Mississippi – MI.
Missouri – MO.
Montana – MT.
Nebraska – NB.
Nevada – NV.
New Hampshire – NH.
New Jersey – NJ.
New Mexico – NM.
New York – NY.
North Carolina – NC.
North Dakota – ND.
Ohio – OH.
Oklahoma – OK.
Oregon – OR.
Pennsylvania – PA.
Puerto Rico – PR.
Rhode Island – RI.
South Carolina – SC.
South Dakota – SD.
Tennessee – TN.
Texas – TX.
Utah – u-r.
Vermont – VT.
Virginia – VA.
Virgin Islands – VI.
Washington – WN.
West Virginia – WV.
Wisconsin – WS.
Wyoming – WY.

(b) The Coast Guard is the issuing authority and reporting authority in:

STATE

Alaska – AK.

(c) The abbreviations following the names of the State listed in paragraphs (a) and (b) are the two capital letters that must be used in the number format to denote the State of principal use as prescribed in § 174.23 of this chapter.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 76-076, 41 FR 23401, June 10, 1976; CGD 89-048, 54 FR 27002, June 27, 1989]

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PART 174 – STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

Subpart A – General

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Subpart C – Casualty Reporting System Requirements

174.10 1 Applicability of State casualty reporting system.
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174.107 Contents of casualty or accident report form.

Subpart D – State Reports

174.12 1 Forwarding of casualty or accident reports.
174.123 Annual report of numbered vessels.
174.125 Coast Guard address.

Authority: 46 U.S.C. 6101, 12302; 49 CFR 1.46.

Source: CGD 72-54R, 37 FR 21402, Oct. 7, 1972, unless otherwise noted.

Subpart A – General

§ 174.1 Applicability.

This part establishes a standard numbering system for vessels and a uniform vessel casualty reporting system for vessels by prescribing requirements applicable to the States for the approval of State numbering systems.

§ 174.3 Definitions.

As used in this part:

Operator means the person who is in control or in charge of a vessel while it is in use.

Owner means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

Reporting authority means a State where a numbering system has been approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of Part 173 of this chapter.

[CGD 72-54R, 37 FR 21402, Oct. 7, 1972, as amended by CGD 96-026, 61 FR 33669, June 28, 1996; CGD 97-023, 62 FR 33365, June 19, 1997]

§ 174.5 Requirements for approval.

The Commandant approves a State numbering system if he finds, after examination of the information submitted by a State, that the State numbering system and vessel casualty reporting system meet the requirements of this part, 46 U.S.C. 6102, and 46 U.S.C. Chapter 123:

[CGD 97-023, 62 FR 33365, June 19, 1997, as amended by USCG-1998-3799, 63 FR 35533, June 30, 1998]

§ 174.7 Approval procedure.

To obtain approval by the Commandant of a numbering system or of any revision to a numbering system, an authorized representative of the State must submit three copies of the State laws, regulations, forms, and policy statements, if any, that pertain to the numbering system or revision to Office of Boating Safety, 2100 Second Street, SW., Washington, DC 20593-0001.

[CGD 72-54R, 37 FR 21402, Oct. 7.1972, as amended by CGD 82-010, 48 FR 8273, Feb. 28, 1983; CGD 88-052, 53 FR 25122, July 1, 1988; CGD 96-026, 61 FR 33669, June 28, 1996]

Subpart B – Numbering System Requirements

§ 174.11 Applicability of State numbering system.

(a) Except as allowed in paragraph (c) of this section, a State numbering system must require the numbering of vessels to which $173.11 of this chapter applies.

(b) A State numbering system may require the numbering of any vessel subject to the jurisdiction of the State unless prohibited by the regulations in Part 173 of this chapter.

(c) A State numbering system may exempt from its numbering requirements any vessel or class of vessels to which § 173.13 of this chapter applies.

§ 174.13 Owner or operator requirements.

A State numbering system must contain the requirements applicable to an owner or a person operating a vessel that are prescribed in the following sections of Part 173:

(a) Paragraph (a) of ***$173.15 Vessel number required.***

(b) Section ***173.19 Other numbers prohibited.***

(c) Paragraph (a) § *173.21 Certificate of number required.*
(d) Section *173.23 Inspection of certificate.*
(e) Section *173.25 Location of certificate of number.*
(f) Section *173.29 Notification of issuing authority.*
(g) Section 173.71 *Application for certificate of number.*
(h) Section *173.73 Duplicate certificate of number.*
(i) Section *173.77 Validity of certificate of number.*

(46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(n)(l))

[CGD 77-117, 44 FR 42 195, July 19, 1979]

§ 174.14 State numbering system optional sections.

ln addition to the requirements in $174.13, a State numbering system may contain any of the other requirements applicable to a vessel owner or operator prescribed in Part 173.

(46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(n)(l))

[CGD 77-l17, 44 FR 42195, July 19, 1979, as amended by USCG-1999-5832, 64 FR 34715, June 29, 1999]]

§ 174.15 Validation stickers.

(a) If a State issues validation stickers, its numbering system must contain the requirements that stickers must be displayed within 6 inches of the number and the stickers must meet the requirements in paragraphs (b) and (c) of this section.
(b) Validation stickers must be approximately 3 inches square.
(c) The year in which each validation sticker expires must be indicated by the colors, blue, international orange, green, and red, in rotation beginning with blue for stickers that expire in 1973.

§ 174.17 Contents of application for certificate of number.

(a) Each form for application for a certificate of number must contain the following information:
(1) Name of the owner.
(2) Address of the owner, including ZIP code.
(3)-(4) [Reserved]
(5) State in which vessel is or will be principally used.
(6) The number previously issued by an issuing authority for the vessel, if any.
(7) Whether the application is for a new number, renewal of a number, or transfer of ownership.
(8) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use.
(8) Make of vessel.
(9) Year vessel was manufactured or model year.
(10) Manufacturer's hull identification number, if any.
(11) Overall length of vessel.
(12) Type of vessel (open, cabin, house, or other).
(13) Whether the hull is wood, steel, aluminum, fiberglass, plastic, or other.
(14) Whether the propulsion is inboard, outboard, inboard-outdrive, sail or other.
(15) Whether the fuel is gasoline, diesel, or other.

(16) The signature of the owner.

(b) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit items 9 through 16 of paragraph (a) of this section.
(c) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit items 15 and 16 of paragraph (a) of this section.

[CGD 79-087, 47 FR 8176, Feb. 25, 1982]

§ 174.19 Contents of a certificate of number.

(a) Except as allowed in paragraphs (b), (c), and (d) of this section, each certificate of number must contain the following information:
(1) Number issued to the vessel.
(2) Expiration date of the certificate.
(3) State of principal use.
(4) Name of the owner.
(5) Address of owner, including ZIP code.
(6) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing or other commercial use.
(6) Manufacturer's hull identification number (if any).
(7) Make of vessel.
(8) Year vessel was manufactured.
(9) Overall length of vessel.
(10) Whether the vessel is an open boat, cabin cruiser, houseboat, or other type.
(11) Hull material.
(12) Whether the propulsion is inboard, outboard, inboard-outdrive, or sail.
(13) Whether the fuel is gasoline, diesel, or other.

(b) A certificate of number issued to a vessel that has a manufacturer's hull identification number assigned, may omit items 8 through 14 of paragraph (a) of this section if the manufacturer's hull identification number is plainly marked on the certificate.
(c) A certificate of number issued to a manufacturer or dealer to be used on a vessel for test or demonstration purposes may omit items 7 through 14 of paragraph (a) of this section if the word "manufacturer" or "dealer'* is plainly marked on the certificate.
(d) A certificate of number issued to a vessel that is to be rented or leased without propulsion machinery may omit items 13 and 14 of paragraph (a) of this section if the words "livery vessel" are plainly marked on the certificate.
(e) An issuing authority may print on the certificate of number a quotation of the State regulations pertaining to change of ownership or address, documentation, loss, discovery of vessel, carriage of the certificate of number on board when the vessel is in use, rendering aid in a vessel accident, and reporting of vessel casualties and accidents.

(46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(n)(l))

[CGD 72-54R, 37 FR 21402, Oct. 7.1972, as amended by CGD 77-117, 44 FR 42195, July 19.1979; USCG-1999-5832, 64 FR 34715, June 29, 1999]

§ 174.21 Contents of temporary certificate.

A temporary certificate issued pending the issuance of a certificate of number must contain the following information:
(a) Make of vessel.
(b) Length of vessel.
(c) Type of propulsion.
(d) State in which vessel is principally used.
(e) Name of owner.
(f) Address of owner, including ZIP code.
(g) Signature of owner.
(h) Date of issuance.
(i) Notice to the owner that the temporary certificate is invalid after 60 days from the date of issuance.

§ 174.23 Form of number.

(a) Each number must consist of two capital letters denoting the State of the issuing authority, as specified in Appendix A of Part 173 of this chapter, followed by--
(1) Not more than four numerals followed by not more than two capital letters (example: NH 1234 BD); or
(2) Not more than three numerals followed by not more than three capital letters (example: WN 567 EFG).
(b) A number suffix must not include the letters "I", "O", or "Q," which may be mistaken for numerals.

§ 174.25 Size of certificate of number.

Each certificate of number must be approximately 2 ½ by 3 ½ inches.

§ 174.27 Duration of certificate of number.

(a) A certificate of number must not be valid for more than 3 years.

§ 174.29 Temporary certificate of number.

A State may issue a temporary certificate of number that is effective for not more than 60 days.

§ 174.31 Terms and conditions for vessel numbering.

A State numbering system may condition the issuance of a certificate of number on-

(a) Title to, or other proof of ownership of a vessel except a recreational type public vessel of the United States; or
(b) The payment of State or local taxes, except for a recreational-type public vessel of the United States.

Subpart C – Casualty Reporting System Requirements

§ 174.101 Applicability of State casualty reporting system.

(a) A State casualty reporting system must require the reporting of vessel casualties and accidents involving vessels to which §173.51 of this chapter applies.
(b) The State casualty reporting system may also require vessel casualty or accident reports for property damage in amounts less than that required under § 173.55 of this chapter.

(46 U.S.C. 1486; 49 CFR 1.46(n)(l))

[CGD 72-54R, 37 FR 21402, Oct. 7, 1972, as amended by CGD 76-155, 44 FR 5309, Mar. 25, 1979; CGD 82-015, 54 FR 5610, Feb. 6, 1989]

§ 174.103 Administration.

The State casualty reporting system must be administered by a State agency that-

(a) Will provide for the reporting of all casualties and accidents prescribed in § 173.55 of this chapter;
(b) Receives reports of vessel casualties or accidents required in § 174.101;
(c) Reviews each accident and casualty report to assure the accuracy and completeness of each report;
(d) Determines the cause of casualties and accidents reported based on information available and indicates the apparent cause on the casualty report or on an attached page;
(e) Notifies the Coast Guard, in writing, when a problem area in boating safety peculiar to the State is determined, together, with corrective measures instituted or recommended; and
(f) Reports on vessel numbering and vessel casualties and accidents as required in Subpart D of this part.

(46 U.S.C. 1486; 49 CFR 1.46(n)(1))

[CGD 72-54R, 37 FR 21402, Oct. 7, 1972, as amended by CGD 76-155, 44 FR 5309, Mar. 25, 1979]

§ 174.105 Owner or operator casualty reporting requirements.

A State casualty reporting system must contain the following requirements of Part 173 applicable to an owner or a person operating a vessel:

(a) Section ***173.55 Report of casualty or accident.***
(b) Section ***173.57 Casualty or accident report.***
(c) Section 173.59 Where ***to report.***

(46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(n)(l))

[CGD 77-117, 44 FR 42 195, July 19, 1979]

§ 174.106 State casualty reporting system optional sections.

In addition to the requirements in $174.105, a State casualty reporting system may contain any of the other requirements applicable to a vessel owner or operator prescribed in Part 173.

(46 U.S.C. 145 1, 1467, 1488; 49 CFR 1.46(n)(1))

[CGD 77-117, 44 FR 42195, July 19, 1979, as amended by USCG-1999-5832, 64 FR 34715, June 29, 1999]

§ 174.107 Contents of casualty or accident report form.

Each form for reporting a vessel casualty or accident must contain the information required in § 173.57 of this chapter.

Subpart D – State Reports

§ 174.12 1 Forwarding of casualty or accident reports.

Within 30 days of the receipt of a casualty or accident report, each State that has an approved numbering system must forward a copy of that report to the Commandant (G-OCC), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001.

[USCG-1998-3799, 63 FR 35533, June 30, 1998]

§ 174.123 Annual report of numbered vessels.

Before March 1 of each year, each State that has an approved numbering system must prepare and submit Coast Guard Form CGHQ-3923, Report of Certificates of Number Issued to Boats, to the Coast Guard.

§ 174.125 Coast Guard address.

The report required by § 174.123 must be sent to the Office of Boating Safety, 2100 Second Street SW., Washington, DC 20593-0001.

[CGD 88-052, 53 FR 25 122, July 1, 1988, as amended by CGD 96-026, 61 FR 33669, June 28, 1996]

PART IS-UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

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AUTHORITY: 49 U.S.C. 322(a).

SOURCE: 53 FR 8086 and 8087, Mar. 11, 1988, unless otherwise noted.

A-General

§ 18.1 Purpose and scope of this part.

This part establishes uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

§ 18.2 Scope of subpart.

This subpart contains general rules pertaining to this part and procedures for control of exceptions from this part.

§ 183 Definitions.

As used in this part:

Accrued expenditures mean the charges incurred by the grantee during a given period requiring the provision of funds for: (I) Goods and other tangible property received; (2) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Accrued income means the sum of: (I) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

Acquisition cost of an item of purchased equipment means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Otha charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

Administrative requirements mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from 'programmatic" requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

Awarding agency means (I) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.

Cash contributions means the grantee's cash outlay, including the outlay of money contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals. When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

Contract means (except as used in the definitions for 'grant" and "subgrant" in this section and except where qualified by "Federal") a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

Cost sharing or matching means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

Cost-type contract means a contract or subcontract under a grant in which the contractor *or* subcontractor is paid on the basis of the costs it incurs, with or without a fee.

Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of $5.000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

Expenditure report means: (1) For non-construction grants, the SF-249 "Financial Status Report" (or other equivalent report); (2) for construction grants, the SF-271 "Outlay Report and Request for Reimbursement" (or other equivalent report).

Federally recognized Indian tribal government means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

Government means a State or local government or a federally recognized Indian tribal government.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instread of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Grantee means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

OMB means the United States Office of Management and Budget.

Outlays (expenditures) mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of inkind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and otha amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

Percentage of completion method refers to a system unda which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's cost incurred.

Prior approval means documentation evidencing consent prior to incurring specific cost.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Share, when referring to the awarding agency's portion of real property, equipment or supplies. means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted-not the value of third-party in-kind contributions.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made unda a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided

by contractual legal agreement, but does not include procurement purchases. nor does it include any form of assistance which is excluded from the definition of "grant" in this part.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Supplies means all tangible personal property other than 'equipment" as defined in this part.

Suspension means depending on the context, either (I) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Termination means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. "Termination" does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) Withdrawal of the unobligated balance as of the expiration of a grant; (3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Terms of a grunt or *subgrant* mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

Third party in-kind contributions mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

Unliquidated obligations for reports prepared on a cash basis mean the amount of obligtions incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

§ 18.4 Applicability.

(a) *General. Subparts* A through D of this part apply to all grants and subgrants to governments, except where inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of § 18.6, or:

(1) Grants and subgrants to State and local institutions of higher education or State and local hospitals.

(2) The block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grants for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under title V, subtitle D, chapter 2, Section 583—the Secretary's discretionary grant program) and titles I-III of the Job Training Partnership Act of 1982 and under the Public Health Services Act (Section 1921), Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant and part C of title V, Mental Health Service for the Homeless Block Grant).

(3) Entitlement grants to carry out the following programs of the Social Security Act:

(i) Aid to Needy Families with Dependent Children (title IV-A of the Act, not including the Work Incentive program (WIN) authorized by section 402(a)19(G); HHS grants for WIN are subject to this part);

(ii) Child Support Enforcement and Establishment of Paternity (title IV-D of the Act);

(iii) Foster Care and Adoption Assistance (title IV-E of the Act);

(iv) Aid to the Aged, Blind, and Disabled (titles I, X, XIV, and XVI-AABD of the Act); and

(v) Medical Assistance (Medicaid) (title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B).

(4) Entitlement grants under the following programs of the National School Lunch Act:

(i) School Lunch (section 4 of the Act),

(ii) Commodity Assistance (section 6 of the Act).

(iii) Special Meal Assistance (section 11 of the Act).

(iv) Summer Food Service for Children (section 13 of the Act), and

(v) Child Care Good Program (section 17 of the Act).

(5) Entitlement grants under the following programs of The Child Nutrition Act of 1966:

(i) Special Milk (section 3 of the Act), and

(ii) School Breakfast (section 4 of the Act).

(6) Entitlement grants for State Administrative expenses under The Food Stamp Act of 1977 (section 16 of the Act).

(7) A grant for an experimental, pilot, or demonstration project that is also supported by a grant listed in paragraph (a)(3) of this section;

(8) Grant funds awarded under subsection 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees

and entrants and the administrative costs of providing the assistance and benefits;

(9) Grants to local education agencies under 20 U.S.C. 236 through 241-1(a), and 242 through 244 (portions of the Impact Aid program), except for 20 U.S.C. 238(d)(2)(c) and 240(f) (Entitlement Increase for Handicapped Children); and

(I 0) Payments under the Veterans Administration's State Home Per Diem Program (38 U.S.C. 641(a)).

Entitlement programs. Entitlement programs enumerated above in §18.4(a) (3) through (8) are subject to subpart E.

§18.5 Effect on other issuances.

All other grants administration provisions of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with this part are superseded, except to the extent they are required by statute, or authorized in accordance with the exception provision in §18.6.

§ 18.6 Additions and exceptions.

(a) For classes of grants and grantees subject to this part, Federal agencies may not impose additional administrative requirements except in codified regulations published in the FEDERAL REGISTER.

(b) Exceptions for classes of grants or grantees may be authorized only by OMB.

(I) All Departmental requests for exceptions shall be processed through the Assistant Secretary of Administration.

(2) [Reserved]

(c) Exceptions on a case-by-case basis and for subgrantees may be authorized by the affected Federal agencies.

(1) All case-by-case exceptions may be authorized by the affected operating administrations or departmental offices, with the concurrence of the Assistant Secretary for Administration.

(2) [Reserved]

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at *60* FR 19646, Apr. 19, 1995]

Subpart B—Pre-Award Requirements

§ 18.10 Forms for applying for grants.

(a) *Scope.* (1) This section prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying for grants. This section is not applicable, however, to formula grant programs which do not require applicants to apply for funds on a project basis.

(2) This section applies only to applications to Federal agencies for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged to avoid more detailed or burdensome application requirements for subgrants.

(3) Forms and procedures for Federal Highway Administration (FHWA) projects are contained in 23 CFR part 630, subpart B, 23 CFR part 420, subpart A, and 49 CFR part 450.

(b) *Authorized forms and instructions for governmental organizations.* (1) In applying for grants, applicants shall only use standard application forms or those prescribed by the granting agency with the approval of OMB under the Paperwork Reduction Act of 1980.

(2) Applicants are not required to submit more than the original and two copies of preapplications or applications.

(3) Applicants must follow all applicable instructions that bear OMB clearance numbers. Federal agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work unda a grant. Other supplementary instructions may be issued only with the approval of OMB to the extent required under the Paperwork Reduction Act of 1980. For any standard form, except the SF424 facesheet, Federal agencies may shade out or instruct the applicant to disregard any line item that is not needed.

(4) When a grantee applies for additional funding (such as a continuation or supplemental award) or amends a previously submitted application, only the affected pages need be submitted. Previously submitted pages with information that is still current need not be resubmitted.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at *53* FR 8086, Mar. 11, 1988]

§ 18.11 Additions and exceptions.

(a) Scope. The statutes for some programs require States to submit plans before receiving grants. Unda regulations implementing Executive Order 12372, "Intergovernmental Review of Federal Programs," States are allowed to simplify, consolidate and substitute plans. This section contains additional provisions for plans that are subject to regulations implementing the Executive orda.

(b) *Requirements.* A State need meet only Federal administrative or programmatic requirements for a plan that are in statutes or codified regulations.

(c) Assurances. In each plan the State will include an assurance that the State shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. For this assurance and other assurances required in the plan, the State may:

(1) Cite by number the statutory or regulatory provisions requiring the assurances and affirm that it gives the assurances required by those provisions.

(2) Repeat the assurance language in the statutes or regulations, or

(3) Develop its own language to the extent permitted by law.

(d) Amendments. A State will amend a plan whenever necessary to reflect: (1) New or revised Federal statutes or regulations or (2) a material change in any Stale law, organization, policy, or State agency operation. The State will obtain approval for the amendment and its effective date but need submit for approval only the amended portions of the plan.

§ 18.12 Special grant or subgrant conditions for "high-risk" grantees.

(a) A grantee or subgrantee may be considered "high risk" if an awarding agency determines that a grantee or subgrantee:

(1) Has a history of unsatisfactory performance, or

(2) Is not financially stable, or

(3) Has a management system which does not meet the management standards set forth in this part, or

(4) Has not conformed to terms and conditions of previous awards, or

(5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.

(b) Special conditions or restrictions may include:

(1) Payment on a reimbursement basis:

(2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;

(3) Requiring additional, more detailed financial reports;

(4) Additional projeet monitoring;

(5) Requiring the grantee or subgrantee to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

(c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of

(I) The nature of the special conditions/restrictions;

(2) The reason(s) for imposing them;

(3) The corrective actions which must be taken before they will be ranoved and the time allowed for completing the corrective actions; and

(4) The method of questing reconsideration of the conditions/restrictions imposed.

Subpart C-Post-Award Requirements

FINANCIAL ADMINISTRATION

§ 18.20 Standards for financial management systems.

(a) A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors. must be sufficient to—

(I) Permit preparation of reports required by this part and the statutes authorizing the grant, and

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(I) *Financial reporting.* Accurate. current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) Accounting records. Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities. outlays or expenditures, and income.

(3) Internal Control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness. allowability, and allocability of costs.

(6) Source documentation Accounting records must be supported by such source documentation as cancelled cheeks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

(7) Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash

drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

(d) Certain Urban Mass Transportation Administration (UMTA) grantees shall comply with the requirements of section 15 of the Urban Mass Transportation (UMT) Act of 1964, as amended, as implemented by 49 CFR part 630, regarding a uniform system of accounts and records and a uniform reporting system for certain grantees.

[53 FR 8086 and 8087. Mar. 11, 1988, as amended at 53 FR 8086, Mar. I I, 1988]

§ 18.21 Payment.

(a) Scope. This section prescribes the basic standard and the methods under which a Federal agency will make payments to grantees, and grantees will make payments to subgrantees and contractors.

(b) *Basic standard.* Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 3 1 CFR part 205.

(c) *Advances.* Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

(d) *Reimbursement.* Reimbursement shall be the preferred method when the requirements in paragraph (c) of this section are not met. Grantees and subgrantees may also be paid by reimbursement for any construction grant. Except as otherwise specified in regulation, Federal agencies shall not use the percentage of completion method to pay construction grants. The grantee or subgrantee may use that method to pay its construction contractor, and if it does, the awarding agency's payments to the grantee or subgrantee will be based on the grantee's or subgrantee's actual rate of disbursement.

(e) Working capital advances. If a grantee cannot meet the criteria for advance payments described in paragraph (c) of this section. and the Federal agency has determined that reimbursement is not feasible because the grantee lacks sufficient working capital, the awarding agency may provide cash or a working capital advance basis. Under this procedure the awarding agency shall advance cash to the grantee to cover its estimated disbursement needs for an initial period generally geared to the grantee's disbursing cycle. Thereafter, the awarding agency shall reimburse the grantee for its actual cash disbursements. The working capital advance method of payment shall not be used by grantees or subgrantees if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee to meet the subgrantee's actual cash disbursements.

(f) *Effect of progrom income, refunds. ond audit recoveries on payment.* (I) Grantees and subgrantees shall disburse repayments to and interest eamed on a revolving fund before requesting additional cash payments for the same activity.

(2) Except as provided in paragraph (f)(I) of this section, grantees and subgrantees shall disburse program income, rebates. refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(g) Withholding *payments.* (I) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless-

(i) The grantee or subgrantee has failed to comply with grant award conditions or

(ii) The grantee or subgrantee is indebted to the United States.

(2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with § 18.43(c).

(3) A Fedaal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(h) *Cash depositories.* (I) Consistent with the national goal of expanding the opportunities for minority business enterprises. grantees and subgrantees are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

(2) A grantee or subgrantee shall maintain a separate bank account only when required by Federal-State agreement.

(i) *Interest earned on advances.* Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to $100 per year for administrative expenses.

(j) 23 U.S.C. 121 limits payments to States for highway construction projects to the Federal share of the costs of construction incurred to date. plus the Federal share of the value of stockpiled materials.

(k) Section 404 of the Surface Transportation Assistance Act of 1982 directs the Secretary to reimburse States for the Federal share of costs incurred.

[53 FR 8086 and 8087. Mar. 11, 1988, as amended at 53 FR 8086, Mar. 11, 1988]

§ 18.22 Allowable costs.

(a) *Limitation on use of funds.* Grant funds may be used only for:

(I) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

(b) *Applicable cost principles.* For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

For the costs of a–	Use the principles in-
State, local or Indian tribal Government.	OMB Circular A-87.
Private nonprofit organization Other than an (1) institution Of higher education, (2) Hospital, or (3) organization Named in OMB Circular A-122 as not subject to that circular.	OMB Circular A-122
Educational institutions.....	OMB Circular A-21
For the costs of a–	**Use the principles in—**
For-profit organization otherl Than a hospital and an or-. Ganization named in OMB Circular A-122 as not sub- Ject to that circular.	48 CFR part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that Comply with cost principles Acceptable to the Federal Agency.

(c) The overhead cost principles of OMB Circular A-87 shall not apply to State highway agencies for FHWA funded grants.

(d) Sections 3(1) and 9(p) of the UMT Act of 1964, as amended, authorize the Secretary to include in the net project cost eligible for Federal assistance, the amount of interest eamed and payable on bonds issued by the State or local public body to the extent that the proceeds of such bonds have actually been expended in carrying out such project or portion thereof. Limitations arc established in sections 3 and 9 of the UMT Act of 1964, as amended.

(e) Section 9 of the UMT Act of 1964, as amended, authorizes grants to finance the leasing of facilities and equipment for use in mass transportation services provided leasing is more cost effective than acquisition or construction.

[53 FR 8086 and 8087, Mar. I I, 1988. as amended at 53 FR 8086, Mar. 11, 1988]

§ 18.23 Period of availability of funds.

(a) *General.* Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.

(b) *Liquidation of obligations.* A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.

§ 18.24 Matching or cost sharing.

(a) *Basic rule: Costs and contributions acceptable.* With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

(I) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

(2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requiranents applies.

(b) *Qualifications and exceptions—(1) Costs borne by other Federal grant agreements.* Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(2) General revenue shoring. For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(3) Cost or contributions counted towards other Federal costs-shoring *requirements.* Neither *costs* nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract. or any other award of Federal funds.

(4) Costs financed by program income. Costs financed by program income, as defined in §18.25, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in §18.25(g).)

(5) Services *or propertyfinanced by income earned by contractors.* Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the rquirement.

(6) *Records.* Costs and third party inkind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(7) Special *standards for third party in-kind contributions.* (i) Third party in-kind contributions count towards satisfying a cost sharing or matching rquirement only where, if the party receiving the contributions were to pay for them. the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:

(A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.

(8) 23 U.S.C. 121(a) permits reimbursement for actual construction cost incurred by States for highway construction projects. Except for private donations of right-of-way, contributions and donations shall not be considered State costs, and shall not be allowable for matching purposes for highway construction contracts. 23 U.S.C. 323 permits private donations of right-of-way to be used for a State's matching share, and establishes procedures for determining the fair market value of such donated right-of-way.

(9) Section 4(a) of the UMT Act of 1964, as amended, provides that the Federal grant for any project to be assisted under section 3 of the UMT Act of 1964, as amended, shall be in an amount equal to 75 percent of the net project costs. Net project cost is defined as that portion of the cost of the project which cannot be reasonably financed from revenues.

(IO) Section 18(e) of the UMT Act of 1964, as amended, limits the Federal share to 80 percent of the net cost of construction, as determined by the Secretary of Transportation. The Federal share for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 percent of the net cost of such operating expense projects.

(c) Valuation of donated services-(I) Volunteer services. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for tinge benefits may be included in the valuation,

(2) Employees of other organizations. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.

(3) Section S(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) limits in-kind service contributions under the local Rail Service Assistance Program to "the cash equivalent of State salaries for State public employees working in the State rail assistance program, but not including overhead and general administrative costs."

(d) *Valuation of third party donated supplies and loaned equipment or space. (I)* If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2) If a third patty donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the quipment or space.

(e) Valuation of third party donated equipment. *building, and land.* If a third patty donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

(I) A wards for capital expenditures If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of propaty. the market value of that property at the time of donation may be counted as cost sharing or matching.

(2) *Other awards.* If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (I) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the

donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant. the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be- approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost-sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(I) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated quipment and building. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead. they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in §18.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated quipment and buildings is based on the property's market value at the time it was donated.

(f) *Valuation o/grantee or subgrantee donated real property for* construction/acquisition. If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.

(g) Appraisal of real property. In some cases under paragraphs (d), (e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8086. Mar. 11, 1988]

$18.25 Program income.

(a) General. Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use of rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

(b) *Definition of program income.* Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

(c) Cost of generating program income. If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.

(d) *Governmental revenues.* Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.

(e) *Royalties.* Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agmcy regulations as program income (See § 18.34.)

(f) *Property.* Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of §§ 18.31 and 18.32.

(g) *Use of program income.* Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agmcy regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agmcy may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.

(1) *Deduction.* Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) Addition. Whm authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of tbe grant agreement.

(3) Cost sharing or matching. Whm authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreanmt. The amount of the Federal grant award remains the same.

(4) Section 3(a)(l)(D) of the UMT Act of 1964, as amended, provides that the Secretary shall establish requirements for the use of income derived from appreciated land values for certain UMTA grants. Specific requirements shall be contained in grant agreements.

(5) UMTA grantees may retain program income for allowable capital or operating expenses.

(6) For grants awarded under section 9 of the UMT Act of 1964, as amended, any revenues received from the sale of advertising and concessions in excess of fiscal year 1985 levels shall be excluded from program income.

(7) 23 U.S.C. 156 requires that States shall charge fair market value for the sale, lease, or use of right-of-way airspace for non-transportation purposes and that such income shall be used for projects eligible under 23 USC.

(h) *Income after the award period.* There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087. Mar. 11, 1988]

§ 18.26 Non-Federal **audits.**

(a) Basic *rule.* Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) *Subgrantees.* State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends $300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds:

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) Auditor selection. In arranging for audit services, § 18.36 shall be followed.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 61 FR 21387. May IO, 1996; 62 FR 45939, 45947, Aug. 29, 1997]

CHANGES, PROPERTY, AND SUBAWARDS

§ 1830 **Changes.**

(a) General. Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) *Relation to cost principles.* The applicable cost principles (see §18.22) contain requirements for prior approval of certain types of costs. Except where waived. those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

(c) Budget changes—(1) *Nonconstruction projects.* Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a non-construction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waives by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget. whenever the awarding agency's share exceeds $100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) *Construction projects.* Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) C'ombined construction and non-constnrction projects. When a grant or sub-grant provides funding for both construction and non-construction activities, the grantee or sub-grantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from non-construction to construction or vice versa.

(d) *Programmatic changes.* Grantees or sub-grantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(I) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under non-construction projects, contracting out, sub-granting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of §18.36 but does not apply to the procurement of equipment, supplies, and general support services.

(e) Additional prior approval requirements. The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) *Requesting prior approval.* (1) A request for prior approval of any budget revision will be in the same budget formal the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see § 18.22) may be made by letter.

(3) A request by a sub-grantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the sub-grantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the sub-grantee's request.

§ 18.31 Real property.

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or sub-grant will vest upon acquisition in the grantee or sub-grantee respectively.

(b) Use. Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purpose, and the grantee or sub-grantee shall not dispose of or encumber its title or other interests.

(c) Disposition. When real property is no longer needed for the originally authorized purpose, the grantee or sub-grantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:

(I) *Retention of title.* Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) *Sale of property.* Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from the sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed. that provide for competition to the extent practicable and result in the highest possible return.

(3) Transfer of title. Transfer title to the awarding agency or to a third party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

(d) If the conditions in 23 U.S.C. 103(e)(5), (6), or (7). as appropriate. are met and approval is given by the Secretary, States shall not be required to repay the Highway Trust Fund for the cost of right-of-way and other items when certain segments of the Interstate System are withdrawn.

[53 FR 8086 and 8087, Mar. I I, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

§ 18.32 Equipment.

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or sub-grantee respectively.

(b) States. A State will use, manage, and dispose of equipment acquired unda a grant by the State in accordance with State laws and procedures. Otha grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) Use. (I) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in § 18.25(a) to earn program income, the grantee or subgrantee must not use quipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment the grantee or subgrantee may use the quipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(I) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including tbe date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adquate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement quipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(I) Items of equipment with a current per-unit fair market value of less than $5.000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) *Federal equipment.* In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the quipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the quipment is no longer needed the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) Right to transfer title. The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third party named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was squired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow §18.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

§ 18.33 Supplies.

(a) *Title.* Title to supplies acquired under a grant or subgrant will vest. upon acquisition, in the grantee or subgrantee respectively.

(b) *Disposition.* If thm is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or Projects, the grantee or subgrantee shall compensate the awarding agency for its share.

§ 18.34 Copyrights

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee. subgrantee or a contractor purchases ownership with grant support.

§ 18.35 Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

§ 18.36 Procurement.

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that evay purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (I) in this section.

(b) *Procurement standards. (I)* Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the tams, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or ha partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors. potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lowa cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Considantoin will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(IO) Grantees and subgrantees will use time and material type contracts only-

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(1 I) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee

or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) *Competition.* (l) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 518.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a 'brand name" product instead of allowing "an equal" product to be offered and deseribing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those eases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) *Methods of procurement to be followed*—(1) *Procurement by small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods for seeming services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in §18.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define

the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicate-s that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals. The* technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive *proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes non-competitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's *business enterprise and labor surplus* area *firms.* (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises. and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements. when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules. where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) *Contract cost ond price.* (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in

which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to e performed, the risk borne by the contractor, the contractor's investment. the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §18.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review. (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications. with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates. etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgranta may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgranta provided the awarding agency has made a determination that the awarding agency's interest is adquately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A *bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified cheek, or other negotiable instrument accompanying a bid as assurance that the bidder will. upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance *bond on the part of the* contractor *for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) *Contract provisions.* A *grantee's* and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(l) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13.1967, and as supplemented in

Department of Labor regulations (4 I CFR chapter 60). (All construction contracts awarded in excess of $10.000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (I 8 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(IO) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(I I) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Wata Act (33 U.S.C. 1368), Exeeutive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

(j) 23 U.S.C. 112(a) directs the Secretary to require recipients of highway construction grants to use bidding methods that are "effective in securing competition." Detailed construction contracting procedures are contained in 23 CFR part 635, subpart A.

(k) Section 3(a)(2)(C) of the UMT Act of 1964, as amended, prohibits the use of grant or loan funds to support procurements utilizing exclusionary or discriminatory specifications.

(l) 46 U.S.C. 1241(b)(1) and 46 CFR part 381 impose cargo preference requirements on the shipment of foreign made goods.

(m) Section 165 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 1601, section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and 49 CFR parts 660 and 661 impose Buy America provisions on the procurement of foreign products and materials.

(n) Section 105(f) of the Surface Transportation Assistance Act of 1982, section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and 49 CFR part 23 impose requirements for the participation of disadvantaged business enterprises.

(o) Section 308 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 1068(b)(2), authorizes the use of competitive negotiation for the purchase of rolling stock as appropriate.

(p) 23 U.S.C. 112(b) provides for an exemption to competitive bidding requirements for highway construction contracts in emergency situations.

(q) 23 U.S.C. 112 requires concurrence by the Secretary before highway construction contracts can be awarded except for projects authorized under the provisions of 23 U.S.C. 171.

(r) 23 U.S.C. 112(e) requires standardized contract clauses concerning site conditions, suspension or work, and material changes in the scope of the work for highway construction contracts.

(s) 23 U.S.C. 140(b) authorizes the preferential employment of Indians on Indian Reservation road projeets and contracts.

(t) FHWA, UMTA, and Federal Aviation Administration (FM) grantees and subgrantees shall extend the use of qualifications-based (e.g., architectural and engineering services) contract selection procedures to certain otha related areas and shall award such, contracts in the same manna as Federal contracts for architectural and engineering services are negotiated unda Title IX of the Federal Property and Administrative Services Act of 1949, or equivalent State (or airport sponsor for FAA) qualifications-based requirements. For FHWA and UMTA programs, this provision applies except to the extent that a State adopts or has adopted by statute a formal procedure for the procurement of such services.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988; 60 FR 19639.19647, Apr. 19, 1995]

§ 18.37 Subgrants.

(a) *States.* States shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. States shall:

(l) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;

(2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;

(3) Ensure that a provision for compliance with §18.42 is placed in every cost reimbursement subgrant; and

(4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.

(b) All *other grantees.* All other grantees shall follow the provisions of this part which are applicable to awarding agencies when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribal governments. Grantees shall:

(1) Ensure that every subgrant includes a provision for compliance with this part;

(2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and

(3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.

(c) *Exceptions.* By their own terms, certain provisions of this part do not apply to the award and administration of subgrants:

(l) Section 18.10;

(2) Section 18. 11;

(3) The ktta -of credit procedures specified in Treasury Regulations at 31 CFR part 205, cited in §18.21; and

(4) Section 18.50.

REPORTS, RECORDS, RETENTION, AND ENFORCEMENT

§ 18.40 Monitoring and reporting program performance.

(a) *Monitoring by grantees.* Grantees are responsible for managing the day-today operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) *Nonconstruction performance reports. The* Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(l) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report, Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) Construction performance reports. For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress unda construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(1) Section 12(h) of the UMT Act of 1964, as amended, requires pre-award testing of new buses models.

(2) [Reserved]

(d) *Significant developments.* Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) Federal agencies may make site visits as warranted by program needs.

(f) *Waivers, extensions.* (1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

§ 18.41 Financial reporting.

(a) General. (I) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB. for:

(i) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used.

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decisionmaking purposes.

(4) Grantees will not be required to submit more than the original and two copies of forms required under this part.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7) Federal agencies may extend tbe due date of any financial report upon receiving a justified request from a grantee.

(b) *Financial Status* Report-(I) *Form.* Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all non-construction grants and for construction grants when required in accordance with $18.4 1(e)(2)(iii).

(2) *Accounting basis.* Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

(3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

(4) Due *date.* When reports are required on a quarterly or semiannual basis, they will be due 30 days after tbe reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) Federal Cash Transactions Report—(I) *Form.* (i) For grants paid by letter of credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272. Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(3) *Cash in hands of subgrantees.* When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) *Frequency* and due dale. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) *Request for advance or reimbursement*—(1) *Advance* payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) Reimbursements. Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement requests

under construction grants, see paragraph (e)(1) of this section.)

(3) The frequency for submitting payment requests is treated in §18.41(b)(3).

(e) Outlay report and request for reimbursement for construction programs. (1) Grants that support construction activities paid by reimbursement method. (i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in §18.41(d), instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in §18.41(b)(3).

(2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance. (i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury cheek advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by §18.41(b)(3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in §18.41(d).

(iii) The Federal agency may substitute the Financial Status Report specified in §18.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) Accounting basis. The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by §18.41(b)(2).

(f) Notwithstanding the provisions of paragraphs (a)(1) of this section, recipients of FHWA and National Highway Traffic Safety Administration (NHTSA) grants shall use FHWA, NHTSA or State financial reports.

[53 FR 8086 and 8087, Mar. 11, 1988, as amended at 53 FR 8087, Mar. 11, 1988]

§ 18.42 Retention and access requirements for records.

(a) *Applicability.* (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see §18.36(i)(10).

(b) *Length of retention period.* (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) Starting date of retention period-(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. in all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) Records for income transactions after grant or subgrant support. In some cases grantees must repot-t income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) Indirect cost rate proposals, cost allocations *plans, etc.* This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention Period for the proposal plan, or computation and its supporting records starts From the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) *Substitution of microfilm.* Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) Access to records—(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) *Restrictions on public access. The* Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to Permit public access to their records.

§ 18.43 Enforcement.

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash Payments Pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is. deny both use of funds and matching credit for) all or Part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will Provide the grantee or subgrantee an opportunity for such hearing. appeal, or other administrative Proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) Effects o/suspension and termination. Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(I) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension. The* enforcement remedies identified in this section, including suspension and termination, do not Preclude grantee or subgrantee from being subject to "Debannent and Suspension" under E.O. 12549 (see §18.35).

§ 18.44 Termination for convenience.

Except as provided in §18.43 awards may be terminated in whole or in Part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two Parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the Portion to be terminated.. However, if, in the case of a Partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §18.43 or paragraph (a) of this section.

Subpart D-After-The-Grant Requirements

§ 18.50 Closeout.

(a) *General.* The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.

(b) *Reports.* Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, Performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:

(1) Final performance or progress report.

(2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable).

(3) Final request for payment (SF-270) (if applicable).

(4) Invention disclosure (if applicable).

(5) Federally-owned property report:

In accordance with §18.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.

(c) Cost adjustment. The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.

(d) *Cash adjustments. (l) The* Federal agency will make prompt payment to the grantee for allowable reimbursable costs.

(2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants,

§ 18.51 Later disallowances and adjustments.

The closeout of a grant does not affect:

(a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;

(b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;

(c) Records retention as required in § 18.42;

(d) Property management requirements in §§18.31 and 18.32; and

(e) Audit requirements in § 18.26.

§ 18.52 Collection of amounts due.

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:

(l) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the grantee, or

(3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. ll). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E-Entitlements
[Reserved]

OMB CIRCULAR A-87 (revised 5/4/95, As Further Amended 8/29/97)

CIRCULAR NO. A-87
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Cost Principles for State, Local, and Indian Tribal Governments

1. **Purpose.** This Circular establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments and federally-recognized lndian tribal governments (governmental units).

2. **Authority.** This Circular is issued under the authority of the Budget and Accounting Act of 192 1, as amended; the Budget and Accounting Procedures Act of 1950, as amended; the Chief Financial Officers Act of 1990; Reorganization Plan No. 2 of 1970; and Executive Order No. 1154 1 ("Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President").

3. **Background.** An interagency task force was established in 1987 to review existing cost principles for Federal awards to State, local, and Indian tribal governments. The task force studies Inspector General reports and recommendations, solicited suggestions for changes to the Circular from governmental units, and compared for consistency the provisions of other OMB cost principlea circulars covering non-profit organizations and universities. A proposed revised Circular reflecting the results of those efforts was issued on October 12, 1988, and August 19.1993. Extensive comments on the proposed revisions, discussions with interest groups, and related developments were considered in developing this revision.

4. **Rescissions. This** Circular rescinds and supersedes Circular A-87, issued January 15, 1981.

5. **Policy.** This Circular establishes principles and standards to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the Federal Government. The principles are for determining allowable costs only. They are not intended to identify the circumstances or to dictate the extent of Federal and governmental unit participation in the financing of a particular Federal award. Provision for profit or other increment above cost is outside the scope of this Circular.

6. **Definitions.** Definitions of key terms used in this Circular are contained in Attachment A, Section B.

7. **Required Action.** Agencies responsible for administering programs that involve cost reimbursement contracts, grants, and other agreements with governmental units shall issue codified regulations to implement the provisions of this Circular and its Attachments by September 1, 1995.

8. **OMB Responsibilities. The Office** of Management and Budget (OMB) will review agency regulations and implementation of this Circular, and will provide policy interpretations and assistance to insure effective and efficient implementation. Any exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.

9. **Information Contact.** Further information concerning this Circular may be obtained by contacting the Office of Federal Financial Management, Financial Standards and Reporting Branch, Office of Management and Budget, Washington, DC 20503, telephone 202-395-3993.

10. **Policy Review Date.** OMB Circular A-87 will have a policy review three years from the date of issuance.

11. Effective Date. This Circular is effective as follows:

For costs charged indirectly or otherwise covered by the cost allocation plans described in Attachments, C,D and E, this revision shall be applied to cost allocation plans and indirect cost proposals submitted or prepared for a governmental unit's fiscal year that begins on or after September 1, 1995.

For other costs, this revision shall be applied to all awards or amendments, including continuation or renewal awards, made on or after September 1, 1995.

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COST PRINCIPLES FOR STATE, LOCAL AND INDIAN TRIBAL GOVERNMENTS

Attachment A – General Principles for Determining Allowable Costs

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A. Purpose and Scope

1. Objectives. This Attachment establishes principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the Federal Government (collectively referred to in this Circular as "Federal awards"). The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal or governmental unit participation in the financing of a particular program **or** project. The principles are designed to provide that Federal **awards bear their** fair share of cost recognized under these principles except where restricted or prohibited by law. Provision for profit or other increment above cost is outside the scope of this Circular.

***2. Policy* guides**

a. The application of these principles is based on the fundamental premises that:

(1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.

(2) Govemmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

(3) Each governmental unit, in recognition of its own unique combination of staff, facilities, and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration of Federal awards.

b. Federal agencies should work with States or localities which wish to test alternative mechanisms for paying costs for administering Federal programs. The Office of Management and Budget (OMB) encourages Federal agencies to test fee-for-service alternatives as a replacement for current cost-reimbursement payment methods in response to the National Performance Review's (NPR) recommendation. The NPR recommended the fee-for-service approach to reduce the burden associated with maintaining systems for charging administrative costs to Federal programs and preparing and approving cost allocation plans. This approach should also increase incentives for administrative efficiencies and improve outcomes.

3. Application.

a. These principles will be applied by all Federal agencies in determining costs incurred by governmental units under Federal awards (including subawards) except those with (1) Publicly-financed educational institutions subject to OMB Circular A-2 1, "Cost Principles for Educational Institutions," and (2) programs administered by publicly-owned hospitals and other providers of medical care that are subject to requirements promulgated by the sponsoring Federal agencies. However, this Circular does apply to all central service and department/agency costs that are allocated or billed to those educational institutions, hospitals, and other providers of medical care or services by other State and local government departments and agencies.

b. All subawards are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a governmental unit (other than a college, university or hospital), this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial organizations shall apply; if a subaward is to a college or university, Circular A-21 shall apply; if a subaward is to a hospital, the cost principles used by the Federal awarding agency for awards to hospitals shall apply, subject to the provisions of subsection A.3.a. of this Attachment; if a subaward is to some other non-profit organization, Circular A- 122, "Cost Principles for Non-Profit Organizations," shall apply.

c. These principles shall be used as a guide in the pricing of fixed price arrangements where costs are used in determining the appropriate price.

d. Where a Federal contract awarded to a governmental unit incorporates a Cost Accounting Standards (CAS) clause, the requirements of that clause shall apply. In such cases, the governmental unit and the cognizant Federal agency shall establish an appropriate advance agreement on how the governmental unit will comply with applicable CAS requirements when estimating, accumulating and reporting costs under CAS-covered contracts. The agreement shall indicate that OMB Circular A-87 requirements will be applied to other Federal awards. In all cases, only one set of records needs to be maintained by the governmental unit.

e. Conditional exemptions.

(1) OMB authorizes conditional exemption from OMB administrative requirements and cost principles circulars for certain Federal programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the head of the Executive department or establishment. A Federal agency shall consult with OMB during its consideration of whether to grant such an exemption.

(2) To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from all but the allocability of costs provisions of OMB Circulars A-87 (Attachment A, subsection C.3), "Cost Principles for State, Local, and Indian Tribal Governments,"

A-21 (Section C, subpart 4), "Cost Principles for Educational Institutions," and A- 122 (Attachment A, subsection A.4), "Cost Principles for Non-Profit Organizations," and from all of the administrative requirements provisions of OMB Circular A- 110, "Uniform Administrative Requirements for Grants and Agreements with lnstitutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and the agencies' grants management common rule.

(3) When a Federal agency provides this flexibility, as a prerequisite to a State's exercising this option, a State must adopt its own written fiscal and administrative requirements for expending and accounting for all funds, which are consistent with the provisions of OMB Circular A-87, and extend such policies to all subrecipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs, and funds are not be used for general expenses required to carry out other responsibilities of a State or its subrecipients.

B. Definitions

1. ***"Approval or authorization of the awarding or cognizant Federal agency"*** means documentation evidencing consent prior to incurring a specific cost. If such costs are specifically identified in a Federal award document, approval of the document constitutes approval of the costs. If the costs are covered by a State/local-wide cost allocation plan or an indirect cost proposal, approval of the plan constitutes the approval.

2. ***"Award"*** means grants, cost reimbursement contracts and other agreements between a State, local and Indian tribal government and the Federal Government.

3. ***"Awarding agency"*** means (a) with respect to a grant, cooperative agreement, or cost reimbursement contract, the Federal agency, and (b) with respect to a subaward, the party that awarded the subaward.

4. ***"Central service cost allocation plan"*** means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a governmental unit on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

5. ***"Claim"*** means a written demand or written assertion by the governmental unit or grantor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of award terms, or other relief arising under or relating to the award. A voucher, invoice or other routine request for payment that is not a dispute when submitted is not a claim. Appeals, such as those filed by a governmental unit in response to questioned audit costs, are not considered claims until a final management decision is made by the Federal awarding agency.

6. ***"Cognizant agency"*** means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this Circular on behalf of all Federal agencies. OMB publishes a listing of cognizant agencies.

7. ***"Common Rule"*** means the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Final Rule" originally issued at 53 FR 8034-8 103 (March 11, 1988). Other common rules will be referred to by their specific titles.

8. ***"Contract"*** means a mutually binding legal relationship obligating the seller to furnish the supplies or services {including construction) and the buyer to pay for them. It includes all types of commitments that obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to): awards and notices of awards, job orders or task orders issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and, bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301 et seq.

9. *"Cost"* means an amount as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency. It does not include transfers to a general or similar fund.

10. *"Cost allocation plan"* means central service cost allocation plan, public assistance cost allocation plan, and indirect cost rate proposal. Each of these terms are further defined in this section.

11. "Cost *objective"* means a function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which costs are incurred.

12. "Federally-recognitcd Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

13. "Governmental **unit"** means the entire State, local, or federally-recognized Indian tribal government, including any component thereof. Components of governmental units may function **independently** of the governmental unit in accordance with the term of the award.

14. "Grantee department or agency" means the component of a State, local, or federally-recognized Indian tribal government which is responsible for the performance or administration of all or some part of a Federal award.

15. "Indirect cost rate proposal" means the documentation prepared by **a** governmental unit or component thereof to substantiate its request for the establishment of an indirect cost rate as described in Attachment E of the Circular.

16. *"Local government"* means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

17. "Public assistance cost allocation plan" means a narrative description of the procedures that will be used in identifying, measuring and allocating all administrative costs to all of the programs administered or supervised by State public assistance agencies as described in Attachment D of this Circular.

18. *"State"* means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any **territory** or possession of the United States, or any **agency or** instrumentality of a State exclusive of local governments.

C. Basic Guidelines

1. *Factors affecting allowability of* costs. To be allowable under Federal awards, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient performance an administration of Federal awards.

b. Be allocable to Federal awards under the provisions of this Circular.

c. Be authorized or not prohibited under State or local laws or regulations.

d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to type or amounts of cost items.

e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

g. Except as otherwise provided for in this Circular, be determined in accordance with generally accepted accounting principles.

h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.

i. Be the net of all applicable credits.

j. Be adequately documented.

2. Reasonable costs. A cost is reasonable if, in its nature and 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 cost. The question of reasonableness is particularly important when governmental units or components are predominately federally-funded. In determining 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 governmental unit or the performance of the Federal award.

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

c. Market prices for comparable goods or services.

d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.

e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

3. Allocable costs.

a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third patties, will receive an appropriate allocation of indirect costs.

c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements.

d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Attachments C, D, and E.

4. Applicable credits.

a. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

b. In some instances, the amounts received from the Federal **Government** to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards. (See Attachment B, item 15, "Depreciation and use allowances," for areas of potential application in the matter of Federal financing of activities.)

D. Composition of Cost

1. ***Total*** cost. The total cost of Federal awards is comprised of the allowable direct cost of the program, plus its allocable portion of allowable indirect costs, less applicable credits.

2. ***Classijiiation of costs.*** There is no universal rule for classifying certain costs as either direct **or** indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost. Guidelines for determining direct and indirect costs charged to Federal awards are provided in the sections that follow.

E. **Direct Costs**

1. General. Direct costs are those that can be identified specifically with a particular final cost objective.

2. ***Application.*** Typical direct costs chargeable to Federal awards are:

a. Compensation of employees for the time devoted and identified specifically to the performance of those awards.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of those awards.

c. Equipment and other approved capital expenditures.

d. Travel expenses incurred specifically to carry out the award.

3. ***Minor items.*** Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives,

F. Indirect Costs

1. General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

2. Cost allocation plans and indirect cost proposals. Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Attachments C,D, and E.

3. Limitation on indirect or administrative costs.

a. In addition to restrictions contained in this Circular, there may be laws that further limit the amount of administrative or indirect cost allowed.

b. Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation.

G. Interagency Services

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro rate share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Attachment C.

H. Required Certifications

Each cost allocation plan or indirect cost rate proposal required by Attachments C and E must comply with the following:

1. No proposal to establish a cost allocation plan or an indirect cost rate, whether submitted to a Federal cognizant agency or maintained on file by the governmental unit, shall be acceptable unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Attachments C and E. The certificate must be signed on behalf of the governmental unit by an individual at a level no lower than chief financial officer of the governmental unit that submits the proposal or component covered by the proposal.

2. No cost allocation plan or indirect cost rate shall be approved by the Federal Government unless the plan or rate proposal has been certified. Where it is necessary to establish a cost allocation plan or an indirect cost rate and the governmental unit has not submitted a certified proposal for establishing such a plan or rate in accordance with the requirements, the Federal Government may either disallow all indirect costs or unilaterally establish such a plan or rate. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which ii can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because of failure of the governmental unit to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

Attachment B – Selected Items of Cost

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Section 1 through 42 provide principles to be applied in establishing the allowability or unallowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. A cost is allowable for Federal reimbursement only to the extent of benefits received by Federal awards and its conformance with the genera1 policies and principles stated in Attachment A to this Circular. Failure to mention a particular item of cost in these sections is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment or standards provided for similar or related items of cost.

1. Accounting. The cost of establishing and maintaining accounting and other information systems is allowable.

2. Advertising ***and public relations costs.***

a. The term "advertising costs" means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The term "public relations" includes community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

c. Advertising costs are allowable only when incurred for the recruitment of personnel, the procurement of goods and services, the disposal of surplus materials, and any other specific purposes necessary to meet the requirements of the Federal award. Advertising costs associated with the disposal of surplus materials arc not allowable where all disposal costs are reimbursed based on a standard rate as specified in the grants management common rule.

d. Public relations costs are allowable when:

(1) Specifically required by the Federal award and then only as a direct cost;

(2) Incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or

(3) Necessary to conduct a general liaison with new media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.

e. Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in subsections c. and d.;

(2) Except as otherwise permitted by these cost principles, costs of conventions, meeting, or other events related to other activities of the government unit including:

(a) Costs of displays, demonstrations, and exhibits;

(b) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(c) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs; and

(4) Costa of advertising and public relations designed solely to promote the governmental unit.

3. ***Advisory*** councils. Costs incurred by advisory councils or committees are allowabk as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.

4. Alcoholic beverages. Costs of alcoholic beverages are unallowable.

5. ***Audit*** services. The costs of audits are allowable provided that the audits were performed in accordance with the Single Audit Act, as implemented by Circular A- 128, "Audits of State and Local Governments." [Note: In June 1997. OMB rescinded Circular A- 128 and colocated all audit requirements in a re-titled Circular A- 133, "Audits of States, Local Governments, and Non-Profit Organizations."] Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or subrecipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs.

Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

6. ***Automatic electronic data processing.*** The cost of data processing services is allowable (but see section 19, Equipment and other capital expenditures).

7. Bad debts. Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable unless provided for in Federal program award regulations.

8. Bonding costs. Costs of bonding employees and officials are allowable to the extent that such bonding is in accordance with sound business practice.

9. ***Budgeting.*** Costa incurred for the development, preparation, presentation, and execution of budgets are allowable.

10. ***Communications.*** Costa of telephone, mail, messenger, and similar communication services are allowable.

11. ***Compensation forpersonnel*** services.

a General. Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this Circular, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established policy of the governmental unit consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a governmental unit's laws and rules and meets merit system or other requirements required by Federal law, where applicable; and

(3) Is determined and supported as provided in subsection h.

b. ***Reasonableness***. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the governmental unit. In cases where the kinds of employees required for Federal awards are not found in the other activities of the governmental unit, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

c. Unallowble costs. Costs which are unallowable under other sections of these principles shall not be allowable under this section solely on the basis that they constitute personnel compensation.

d. ***Fringe benefits.***

(1) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law. governmental unit-employee agreement, or an established policy of the governmental unit.

(2) The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: (a) they are provided under established written leave policies; (b) the costs are equitably allocated to all related activities, including Federal awards; and, (c) the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit.

(3) When a governmental unit uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment provided they are allocated as a general administrative expense to all activities of the governmental unit or component.

(4) The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a govemmental unit uses the accrual basis of accounting, in accordance with GAAP, allowable leave costs are the lesser of the amount accrued or funded.

(5) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in section 25, Insurance and indemnification); pension plan costs (see subsection e.); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, whether treated as indirect costs or as direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities.

e. Pension plan costs. Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

(1) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costa funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the governmental unit's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.

(3) Amounts funded by the governmental unit in excess of the actuarially determined amount for a fiscal year may be used as the governmental unit's contribution in future period.

(4) When a governmental unit converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion shall be allowable if amortized over a period of years in accordance with GAAP.

(5) The Federal Government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal. or other credit.

f. ***Post-retirement health benefits***. Post retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection e. For retirees and their spouses, dependents, and survivors. PRHB costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

(1) For PRHB financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHB costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHB fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period.

(4) When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency.

(5) To be allowable in the current year, the PRHB costs must be paid either to:

(a) An insurer or other benefit provider as current year costs or premiums, or

(b) An insurer or trustee to maintain a trust **fund** or reserve for the sole purpose of providing **post-**retirement benefits to retirees and other beneficiaries.

(6) The Federal Government shall receive an equitable share of any amounts of previously allowed **post-**retirement benefit costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

g. Severance pay.

(1) Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by (a) law, **(b)** employer-employee agreement, or(c) established written policy.

(2) Severance payments (but not accruals) associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit as an indirect cost.

(3) Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.

h. ***Support of salaries and wages.*** These standards regarding tune distribution are in addition to the standards for payroll documentation.

(1) Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit,

(2) No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity.

(3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

(4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by penonnel activity reports or equivalent documentation which meets the standards in subsection (5) unless a statistical sampling system (see subsection (6)) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:

(a) More than one Federal award,

(b) A Federal award and a non-Federal award,

(c) An indirect cost activity and a direct cost activity,

(d) Two or more indirect activities which are allocated using different allocation bases, or

(e) An unallowable activity and a direct or indirect cost activity.

(5) Personnel activity reports or equivalent documentation must meet the following standards:

(a) They must reflect an after-the-fact distribution of the actual activity of each employee,

(b) They must account for the total activity for which each employee is compensated,

(c) They must be prepared at least monthly and must coincide with one or more pay periods, and

(d) They must be signed by the employee.

(e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:

(i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;

(ii) At least quarterly, comparisons of actual costs to budgeted distributions baaed on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and

(iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

(b) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(c) Less than full compliance with the statistical sampling standards noted in subsection (a) may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal awards than a system which complies with the standards.

(7) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.

i. ***Donated services.***

(1) Donated or volunteer services may be furnished to a governmental unit 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. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of the Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

12. Contingencies. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see subsection 25.c.), pension plan reserves (see subsection 11.e.), and post-retirement health and other benefit reserves (see subsection 11.f.) computed using acceptable actuarial cost methods

13. ***Contributions and donations.*** Contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable.

14. Defense and prosecution of criminal and civil proceedings, and claims.

a. The following costs are unallowable for contracts covered by 10 U.S.C. 2324(k), "Allowable costs under defense contracts."

(1) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of false certification brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

(2) Costs incurred by a contractor in connection with any criminal, civil or administrative proceedings commenced by the United States or a State to the extent provided in 10 U.S.C. 2324(k).

b. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

15. ***Depreciation and use allowances.***

a. Depreciation and use allowances are means of allocating the cost of fixed assets to periods benefiting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. 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.) except as provided in subsection g. Except for enterprise funds and internal service funds that are included as part of a State/local cost allocation plan, classes of assets shall be determined on the same basis used for the government-wide financial statements.

b. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The value of an asset donated to the governmental unit by an unrelated third party shall be its fair market value at the time of donation. Governmental or quasi-governmental organizations located within the same State shall not be considered unrelated third parties for this purpose.

c. The computation of depreciation or use allowances 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 governmental unit, or a related donor organization, in satisfaction of a matching requirement.

d. Where the use allowance method is followed, the use allowance for buildings and improvements (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition costs. The use allowance for equipment will be computed at an annual rate not exceeding 6 2/3 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 condition, 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 pennanently 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, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the destruction of, or need for costly or extensive alterations or repairs, to the building or the equipment. Equipment that meets these criteria will be subject to the 6 2/3 percent equipment use allowance limitation.

e. Where the 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, historical usage patterns, technological developments, and the renewal and replacement policies of the governmental unit followed for the individual items or classes of assets involved. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight line method of depreciation shall be used. Depreciation methods once used shall not be changed unless approved by the Federal cognizant or awarding agency. When the depreciation method is introduced for application to an asset previously subject to a use allowance, the annual depreciation charge thereon may not exceed the amount that would have resulted had the depreciation method been in effect from the date of acquisition of the asset. The combination of use allowances and depreciation applicable to the asset shall not exceed the total acquisition cost of the asset or fair market value at time of donation.

f. When the depreciation method is used for buildings, a building's shell may be segregated from the major component of the building (e.g., plumbing system, heating, and air conditioning system, etc.) and each major component 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.

g. A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

h. Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with State laws and

procedures. When the depreciation method is followed, depreciation records indicating the amount of depreciation taken each period must also be maintained.

16. ***Disbursing service.*** The cost of disbursing funds by the Treasurer or other designated officer is allowable.

17. ***Employee morale, health,*** and ***welfare*** costs. The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employee counseling facilities, employee counseling services, employee information publications, and any related expenses incurred in accordance with a governmental unit's policy are allowable. Income generated from any of these activities will be offset against expenses.

18. ***Entertainment.*** Costa of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

19. Equipment and other capital expenditures.

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

(1) "Capital expenditure" means the cost of the asset including the cost to put it in place. Capital expenditure for equipment means the net invoice price of the 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 may be included in, or excluded from, capital expenditure cost in accordance with the governmental unit's regular accounting practices.

(2) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit for financial statement purposes, or (b) $5000.

(3) "Other capital assets" mean buildings, land, and improvements to buildings or land that materially increase their value or useful life.

b. Capital expenditures which are not charged directly to a Federal award may be recovered through use allowances or depreciation on buildings, capital improvements, and equipment (see section 15). See also section 38 for allowability of rental costs for buildings and equipment.

c. Capital expenditures for equipment, including replacement equipment, other capital assets, and improvements which materially increase the value or useful life of equipment or other capital assets are allowable as a direct cost when approved by the awarding agency. Federal awarding agencies are authorized at their option to waive or delegate this approval requirement.

d. Items of equipment with an acquisition cost of less than $5000 are considered to be supplies and are allowable as direct costs of Federal awards without specific awarding agency approval.

e. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by (1) continuing to claim the otherwise allowable use allowances or depreciation charges on the equipment or by (2) amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

f. When replacing equipment purchased in whole or in part with Federal funds, the governmental unit may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

20. Fines and penalties. Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and

regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.

21. ***Fund raising and investment management costs.***

a. Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.

b. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable. However, such costs associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Circular are allowable.

c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in subsection C.3.b. of Attachment A.

22. Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs.

a. (1) Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the asset cost groupings(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost groupings(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 account and is reflected in the depreciation allowable under sections 15 and 19.

(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 subsection 25.d.

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

b. Substantial relocation of Federal awards from a facility where the Federal Government participated in the financing to another facility prior to the expiration of the useful life of the financed facility requires Federal agency approval. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation charged to date may require negotiation of space charges for Federal awards.

c. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection a., e.g., land or included in the fair market value used in any adjustment resulting from a relocation of Federal awards covered in subsection b. shall be excluded in computing Federal award costs.

23. ***General government expenses.***

a. The general costs of government are unallowable (except as provided in section 41). These include:

(1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executives of federally-recognized Indian tribal governments;

(2) Salaries and other expenses of State legislatures, tribal councils, or similar local governmental bodies, such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction;

(3) Cost of the judiciary branch of a government;

(4) Cost of prosecutorial activities unless treated as a direct cost to a specific program when authorized by program regulations (however, this does not preclude the allowability of other legal activities of the Attorney General); and

(5) Other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost in program regulations.

b. For federally-recognized Indian tribal governments and Councils Of Governments (COGs), the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his staff is allowable.

24. *Idle facilities and* **idle** *capacity.*

a. As used in this section 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 by the governmental unit.

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

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

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

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

(1) They are necessary 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 subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

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 that **the** capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, 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 considered idle facilities.

25. Insurance and indemnification.

a. Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

b. Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with the governmental unit's policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the awarding agency has specifically required or approved such costs.

c. Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award or as described below. However, the Federal Government will participate in actual losses of a self-insurance fund that are in excess of reserves. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

d. Contributions to a reserve for certain self-insurance programs including workers compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) 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 discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the governmental unit's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims (a) submitted and adjudicated but not paid, (b) submitted but not adjudicated, and (c) incurred but not submitted. Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the governmental unit. If individual departments or agencies of the governmental unit experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds shall be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer.

e. Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., subsection 11 .f. for post retirement health benefits), are allowable in the year of payment provided (1) the governmental unit follows a consistent costing policy and (2) they are allocated as a general administrative expense to all activities of the governmental unit.

f. Insurance refunds shall be credited against insurance costs in the year the refund is received.

g. Indemnification includes securing the governmental unit against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the governmental unit only to the extent expressly provided for in the Federal award, except as provided in subsection d.

h. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

26. Interest.

a. Costs incurred for interest on borrowed capital or the use of a governmental unit's own funds, however represented, are unallowable except as specifically provided in subsection b. or authorized by Federal legislation.

b. Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980 is allowable, subject to the conditions in (1)-(4). Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with otherwise allowable costs of equipment is allowable, subject to the conditions in (1)-(4).

(1) The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the governmental unit;

(2) The assets are used in support of Federal awards;

(3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(4) Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the governmental unit's cash payments and other contributions attributable to that portion of real property used for Federal awards.

27. ***Lobbying.*** The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans shall be governed by the common rule, "New Restrictions on Lobbying** published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Government-wide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), and 57 FR 1772 (January 15, 1992), respectively.

28. ***Maintenance, operations,*** and ***repairs.*** Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they: (1) keep property (including Federal property, unless otherwise provided for) in an efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs which add to

the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see sections 15 and 19).

29. Materials and supplies. The cost of materials and supplies is allowable. Purchases should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing, consistently applied. Incoming transportation charges are a proper part of materials and supply costs.

30. ***Memberships, subscriptions, and professional activities.***

a. Costa of the governmental unit's memberships in business, technical, and professional organizations are allowable.

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

c. Costs of meeting and conferences where the primary purpose is the dissemination of technical information, including meals, transportation, rental of meeting facilities, and other incidental costs are allowable.

d. Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of the Federal awarding agency.

e. Costa of membership in organizations substantially engaged in lobbying are unallowable.

31. Moror ***pools.*** The costs of a service organization which provides automobiles to **user** governmental units at a mileage or **fixed** rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

32. Pre-award costs. Pre-award 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.

33. Professional service costs.

a. Cost of professional and consultant services rendered by persona or organizations that are members of a particular profession or possess a special skill, whether or not officers or employees of the governmental **unit,** are allowable, subject to section 14 when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government.

b. Retainer fees supported by evidence of bona tide services available or rendered are allowable.

34. ***Proposal costs***. Costs of preparing proposals for potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental unit utilizing the cost allocation plan and indirect cost rate proposal. However, proposal costs may be charged directly to Federal awards with the prior approval of the Federal awarding agency.

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

36. Rearrangements and alterations. Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of the Federal awarding agency.

37. ***Reconversion costs***. Costs incurred in the restoration or rehabilitation of the governmental unit's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

3 8. ***Rental costs.***

a. Subject to the limitations described in subsections b. through d. of this section, 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 governmental unit continued to own the property.

c. Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the governmental unit. For this purpose, less-than-arms-length leases include, but are not limited to, those where:

(1) One party to the lease is able to control or substantially influence the actions of the other;

(2) Both parties are parts of the same governmental unit; or

(3) The governmental unit creates an authority or similar entity to acquire and lease the facilities to the governmental unit and other parties.

d. Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation or use allowance, maintenance, and insurance. The provisions of Financial Accounting Standards Board Statement 13 shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in section 26.

39. ***Taxes.***

a. Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs. This provision becomes effective for taxes paid during the governmental unit's first fiscal year that begins on or after January 1, 1998, and applies thereafter.

b. Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.

c. This provision does not restrict the authority of Federal agencies to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency may accept a reasonable approximation thereof.

40. Training. The cost of training provided for employee development is allowable.

4 1. ***Travel costs***.

a. ***General***. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business. Such costs may be charged on an actual cost 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 is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in

non-federally-sponsored activities. Notwithstanding the provisions of section 23, travel costs of officials covered by that section, when specifically related to Federal awards, are allowable with the prior approval of a grantor agency.

b. ***Lodging and subsistence.*** Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as a result of the governmental unit's policy. In the absence of a written governmental unit policy regarding travel costs, the rates and amounts established under subchapter 1 of Chapter 57 of Title 5. Unites States Code "Travel and Subsistence Expenses; Mileage Allowances," or by the Administrator of General Services, or the President (or his designee) pursuant to any provisions of such subchapter shall be used as guidance for travel under Federal awards (41 U.S.C. 420, "Travel Expenses of Government Contractors").

c. ***Commercial air travel.*** Airfare costs in excess of the customary standard (coach or equivalent) airfare, are unallowable except when such accommodations would: require circuitous routing, require travel during unreasonable hours, excessively prolong travel, greatly increase the duration of the flight, result in increased cost that would offset transportation savings, or offer accommodations not reasonably adequate for the medical needs of the traveler. Where a governmental unit can reasonably demonstrate to the awarding agency either the nonavailability of customary standard airfare or Federal Government contract airfare for individual trips or, on an overall basis, that it is the governmental unit" practice to make routine use of such airfare, specific determinations of nonavailability will generally not be questioned by the Federal Government unless a pattern of avoidance is detected. However, in order for airfare costs in excess of the customary standard commercial airfare to be allowable, e.g., use of first-class airfare, the governmental unit must justify and document on a case-by-case basis the applicable condition(s) set forth above.

d. ***Air travel by other than*** commercial ***carrier.*** Cost of travel by governmental unit-owned, -leased, or-chartered aircraft, as used in this section, includes the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, interest, insurance, and other related costs. Costs of travel via governmental unit-owned, -leased, or-chartered aircraft are unallowable to the extent they exceed the cost of allowable commercial air travel, as provided for in subsection c.

42. ***Underrecovery of costs under Federal agreements.*** Any excess costs over the Federal contribution under one award agreement are unallowable under other award agreements.

Attachment C – State/Local-Wide Central Service Cost Allocation Plans

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A. General

1. Most govemmental units provide certain services, such as motor pools, computer centers, purchasing, accounting, etc., to operating agencies on a centralized basis. Since federally supported awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefited activities on a reasonable and consistent basis. The central service cost allocation plan provides that process. All costs and other data used to distribute the costs included in the plan should be supported by formal accounting and other records that will support the propriety of the costs assigned to Federal awards.

2. Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grams and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

B . Definitions

1. "Billed central services" means central services that are billed to benefited agencies and/or programs on an individual fee-for-service or similar basis. Typical examples of billed central services include computer services, transportation services, insurance, and fringe benefits

2. "Allocated central services" means central services that benefit operating agencies but are not billed to the agencies on a fee-for-service or similar basis. These costs are allocated to benefited agencies on some reasonable basis. Examples of such services might include general accounting, personnel administration, purchasing, etc.

3. "Agency or operating agency" means an organizational unit or subdivision within a governmental unit that is responsible for the performance or administration of awards or activities of the governmental unit.

C. Scope of the Central Service Cost Allocation Plans

The central service cost allocation plan will include all central service costs that will be claimed (either as a billed or an allocated cost) under Federal awards and will be documented as described in section E. Costa of central services omitted from the plan will not be reimbursed.

D. Submission Requirements

1. Each State will submit a plan to the Department of Health and Human Services for each year in which it claims central service costs under Federal awards. The plan should include (a) a projection of the next year's allocated central service cost (based either on actual costs for the most recently completed year or the budget projection for the coming year), and (b) a reconciliation of actual allocated central service costs to the estimated costs used for either the most recently completed year or the year immediately proceeding the most recently completed year.

2. Each local government that has been designated as a "major local government" by the Office of Management and Budget (OMB) is also required to submit a plan to its cognizant agency annually. OMB periodically lists major local governments in the **Federal Register.**

3. All otber local governments claiming central service costs must develop a plan in accordance with the requirements described in this Circular and maintain the plan and related supporting documentation for audit. These local governments are not required to submit their plans for Federal approval unless they are specifically requested to do so by the cognizant agency. Where a local government only receives funds as a sub-recipient, the primary recipient will be responsible for negotiating indirect cost rates and/or monitoring the sub-recipient's plan.

4. All central service cost allocation plans will be prepared and, when required, submitted within six months prior to the beginning of each of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency on a case-by-case basis.

E. Documentation Requirements for Submitted Plans

The documentation requirements described in this section may be modified, expanded, or reduced by the cognizant agency on a case-by-case basis. For example, the requirements may be reduced for those central services which have little or no impact on Federal awards. Conversely, if a review of a plan indicates that certain additional information is needed, and will likely be needed in future years, it may be routinely requested in future plan submissions. Items marked with an asterisk (*) should be submitted only once; subsequent plans should merely indicate any changes since the last plan.

1. General. All proposed plans must be accompanied by the following: an organization chart sufficiently detailed to show operations including the central service activities of the State/local government whether or not they are shown as benefiting from central service functions; a copy of the Comprehensive Annual Financial Report (or a copy of the Executive Budget if budgeted costs are being proposed) to support the allowable costs of each central service activity included in the plan; and, a certification (see subsection 4.) that the plan was prepared in accordance with this Circular, contains only allowable costs, and was prepared in a manner that treated similar costs consistently among the various Federal awards and between Federal and non-Federal awards/activities.

2. ***Allocated central*** services. For each allocated central service, the plan must also include the following: a brief description of the service+, an identification of the unit rendering the service and the operating agencies receiving the service, the items of expense included in the cost of the service, the method used to distribute the cost of the service to benefited agencies, and a summary schedule showing the allocation of each service to the specific benefited agencies. If any self-insurance funds or fringe benefits costs are treated as allocated (rather than billed) central services, documentation discussed in subsections 3.b. and c. shall also be included.

3. Billed services.

a. ***General.*** The information described below shall be provided for all billed central services, including internal service funds, self-insurance funds, and fringe benefit funds.

b. ***Internal service funds.***

(1) For each internal service fund or similar activity with an operating budget of $5 million or more, the plan shall include: a brief description of each service; a balance sheet for each fund based on individual accounts contained in the governmental unit's accounting system; a revenue/expenses statement, with revenues broken out by source, e.g., regular billings, interest earned, etc.; a listing of all non-operating transfers (as defined by Generally Accepted Accounting Principles (GAAP) into and out of the fund; a description of the procedures (methodology) used to charge the costs of each service to users, including how billing rates are determined; a schedule of current rates are determined; a schedule of current rates; and, a schedule comparing total revenues (including imputed revenues) generated by the service to the allowable costs of the service, as determined under this Circular, with an explanation of how variances will be handled.

(2) Revenues shall consist of all revenues generated by the service, including unbilled and uncollected revenues. If some users were not billed for the services (or were not billed at the full rate for that class of users), a schedule showing the full imputed **revenues** associated with these users shall be provided. Expenses shall be broken out by object cost categories (e.g., salaries, supplies, etc.).

c. Self-insurance funds. For each self-insurance fund, the plan shall include: the fund balance sheet; a statement of **revenue** and expenses including a summary of billings and claims paid by agency; a listing of all non-operating transfers into and out of the fund; the type(s) of risk(s) covered by the fund (e.g., automobile liability, workers' compensation, etc.); an explanation of how the level of fund contributions are determined, including a **copy** of the current actuarial report (with the actuarial assumptions used) if the contributions are determined on a actuarial basis; and, a description of the procedures used to charge or allocate fund contributions to benefited activities. Reserve levels in excess of claims (1) submitted and adjudicated **but** not paid, (2) submitted but not adjudicated, and (3) incurred but not submitted must be identified and explained.

d. ***Fringe benefits.*** For fringe benefit costs, the plan shall include: a listing of fringe benefits provided to covered employees, and the overall annual cost of each type of benefit; current fiinge benefit policies*; and procedures used to charge or allocate the costs of the benefits to benefited activities. In addition, for pension **and** post-retirement health insurance plans, the following information shall be provided: the governmental unit's funding policies, e.g., legislative bills, trust agreements, or State-mandated contribution rules, if different from actuarially determined rates; the pension plan's costs accrued for the year; the amount funded, and date(s) of funding; a copy of the current actuarial report (including the actuarial assumptions); the plan trustee's report; and, a schedule from the activity showing the value of the interest cost associated with late funding.

4. Required certification. Each central service cost allocation plan will be accompanied by a certification in the following form.

Certificate of Coat Allocation Plrn

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

(1) All cost included in this proposal **[identify** date] to establish cost allocations or billings for [identify period covered by plan] are allowable in accordance with the requirements of OMB Circular A-87, "Cost Principles for State and Local Governments," and the Federal award(s) to which they apply. Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs **have not been claimed as** direct costs. Similar types of costs have been accounted for consistently.

I declare that the foregoing is true and correct.

Governmental Unit _____

Signature _____

Name of Official _____

Title _____

Date of Execution _____

F. **Negotiation and Approval of Central Service Plans**

1. All proposed central service cost allocation plans that are required to be submitted will be reviewed, negotiated, and approved by the Federal cognizant agency on a timely basis. The cognizant agency will review the proposal within six months of receipt of the proposal and either negotiate/approve the proposal or advise the governmental unit of the additional documentation needed to support/evaluate the proposed plan or the changes required to make the proposal acceptable. Once an agreement with the governmental unit has been reached, the agreement will be accepted and used by ail Federal agencies, unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special consideration, the funding agency will, prior to the time the plans are negotiated, notify the cognizant agency,

2. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The results of the negotiation shall be made available to all Federal agencies for their use.

3. Negotiated cost allocation plans based on a proposal later found to have included costs that: (a) are unallowable (I) as specified by law or regulation, (ii) as identified in Attachment B of this Circular, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards, shall be adjusted, or a refund shall be made at the option of the Federal cognizant agency. These adjustments or refunds are designed to correct the plans and do not constitute a reopening of the negotiation.

C. Other Policies

1. ***Billed central*** service ***activities***. Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss.

2. ***Working capital reserves***. Internal service funds and dependent upon a reasonable level of working capital reserve to operate from one billing cycle to the next. Charges by an internal service activity to provide for the establishment and **maintenance** of a reasonable level of working capital reserve, in addition to the full recovery of costs, are allowable. A working capital reserve as part of retained earnings of up to 60 days cash expenses for normal operating purposes is considered reasonable. A working capital reserve exceeding 60 days may be approved by the cognizant Federal agency in exceptional cases.

3. ***Carry-forward*** **adjustments** ***of allocated central*** service ***costs***. Allocated central service costs are usually negotiated and approved for a future fiscal year on a "fixed with carry-forward" basis. Under this procedure, the fixed amounts for the future year covered by agreement are not subject to adjustment for that year. However, when the actual costs of the year involved become known, the differences between the fixed amounts previously approved and the actual costs will be carried forward and used as an adjustment to the fixed amounts established for a later year. This "carry-forward" procedure applies to all central services whose costs were fixed in the approved plan. However, a carry-forward adjustment is not permitted, for a central service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately.

4. Adjustments of billed central services. Billing rates used to charge Federal awards shall be based on the estimated costs of providing the services, including an estimate of the allocable central service costs. A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. These adjustments will be made through one of the following adjustment methods: (a) a cash refund to the Federal Government for the Federal share of the adjustment, (b) credits to the amounts charged to the individual programs, (c) adjustments to future billing rates, or (d) adjustments to allocated central service costs. Adjustments to allocated central services will not be permitted where the total amount of the adjustment for a particular service (Federal share and non-Federal) share exceeds $500,000.

5. ***Records retention.*** All central service cost allocation plans and related documentation used as a basis for claiming costs under Federal awards must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

6. Appeals. If a dispute arises in the negotiation of a plan between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

7. ***OMB assistance.*** To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

Attachment D – Public Assistance Cost Allocation Plans

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F. **Unallowable Costs**

A. General

Federally-financed programs administered by State public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This Attachment extend these requirements to all Federal agencies whose programs are administered by a State public assistance agency. Major federally-financed programs typically administered by State public assistance agencies include: Aid to Families with Dependent Children, Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

B. Definitions

1. "State public assistance agency" means a State agency administering or supervising the administration of one or more public assistance programs operated by the State as identified in Subpart E of 45 CFR Part 95. For the purpose of this Attachment, these programs include all programs administered by the State public assistance agency.

2. "State public assistance agency costs" means all costs incurred by, or allocable to, the State public assistance agency, except expenditures for financial assistance, medical vendor payments, food stamps, and payments for services and goods provided directly to program recipients.

C. Policy

State public assistance agencies will develop, document and implement, and the Federal Govemment will review, negotiate, and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR Part 95. The plan will include all programs administered by the State public assistance agency. Where a letter of approval or disapproval is transmitted to a State public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this Attachment (except for the requirement for certification) summarize the provisions of Subpart E of 45 CFR Part 95.

D. Submission, Documentation, and Approval of Public Assistance Cost Allocation Plans

1. State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval.

2. Under the coordination process outlined in subsection E, affected Federal agencies will review all new plans and plan amendments and provide comments, as appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the quarter following the submission of the plan or amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the State public assistance agency and will inform the State agency of the action taken on the plan or plan amendment.

E. Review of Implementation of Approved Plans

1. Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal Government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the funding agencies, single audits, or audits conducted by the cognizant audit agency.

2. Where inappropriate charges affecting more than one funding agency are identified, the cognizant HHS cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E of 45 CFR Part 95.

3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more funding agencies, the dispute shall be resolved in accordance with the appeals procedures set out in 45 CFR Part 75. Disputes involving only one funding agency will be resolved in accordance with the funding agency's appeal process.

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

F. Unallowable Coats

Claims developed under approved cost allocation plans will be based on allowable costs as identified in this Circular. Where unallowable costs have been claimed and reimbursed, they will be refunded to the program that reimbursed the unallowable cost using one of the following methods: (a) a cash refund, (b) offset to a subsequent claim, or (c) credits to the amounts charged to individual awards.

Attachment E – State and Local Indirect Cost Rate Proposals

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A. General

1. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and **assigned** directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

2. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (b) the costs of central governmental services distributed through the central service cost allocation plan (as described in Attachment C) and not otherwise treated as direct costs.

3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each department or agency of the governmental unit claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Bates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Priming Office.

4. Because of the diverse characteristics and accounting practices of governmental units, the types of costs which may be classified as indirect costs cannot be specified in all situations. However, typical examples of indirect costs may include certain State/local-wide central service costs, general administration of the grantee department or agency, accounting and personnel services performed within the grantee department or agency, depreciation or use allowances on building and equipment, the costs of operating and maintaining facilities, etc.

5. This Attachment does not apply to State public assistance agencies. These agencies should refer instead to Attachment D.

B. Definitions

1. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

2. "Indirect cost rate" is a device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

3. "Indirect cost pool" is the accumulated costs that jointly benefit two or more programs or other cost objectives.

4. "Base" means the accumulated direct costs (normally either total direct salaries and wages or total direct cost exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost base selected should result in each award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

5. "Predetermined rate" means an indirect cost rate, applicable to a specified current or future period, usually the governmental unit's fiscal year. This rate is based on an estimate of the costs to be incurred during the period. Except under very unusual circumstances, a predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.) Predetermined rates may not be used by governmental units that have not submitted and negotiated the rate with the cognizant agency. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for indirect costs for a period of two to four years should be the norm in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting periods.

6. "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, allowable costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

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

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

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

C. Allocation of **Indirect Costs and Determination of Indirect Cost Rates**

1. General.

a. Where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the 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** subsection 2.

b. Where a governmental unit's department or agency has several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefited 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. 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 subsections **2, 3,** and 4.

2. Simplifid method.

a. Where a grantee agency's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (1) classifying the grantee agency's total costs for the base period as either direct or indirect, **and (2)** 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 Federal 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 a governmental unit's department or agency has only one major function **encompassing** a number of individual projects or activities, and may be used where the level of Federal awards to that department or agency is relatively small.

b. Both the direct costs **and the** indirect costs shall exclude capital expenditures and unallowable costs. However, unallowable costs must be included in the direct costs if they **represent activities** to which indirect costs are properly allocable.

c. The distribution base may be (1) total direct costs (excluding capital expenditures **and** other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

3.* Multiple *allocation base method.

a. Where a grantee agency'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 benefited functions by means of a base which best **measures** the relative benefits.

b. The cost groupings should 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 needed.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefited 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 Federal Government and the governmental unit. In general, any cost element or related factor associated with the governmental unit's activities is potentially adaptable for use as an allocation base provided that: (1) 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 (2) it is common to the benefited functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with subsection 4, 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 Federal 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 (1) total direct costs (excluding capital expenditures and other distorting items such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an **equitable** distribution. 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 relationship between the particular indirect cost pool and the distribution base identified with that **pool**.

4. Special indirect cost rates.

a. In some instances, a single indirect cost rate for all activities of a grantee department or agency or for each major **function** of the agency may not be appropriate. It **may** not take into account those different factors which may substantially affect the indirect costs applicable to a particular **program or group** of programs. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the organizational arrangements used, or any combination thereof. When a particular award is carried out 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 that **award. 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 that: (1) the rate differs significantly **from** the rate which would have been developed under subsections 2. And **3.,** and (2) the award to which the rate would apply is material in amount.

b. Although this Circular adopts the concept of the **full** allocation of indirect costs, there are some Federal statutes which restrict the reimbursement of certain indirect costs. Where such restrictions exist, it may be necessary to develop a special rate for the affected award. Where a "restricted rate" is required, the procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement.

D. Submission and Documentation of Proposals

1. **Submission** *of* **indirect** ***cost rate proposals.***

a. All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal

and related documentation must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

b. A governmental unit for which a cognizant agency assignment has been specifically designated must submit its indirect cost rate proposal to its cognizant agency. The Office of Management and Budget (OMB) will periodically publish lists of governmental units identifying the appropriate Federal cognizant agencies. The cognizant agency for all governmental units or agencies not identified by OMB will be determined based on the Federal agency providing the largest amount of Federal funds. In these cases, a governmental unit must develop an indirect cost proposal in accordance with the requirements of this Circular and maintain the proposal and related supporting documentation for audit. These governmental units are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency. Where a local government only receives funds as a sub-recipient, the primary recipient will be responsible for negotiating and/or monitoring the sub-recipient" plan.

c. Each lndian tribal government desiring reimbursement of indirect costs must submit its indirect cost proposal to the Department of the Interior (its cognizant Federal agency).

d. Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant Federal agency. If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount for central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

2. Documentation of proposals. The following shall be included with each indirect cost proposal:

a. The rates proposed, including subsidiary work sheets and other relevant data, cross referenced and reconciled to the financial data noted in subsection b. Allocated central service costs will be supported by the summary table included in the approved central service cost allocation plan. This summary table is not required to be submitted with the indirect cost proposal if the central service cost allocation plan for the same fiscal year has been approved by the cognizant agency and is available to the funding agency.

b. A copy of the financial data (financial statements, comprehensive annual financial report, executive budgets, accounting reports, etc.) upon which the rate is based. Adjustments resulting from the use of unaudited data will be recognized, where appropriate, by the Federal cognizant agency in a subsequent proposal.

c. The approximate amount of direct base costs incurred under Federal awards. These costs should be broken out between salaries and wages and other direct costs.

d. A chart showing the organizational structure of the agency during the period for which the proposal applies, along with a functional statement(s) noting the duties and/or responsibilities of all units that comprise the agency. (Once this is submitted, only revisions need be submitted with subsequent proposals.)

3. Required certification. Each indirect cost rate proposal shall be accompanied by a certification in the following form:

Certificate of Indirect Costs

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish billing or final indirect cost rates for [identify period covered by rate] are allowable in accordance with the requirements of the Federal award(s) to which they apply and OMB Circular A-87, "Cost Principles for State and Local Governments." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government will be notified of any accounting changes that would affect the predetermined rate.

1 declare that the foregoing is true and correct.

Governmental Unit _____

Signature _____

Name of Official _____

Title _____

Date of Execution _____

E. Negotiation and Approval of Rates

1. Indirect cost rates will be reviewed, negotiated, and approved by the cognizant Federal agency on a timely basis. Once a rate has been agreed upon, it will be accepted and used by all Federal agencies unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates, the funding agency will, prior to the time the rates are negotiated, notify the cognizant Federal agency.

2. The use of predetermined rates, if allowed, is encouraged where the cognizant agency has reasonable assurance based on past experience and reliable projection of the grantee agency's costs, that the rate is not likely to exceed a rate based on actual costs. Long-term agreements utilizing predetermined rates extending over two or more ears are encouraged, where appropriate.

3. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute, or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The agreed upon rates shall be made available to all Federal agencies for their use.

4. Refunds shall be made if proposals are later found to have included costs that (a) are unallowable as (i) specified by law or regulation, (ii) as identified in Attachment B of this Circular, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards. These adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

F. Other Policies

1. ***Fringe benefit* rates.** If overall fringe benefit rates are not approved for the governmental unit as part of the central service cost allocation plan, these rates will be reviewed, negotiated and approved for individual grantee agencies during the indirect cost negotiation process. In these cases, a proposed fringe benefit rate computation should accompany the indirect cost proposal. If fringe benefit rates are not used at the grantee agency level (i.e., the agency specifically identifies fringe benefit costs to individual employees), the governmental unit should so advise the cognizant agency.

***2. Billed services provided by the grantee* agency.** In some cases, governmental units provide and bill for services similar to those covered by central service cost allocation plans (e.g., computer centers). Where this

occurs, the governmental unit should be guided by the requirements in Attachment C relating to the development of billing rates and documentation requirements, and should advise the cognizant agency of any billed services. Reviews of these types of services (including reviews of costing/billing methodology, profits or losses, etc.) will be made on a case-by-case basis as warranted by the circumstances involved.

3. ***Indirect cost allocations not*** using rates. In certain situations, a governmental unit, because of the nature of its awards, may be required to develop a cost allocation plan that distributes indirect (and, in some cases, direct) costs to the specific funding sources. In these cases, a narrative cost allocation methodology should be developed, documented, maintained for audit, or submitted, as appropriate, to the cognizant agency for review, negotiation, and approval.

4. Appeals. If a dispute arises in a negotiation of an indirect cost rate (or other rate) between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

5. Collection of unallowable costs and erroneouspayments. Costs specifically identified as unallowable and charged to Federal awards either directly or indirectly will be refunded (including interest chargeable in accordance with applicable Federal agency regulations).

6. ***OMB assistance.*** To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

OMB CIRCULAR A-133 - Revised June 24, 1997

Audits of States, Local Governments, and Non-Profit Organizations

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Audits of States, Local Governments, and Non-Profit Organizations

1. **Purpose.** This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-l 56. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.

2. **Authority.** Circular A-l 33 is issued under the authority of sections 503.1111, and 7501 *et seq.* Of Title 3 1, United States Code, and Executive Orders 8248 and 1154 1

3. **Rescission and Supersession.** This Circular rescinds Circular A- 128, "Audits of State and Local Governments," issued April 12, 1985, and supersedes the prior Circular A-l 33, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," issued April 22, 1996. For effective dates, see paragraph 10.

4. **Policy.** Except as provided herein, the standards set forth in this Circular shall be applied by all Federal agencies. If any statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the subsequent statute shall govern.

   Federal agencies shall apply the provisions of the sections of this Circular to non-Federal entities, whether they are recipients expending Federal awards received directly from Federal awarding agencies, or are subrecipients expending Federal awards received from a pass-through entity (a recipient or another subrecipient).

   This Circular does not apply to non-U.S. based entities expending Federal awards received either directly as a recipeint or indirectly as a subrecipient.

5. Definitions. The definitions of key terms used in this Circular are contained in §____.105 in the Attachment to this Circular.

6. **Required Action.** The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in the Attachment to this Circular. Federal agencies making awards to non-Federal entities, either directly or indirectly, shall adopt the language in the Circular in codified regulations as provided in Section 10 (below), unless different provisions are required by Federal statute or are approved by the Office of Management and Budget (OMB).

7. **OMB Responsibilities.** OMB will review Federal agency regulations and implementation of this Circular, and will provide interpretations of policy requirements and assistance to ensure uniform, effective and efficient implementation.

8. **Information Contact.** Further information concerning Circular A- 133 may be obtained by contacting the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Washington, DC 20503, telephone 202-395-3993.

9. **Review Date.** This Circular will have a policy review three years from the date of issuance.

10. Effective Dates. The standards set forth in §____.400 of the Attachment to this Circular, which apply directly to Federal agencies, shall be effective July 1, 1996, and shall apply to audits of fiscal years beginning after June 30, 1996, except as otherwise specified in §-.400(a).

The standards set forth in this Circular that Federal agencies shall apply to non-Federal entities shall be adopted by Federal agencies in codified regulations not later than 60 days after publication of this final revision in the **Federal Register,** so that they will apply to audits of fiscal years beginning after June 30, 1996, with the exception that §____.305(b) of the Attachment applies to audits of fiscal years beginning after June 30, 1998. The requirements of Circular A- 128, although the Circular is rescinded, and the 1990 version of Circular A-l 33 remain in effect for audits of fiscal years beginning on or before June 30, 1996.

Franklin D. Raines
Director

Attachment

PART ___--AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

Subpart A--General

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Appendix A to Part __ - Data Collection Form (Form SF-SAC).

Appendix B to Part __ - Circular A- 133 Compliance Supplement.

Subpart **A-General**
§___.100 Purpose.

This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

§___. 105 Definitions.

Auditee means any non-Federal entity that expends Federal awards which must be audited under this part. **Auditor** means an auditor, that is a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing **standards (GAGAS). The** term **auditor** does not include internal auditors of non-profit organizations.

Audit **finding** means deficiencies which the auditor is required by **§___.510(a)** to report in the schedule of **findings** and questioned costs.

CFDA number means the number assigned to a Federal program **in the Catalog of Federal Domestic Assistance** (CFDA).

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other clusters" are as defined by the **Office** of Management and Budget (OMB) in the compliance supplement or as designated by a State for Federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State shall identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with **§___.400(d)(1)** and **§___.400(d)(2),** respectively. A cluster of programs shall be considered as one program for determining major **programs,** as described in **§___.520,** and, with the exception of R&D as described in **§___.**200(c), whether a program-specific audit may be elected.

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in **§___.400(a)**.

Compliance supplement refers to the **Circular A-133 Compliance Supplement,** included as Appendix B to Circular A-l 33, or such documents as OMB or its designee may issue to replace it. This **document** is available from the Government Printing Office, Superintendent of Documents, Washington, DC 20402-9325.

Corrective **action** means action taken by the **auditee** that:

(1) Corrects identified deficiencies;

(2) Produces recommended improvements; or

(3) Demonstrates that audit findings are either invalid or do not warrant **auditee** action.

Federal agency has the same meaning as the term agency in Section 55 l(1) of title 5, United States Code.

Federal award means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. it does not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the terms and conditions of the contract. Contracts to operate Federal Government owned, contractor operated facilities (GOCOs) are excluded from the requirements of this part.

Federal awarding agency means the Federal agency that provides an award directly to the recipient.

Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance, but does not include amounts received as reimbursement for services rendered to individuals as described in **§___.205(h)** and **§___.205(i)**.

Federal program means:

(1) All Federal awards to a non-Federal entity assigned a single number in the CFDA.

(2) When no CFDA number is assigned, all Federal awards from the same agency made for the same purpose should be combined and considered one program.

(3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. They types of clusters of programs are:

(i) Research and development (R&D);

(ii) Student financial aid (SFA); and

(iii) "Other clusters," as described in the definition of cluster of programs in this section.

GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Generally accepted accounting principles has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA).

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Internal control means a process, effected by **an entity's management** and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(1) Effectiveness and efficiency of operations;

(2) Reliability of financial reporting; and

(3) Compliance with applicable laws and regulations.

Internal control pertaining to the compliance requirements for Federal programs (Internal control over Federal programs) means a process-effected by an entity's management and other personnel--designed to provide reasonable assurance regarding the achievement of the following objectives for Federal programs:

(1) Transactions are properly recorded and accounted for to:

(i) Permit the preparation of reliable financial statements and Federal reports;

(ii) Maintain accountability over assets; and

(iii) Demonstrate compliance with laws, regulations, and other compliance requirements;

(2) Transactions are executed in compliance with:

(i) Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and

(ii) Any other laws and regulations that are identified in the compliance supplement; and

(3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity.

Local government means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of govemments, and any other instrumentality of local government.

Major program means a Federal program determined by the auditor **to** be a major program in accordance with **§___,**520 or a program identified as **a** major program by a Federal agency or pass-through entity in accordance with **§___.215(c)**.

Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

Non-Federal entity means a State, local government, or non-profit organization.

Non-proflt organization means:

(1) Any corporation, trust, association, cooperative, or other organization that:

(i) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(ii) Is not organized primarily for profit; and

(iii) Uses its net proceeds to maintain, improve, or expand its operations; and

(2) The term **non-profit organization** includes non-profit institutions of higher education and hospitals.

OMB means the Executive **Office** of the President, **Office** of Management and Budget.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of direct **funding** to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in **§___.400(b).**

Pass-through entity means a non-Federal entity that provides a Federal award to a **subrecipient** to **carry** out a Federal program.

Program-specific audit means an audit of one Federal program as provided for in **§___.200(c)** and **§___**.235.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(1) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;

(2) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Recipient means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

Research and development (R&D) means all research activities, both basic and applied, and all development activities that are performed by a non-Federal entity. **Research** is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. **Development** is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Single audit means an audit which includes both the entity's financial statements and the Federal awards as described in **§___**.500.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe as defined in this section.

Student Financial Aid (SFA) includes those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070 et seq.) which is administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include programs which provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in **§___.210**.

Types of compliance requirements refers to the types of compliance requirements listed in the compliance supplement. Examples include: activities allowed or unallowed; allowable costs/cost principles; cash management; eligibility; matching, level of effort, earmarking; and, reporting.

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided in **§___.210**.

Subpart &Audits
§___.200 Audit requirements.

(a) **Audit required.** Non-Federal entities that expend $300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in **§_ _205.**

(b) Single **audit.** Non-Federal entities that expend $300,000 or more in a year in Federal awards shall have a single audit conducted in accordance with **§___.500** except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an **auditee** expends Federal awards under only one Federal program (excluding (R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the **auditee,** the **auditee** may elect to have a program-specific audit conducted in accordance with **§___.**235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the **case** of a subrecipient, approves in advance a program-specific audit.

(d) **Exemption when Federal awards expended are less than $300,000.** Non-Federal entities that expend less than $300,000 a year in Federal awards are exempt from Federal audit requirements for that year, except **as** noted in **§___.215(a),** but records must be available for review or audit by appropriate **officials** of the Federal agency, **pass-**through entity, and General Accounting **Office** (GAO).

(e) Federally Funded Research and Development Centers (FFRDC). Management of an **auditee** that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

§___.205 Basis for determining Federal awards expended.

(a) **Determining Federal awards expended.** The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-reimbursement **contracts,** cooperative **agreements,** and direct appropriations; the disbursement of funds **passed** through to subrecipients; the **use** of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities, the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

(b) Loan and loan guarantees (loans). Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines shall be **used** to calculate the **value of Federal awards expended under** loan programs, except as noted in paragraphs (c) and **(d)** of this section:

(1) Value of new loans made or received during the fiscal year; plus

(2) Balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus

(3) Any interest subsidy, cash, or administrative cost allowance received.

(c) Loan and loan guarantees (loans) at institutions of higher education. When loans are made to students of an institution of higher **education** but the institution does not make the loans, then only the value of loans made during the year shall be considered Federal awards expended in that year. The balance of loans for previous years is not included as Federal awards expended because the lender accounts for the prior balances.

(d) **Prior loan and loan guarantees (loans).** Loans, the proceeds of which were received and expended in prior-years, are not considered Federal awards expended under this part when the laws, regulations, and the provisions of contracts or grant agreements pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) Endowment funds. The cumulative balance of Federal awards for endowment funds which are federally restricted are considered awards expended in each year in which the funds are still restricted.

(f) Free rent. Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of an award to carry out a Federal program shall be included in determining Federal awards expended and subject to audit under this part.

(g) Valuing non-cash assistance. Federal non-cash assistance, such as free rent, food stamps, food commodities, donated property, or donated surplus property, shall be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

(h) **Medicare.** Medicare payments to a non-Federal entity for providing patient care services to Medicare eligible individuals are not considered Federal awards expended under this part.

(i) **Medicaid.** Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

(j) **Certain loans provided by the National Credit Union Administration.** For purposes of this part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured institutions are not considered Federal awards expended.

§___.210 Subrecipient and vendor determinations.

(a) **General.** An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs **(b)** and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) **Federal award.** Characteristics indicative of a Federal **award** received by a subrecipient are when the organization:

(1) Determines who is eligible to receive what Federal financial assistance;

(2) Has its performance measured against whether the objectives of the Federal program are met;

(3) Has responsibility for programmatic decision making;

(4) Has responsibility for adherence to applicable Federal program compliance requirements; and

(5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) Payment for goods and services. Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

(1) Provides the goods and services within normal **business operations;**

(2) Provides similar goods or services to many different purchasers;

(3) Operates in a competitive environment;

(4) Provides goods or services that are ancillary to the operation of the Federal program; and

(5) Is not subject to compliance requirements of the Federal program.

(d) **Use of judgment in making determination.** There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipeint or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) Compliance responsibility for vendors. In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

§___.215 Relation to other audit requirements.

(a) **Audit under this part in lieu of other audits.** An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors.

(b) **Federal agency to pay for additional audits.** A Federal agency that conducts or contracts for additional audits shall, consistent with other applicable laws and regulations, arrange for funding the full cost of such additional audits.

(c) Request for a program to be audited as a major program. A Federal agency may request an auditee to have a particular Federal program audited as a major program in lieu of the Federal agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such request by informing the Federal agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in §___.520 and, if not, the estimated incremental cost. The Federal agency shall then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal agency request, and the Federal agency agrees to pay the full incremental costs, then the auditee shall have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

§___.220 Frequency of audits.

Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(a) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this part biennially. This requirement must still be in effect for the biennial period under audit.

(b) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.

§___.225 Sanctions.

No audit costs may be charged to Federal awards when audits required by this part have not been made or have been made but not in accordance with this part. In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

(a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;

(b) Withholding or disallowing overhead costs;

(c) Suspending Federal awards until the audit is conducted; or

(d) Terminating the Federal award.

§___.230 Audit Costs.

(a) **Allowable costs.** Unless prohibited by law, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR) (48 CFR parts 30 and 31), or other applicable cost principles or regulations.

(b) **Unallowable costs.** A non-Federal entity shall not charge the following to a Federal award:

(1) The cost of any audit under the Single Audit Act Amendments of 1996 (3 1 U.S.C. 7501 et seq.) not conducted in accordance with this part.

(2) The cost of auditing a non-Federal entity which has Federal awards expended of less than $300,000 per year and is thereby exempted under §___.200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its subrecipients in accordance with §___.400(d)(3), provided the subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

§___.235 Program-rpeciflc audits.

(a) **Program-specific audit guide available.** In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal control, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor should contact the Office of Inspector General of the Federal agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor shall follow GAGAS and the guide when performing a program-specific audit.

(b) **Program-specific audit guide not available.** (I) When a program-specific audit guide is not available, the auditee and auditor shall have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit.

(2) The auditee shall prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of **§___.315(b)**, and a corrective action plan consistent with the requirements of **§___.315(c).**

(3) The auditor shall:

(i) Perform an audit of the financial statements(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal control and perform tests of internal control over the Federal program consistent with the requirements of **§___.500(c)** for a major program;

(iii) Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements of **§___.500(d)** for a major program;

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit fmdings materially misrepresents the status of any prior audit fmding in accordance with the requirements of **§___.500(e)**.

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is presented fairly in all material respects in conformity with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which shall describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a format consistent with **§___.505(d)(1)** and findings and questioned costs consistent with the requirements of. **§___.505(d)(3)**.

(c) Report submission for program-specific audits.

(1) The audit shall be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the required reporting shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a different period is specified in a program-specific audit guide.) Unless restricted by law or regulation, the auditee shall make report copies available for public inspection.

(2) When a program-specific audit guide is available, the **auditee** shall submit to the Federal clearinghouse designated by OMB the data collection form prepared in accordance with **§_ .320(b),** as applicable to a program-specific audit, and the reporting required by the program-specific audit guide to be retained as an archival copy. Also, the **auditee** shall submit to the Federal awarding agency or pass-through entity the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit shall consist of the financial statement(s) of the Federal program, a summary schedule of prior audit fmdings, and a corrective action plan as described in paragraph **(b)(2)** of this section, and the auditor's report(s) described in paragraph **(b)(4)** of this section. The data collection form prepared in accordance with **§___.320(b),** as applicable to a program-specific audit, and one copy of this reporting package shall be submitted to the Federal clearinghouse designated by OMB to be retained as an archival copy. Also, when the schedule of findings and questioned costs disclosed audit fmdings or the summary schedule of prior audit findings reported the status of any audit fmdings, the **auditee** shall submit one copy of the reporting package to the Federal clearinghouse on behalf of the Federal awarding agency, or directly to the pass-through entity in the case of a subrecipient. Instead of submitting the reporting package to the pass-through entity, when a subrecipient is not required to submit a reporting package to the pass-through entity, the subrecipient shall provide written notification to the pass-through entity, consistent with the requirements of **§___.320(e)(2).** A subrecipient may submit a copy of the reporting package to the pass-through entity to comply with this notification requirement.

(d) **Other sections 01 this part may apply.** Program-specific audits are subject to **§___.100** through **§___.215(b), §___.220** through **§___.230, §___.300** through **§___.305, §___.315, §___.320(f)** through **§___.320(j), §___.400** through **§___.405, §___.510** through **§___.515,** and other referenced provisions of this part unless contrary to the **provisions of this** section, a program-specific audit guide, or program laws and regulations.

Subpart C—Auditees
§___.300 Auditee responsibilities.

The **auditee** shall:

(a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

(b) Maintain internal control **over** Federal programs that provides reasonable assurance that the **auditee** is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

(d) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with **§___**310.

(e) Ensure that the audits required by this part are properly performed and submitted when due. When extensions to the report submission due date required by **§___.320(a)** are granted by the cognizant or oversight agency for audit, promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.

(f) Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective plan in accordance with **§___.315(b)** and **§___.315(c),** respectively.

§___.305 Auditor Selection.

(a) **Auditor procurement.** In procuring audit services, auditees shall follow the procurement standards prescribed by the Grants Management Common Rule (hereinafter referred to as the "A- 102 Common Rule") published March 11, 1988 and amended April 19, 1995 [insert appropriate CFR citation], Circular A- 110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," or the FAR (48 CFR part 42), as applicable (OMB Circulars are available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503). Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in the A- 102 Common Rule, OMB Circular A- l 10, or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

(b) **Restriction on auditor preparing indirect cost proposals.** An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded $1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. To minimize any disruption in existing contracts for audit services, this paragraph applies to audits of fiscal years beginning after June 30, 1998.

(c) Use of Federal auditors. Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.

§___.310 Financial statements.

(a) **Financial statements.** The auditee shall prepare financial statements that reflect its fmancial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements shall be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, organization-wide fmancial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with **§___.500(a)** and prepare separate fmancial statements.

(b) **Schedule of expenditures of Federal awards.** The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple award years, the auditee may list the amount of Federal awards expended for each award year separately. At a minimum, the schedule shall:

(1) List individual Federal programs by Federal agency. For Federal programs included in a cluster of programs, list individual Federal programs within a cluster of programs. For R&D, total Federal awards expended shall be shown either by individual award or by Federal agency and major subdivision within the Federal agency. For example, the National Institutes of Health is a major subdivision in the Department of Health and Human Services.

(2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

(3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available.

(4) Include notes that describe the significant accounting policies used in preparing the schedule.

(5) To the extent practical, pass-through entities should identify in the schedule the total amount provided to subrecipients from each Federal program.

(6) Include, in either the schedule or a note to the schedule, the value of the Federal awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end. While not required, it is preferable to present this information in the schedule.

§___.315 Audit findings follow-up.

(a) **General.** The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee shall prepare a summary schedule of prior audit findings. The auditee shall also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan shall include the reference numbers the auditor assigns to audit findings under **§___.510(c)**. Since the summary schedule may include audit findings from multiple years, it shall include the fiscal year in which the finding initially occurred.

(b) **Summary** schedule **of prior audit findings.** The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(l) of this section, or no longer valid or not warranting further action in accordance with paragraph **(b)(4)** of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.

(3) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule shall provide an explanation.

(4) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

(i) Two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse;

(ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

(iii) A management decision was not issued.

(c) Corrective action plan. At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.

§___.320 Report submission.

(a) **General.** The audit shall be completed and the data collection form described in paragraph **(b)** of this section and reporting package described in paragraph (c) of this section shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the data collection form and reporting package shall be submitted within

the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period.) Unless restricted by law or regulation, the auditee shall make copies available for public inspection.

(b) Data Collection. (I) The auditee shall submit a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The form shall **be** approved by OMB, available from the Federal clearinghouse designated by OMB, and include data elements similar to those presented in this paragraph. A senior level representative of the auditee (e.g., State controller, director of finance, chief executive officer, or chief financial officer) shall sign a statement to be included as part of the form certifying that: the auditee complied with the requirements of this part, the form was prepared in accordance with this part (and the instructions accompanying the form), and the information included in **the** form, in its entirety, **are accurate** and complete.

(2) The data collection form shall include the following data elements:

(i) The type of report the auditor **issued** on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee.

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed **by** the audit and whether any such conditions **were material weaknesses.**

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(vi) A list of the Federal awarding agencies which will receive a copy of the reporting package pursuant to **§___.320(d)(2)** of OMB Circular A- 133.

(vii) A yes or no statement as to whether the auditee qualified as a low-risk auditee under **§_ _530** of OMB Circular A-133.

(viii) The dollar threshold used to distinguish between Type A and Type B programs as defined in **§___.520(b)** of OMB Circular A-133.

(ix) The Catalog of Federal Domestic Assistance (CFDA) number for **each** Federal program, as applicable.

(x) The name of each Federal program and identification of each major program. Individual programs within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.

(xi) The amount of expenditures in the schedule of expenditures of Federal awards associated with each Federal program.

(xii) For each Federal program, a yes or no statement as to whether there are audit findings in each of the following types of compliance requirements and the total amount of any questioned costs:

(A) Activities allowed or unallowed.

(B) Allowable costs/cost principles.

(C) Cash management.

(D) Davis-Bacon Act

(E) Eligibility.

(F) Equipment and real property management.

(G) Matching, level of effort, earmarking.

(H) Period of availability of Federal funds.

(I) Procurement and suspension and debarment.

(J) Program income.

(K) Real property acquisition and relocation assistance.

(L) Repotting.

(M) Subrecipient monitoring.

(N) Special tests and provisions.

(xiii) Auditee Name, Employer Identification Number(s), Name and Title of Certifying Official, Telephone Number, Signature, and Date.

(xiv) Auditor Name, Name and Title of Contact Person, Auditor Address, Auditor Telephone Number, Signature, and Date.

(xv) Whether the auditee has either a cognizant or oversight agency for audit.

(xvi) The name of the cognizant or oversight agency for audit determined in accordance with **§___.400(a)** and **§___.400(b),** respectively.

(3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor shall complete the applicable sections of the form. The auditor shall sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of the form is limited to the data elements prescribed by OMB.

(c) Reporting package. The reporting package shall include the:

(1) Financial statements and schedule of expenditures of Federal awards discussed in **§___.310(a)** and **§___.310(b),** respectively;

(2) Summary schedule of prior audit findings discussed in **§___.315(b);**

(3) Auditor's report(s) discussed in **§___.505;** and

(4) Corrective action plan discussed in **§___.315(c).**

(d) **Submission to clearinghouse.** All auditees shall submit to the Federal clearinghouse designated by OMB the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section for:

(1) The Federal clearinghouse to retain as an archival copy; and

(2) Each Federal awarding agency when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the Federal awarding agency provided directly or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the Federal awarding agency provided directly.

(e) Additional submission by subrecipients. (1) In addition to the requirements discussed in paragraph **(d) of** this section, auditees that are also subrecipients shall submit to each pass-through entity one copy of the reporting package described in paragraph (c) of this section for each pass-through entity when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the pass-through entity provided or the summary schedule of prior audit findings repotted the status of any audit findings relating to Federal awards that the pass-through entity provided.

(2) Instead of submitting the reporting package to a pass-through entity, when **a** subrecipient is not required to submit a reporting package to a pass-through entity pursuant to paragraph (e)(**1)** of this section, the subrecipient shall provide written notification to the pass-through entity that: an audit of the subrecipient was conducted in accordance with this part (including the period covered by the audit and the name, amount, and CFDA number of the Federal awards(s) provided by the pass-through entity); the schedule of findings and questioned costs disclosed no audit findings relating to the Federal award(s) that the pass-through entity provided; and, the summary schedule of prior audit findings did not report on the status of any audit findings relating to the Federal award(s) that the pass-through entity provided. A subrecipient may submit a copy of the reporting package described in paragraph (c) of this section to a pass-through entity to comply with this notification requirement.

(f) Requests for report copies. In response to requests by a Federal agency or pass-through entity, auditees shall submit the appropriate copies of the reporting package described in paragraph (c) of this section and, if **requested, a** copy of any management letters issued by the auditor.

(g) Report retention requirements. Auditees shall keep one copy of the data collection form described in paragraph **(b)** of this section and one copy of the reporting package **described** in paragraph (c) of this section on file for three years from the date of submission to the Federal clearinghouse designated by OMB. Pass-through entities shall keep subrecipients' submissions on file for three years from date of receipt.

(h) **Clearinghouse responsibilities.** The Federal clearinghouse designated by OMB shall distribute the reporting packages received in accordance with paragraph **(d)(2)** of this section and **§___**.235(c)(3) to applicable Federal awarding agencies, maintain a data base of completed audits, provide appropriate information to Federal **agencies,** and follow up with known auditees which have not submitted the required data collection forms and reporting packages.

(i) **Clearinghouse address.** The address of the Federal clearinghouse currently designated by OMB is Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10" Street, Jeffersonville, IN 47132.

(j) Electronic filing. Nothing in this part shall preclude electronic submissions to the Federal clearinghouse in such manner as may be approved by OMB. With OMB approval, the Federal clearinghouse may pilot test methods of electronic submissions.

Subpart D-Federal Agencies and Pass-Through Entities

§___.400Responsibilities.

(a) **Cognizant agency for audit responsibilities.** Recipients expending more than $25 million a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be **the** Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment. To provide for continuity of cognizance, the determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in **1995, 2000, 2005,** and every **fifth** year thereafter. For example, audit cognizance for periods ending in 1997 through 2000 will be determined based on Federal awards expended in 1995. (However, for States and local governments that expend **more** than $25 million a year in Federal awards and have previously assigned cognizant agencies for audit, the requirements of this paragraph are not effective until fiscal years beginning after June **30, 2000.)** Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an **auditee** may reassign cognizance to another Federal awarding agency which provides substantial direct funding and agrees to be the cognizant agency for audit. Within 30 days after any reassignment, both the old and the new cognizant agency for audit shall notify the **auditee,** and, if known, the auditor of **the** reassignment. The cognizant agency for audit shall:

(1) Provide technical audit advice and liaison to **auditees** and auditors.

(2) Consider **auditee** requests for extensions to **the** report submission due date required by **§___.320(a). The** cognizant agency for audit may grant **extensions** for good cause.

(3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the **auditee** or its auditor of irregularities or illegal acts, as required by **GAGAS** or laws and regulations.

(5) Advise **the** auditor and, where appropriate, **the auditee** of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, **the auditee** shall work **with the** auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit **shall** notify the auditor, the **auditee,** and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.

(6) Coordinate, to **the** extent practical, audits or reviews made by or for Federal agencies **that** are in addition to **the** audits made pursuant to this part, so that **the** additional audits or reviews build upon audits performed in accordance with this part.

(7) Coordinate a management decision for audit findings that **affect the** Federal programs of more than one agency.

(8) Coordinate **the** audit work and reporting responsibilities among auditors to achieve **the** most cost-effective audit.

(9) For biennial audits permitted under **§___.220,** consider **auditee** requests to qualify as a **low-risk auditee** under **§___.530(a).**

(b) **Oversight agency for audit responsibilities.** An **auditee** which does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency determined in accordance **with §_ _105. The** oversight agency for audit:

(1) Shall provide technical advice to **auditees** and auditors as requested.

(2) May assume all or some of the responsibilities normally performed by a cognizant agency for audit.

(c) Federal awarding agency responsibilities. The Federal awarding agency shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each recipient of the CFDA title and number, award name and number, award year, and if the award is for R&D. When some of this information is not available, the Federal agency shall provide information necessary to clearly describe the Federal award.

(2) Advise recipients of requirements imposed on them by Federal laws, regulations. and the provisions of contracts or grant agreements.

(3) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of this part.

(4) Provide technical advice and counsel to auditees and auditors as requested.

(5) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.

(6) Assign a person responsible for **providing** annual updates of the compliance supplement to OMB.

(d) **Pass-through entity responsibilities.** A pass-through entity shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the awared is R&D, and name of Federal agency. When some of this **information is** not available, the pass-through entity shall provide the best information available to describe the Federal award.

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending $300,000 or more in Federal awards during the subrecipients's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.

(7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

§___.405 Management decision.

(a) **General.** The management decision shall clearly state whether or not the audit findings is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be **given. Prior** to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.

(b) **Federal agency.** As provided in **§___.**400(a)(7), the cognizant agency for audit shall be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency. As provided in **§___.400(c)(5),** a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients. Alternate arrangements may be made on a case-by-case basis by agreement among the Federal agencies concerned.

(c) Pass-through entity. As provided in **§___.400(d)(5),** the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) **Time requirements.** The entity responsible for making the management decision shall do so within six months of receipt of the audit report. Corrective action should be initiated within six months after receipt of the audit report and proceed as rapidly as possible.

(e) Reference numbers. Management decisions shall include the reference numbers the auditor assigned to each audit finding in accordance with **§___.510(c).**

Subpart E-Auditors

§___.500 Scope of audit.

(a) **General.** The audit shall be conducted in accordance with GAGAS. The audit shall cover the entire operations of the auditee; or, at the option of the auditee, such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year, provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which **shall be** considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards shall be for the same fiscal year.

(b) **Financial statements.** The auditor shall determine whether the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles. The auditor shall also determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole.

(c) Internal control. (1) In addition to the requirements of GAGAS, the auditor shall perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs.

(2) Except as provided in paragraph (c)(3) of this section, the auditor shah:

(i) Plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(2)(i) of this **section.**

(3) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(2) of this section are not required for those compliance requirements. However, the auditor shall report a reportable condition (including whether any such condition is a material weakness) in accordance with **§___.510,** assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(d) **Compliance.** (1) In addition to the requirements of GAGAS, the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.

(2) The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement.

(3) For the compliance requirements related to Federal programs contained in the compliance supplement, an audit of these compliance requirements will meet the requirements of this part. Where there have been changes to the compliance requirements and the changes are not reflected in the compliance supplement, the auditor shall determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplement, the auditor should use the types of compliance requirements contained in the compliance supplement as guidance for identifying the types of compliance requirements to test, and determine the requirements governing the Federal program by reviewing the provisions of contracts and grant agreements and the laws and regulations referred to in such contracts and grant agreements.

(4) The compliance testing shall include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient evidence to support an opinion on compliance.

(e) Audit follow-up. The auditor shall follow-up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with §___.315(b), and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor shall perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year.

(f) Data Collection Form. As required in §___.320(b)(3), the auditor shall complete and sign specified sections of the data collection form.

§___.505 Audit reporting.

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) A report on internal control related to the financial statements and major programs. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph **(d)** of this section.

(c) A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph **(d)** of this section.

(d) A schedule of findings and questioned costs which shall include the followign three components:

(1) A summary of the auditor's results which shall include:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses;

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee;

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses;

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings which the auditor is required to report under **§___.510(a);**

(vii) An identification of major programs;

(viii) The dollar threshold used to distinguish between Type A and Type B programs, as described in **§___.520(b);** and

(ix) A statement as to whether the auditee qualified as a low-risk auditee under **§___.530.**

(2) Findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(3) Findings and questioned costs for Federal awards which shall include audit findings as defined in **§___.510(a).**

(i) Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) which relate to the same issue should be presented as a single audit finding. Where practical, audit findings should be organized by Federal agency or pass-through entity.

(ii) Audit findings which relate to both the financial statements and Federal awards, as reported under paragraphs (d)(2) and (d)(3) of this section, respectively, should be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

§___.510 Audit findings.

(a) Audit findings reported. The auditor shall report the following as audit findings in a schedule of findings and questioned costs:

(1) Reportable conditions in internal control over major programs. The auditor's determination of whether a deficiency in internal control is a reportable condition for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.

(2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program. The auditor's determination of whether a noncompliance with the provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement.

(3) Known questioned costs which are greater than $10,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considered the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than $10,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs which are greater than $10,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program which is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program which is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than $10,000, then the auditor shall report this as an audit finding.

(5) The circumstances concerning why the auditor's report on compliance for major programs is other than an unqualified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with §___.315(b) materially misrepresents the status of any prior audit finding.

(b) Audit finding detail. Audit findings shall be presented in sufficient detail for the auditee to prepare a corrective action plan and take corrective action and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information shall be included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award number, is not available, the auditor shall provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) Identification of questioned costs and how they were computed.

(5) Information to provide proper perspective for judging the prevalence and consequences of the audit fmdings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

(6) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.

(7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding,

(8) Views of responsible officials of the auditee when there is disagreement with the audit findings, to the extent practical.

(c) Reference numbers. Each audit finding in the schedule of findings and questioned costs shall include a reference number to allow for each referencing of the audit findings during follow-up.

§___.515 Audit working papers.

(a) Retention of working papers. The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.

(b) **Access to working papers.** Audit working papers shall be made available upon request to the cognizant or oversight agency for audit or its designee, a Federal agency providing direct or indirect funding, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

§___.520 Major program determination.

(a) **General.** The auditor shall use a risk-based approach to determine which Federal programs are major programs. This risk-based approach shall include consideration of: Current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs **(b)** through (i) of this section shall be followed.

(b) **Step 1.** (1) The auditor shall identify the larger Federal programs, which shall be labeled Type A programs. Type A programs are defmed as Federal programs with Federal awards expended during the audit period exceeding the larger of:

(i) $300,000 or three percent (.03) of total Federal awards expended in the case of an auditee for which total Federal awards expended equal or exceed $300,000 but are less than or equal to $ 100 million.

(ii) $3 million or three-tenths of one percent (.003) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $ 100 million but are less than or equal to $ 10 billion.

(iii) $30 million or 15 hundredths of one percent (.0015) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $ 10 billion.

(2) Federal programs not labeled Type A under paragraph (b)(l) of this section shall be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans significantly affects the number or size of Type A programs, the auditor shall consider this Federal program as a Type A program and exclude its values in determining other Type A programs.

(4) For biennial audits permitted under §___.220, the determination of Type A and Type B programs shall be based upon the Federal awards expended during the two-year period.

(c) **Step** 2. (1) The auditor shall identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it shall have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, it shall

have had no audit findings under **§___.510(a).** However, the auditor may use judgment and consider that audit findings from questioned costs **under §___.510(a)(3)** and **§ .510(a)(4),** fraud under **§___.510(a)(6),** and audit follow-up for the summary schedule of prior audit findingsunder **§___.510(a)(7)** do not preclude the Type A program from being low risk. The auditor shall consider: the **criteria in §___.525(c), §___.525(d)(1), §___.525(d)(2), and §___.525(d)(3);** the results of audit follow-up; **whether any** changes in personnel or systems affecting a Type A program have significantly increased risk; and apply professional judgment in determining whether a Type A program is low risk.

(2) Notwithstanding paragraph **(c)(** 1) of this section, OMB may approve a Federal awarding agency's request that a Type A program at certain recipients may not be considered low-risk. For example, it may be necessary for a large Type A program to be audited as major each year at particular recipients to allow the Federal agency to comply with the Government Management Reform Act of 1994 (31 U.S.C. 35 15). The Federal agency shall notify the recipient and, if known, the auditor at least 180 days prior to the end of the fiscal year to be audited of **OMB's** approval.

(d) **Step 3.** (1) The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in **§___.525.** However, should the auditor select Option 2 under Step 4 (paragraph (e)(2)(i)(B) of this section), **the auditor** is not required to identify more high-risk Type B programs than the number of low-risk Type A programs, Except for known reportable conditions in internal control or compliance problems as discussed in **§___**.525(b)(l), **§___.525(b)(2),** and **§___.525(c)(1),** a single criteria in **§___.525** would seldom cause a Type B program to be considered high-risk.

(2) The auditor is not expected to perform risk assessments on relatively small Federal programs. Therefore, the auditor is only required to perform risk assessments on Type B programs that exceed the larger of:

(i) $100,000 or three-tenths of one percent **(.003)** of total Federal awards expended when the **auditee** has less than or equal to $100 million in total Federal awards expended.

(ii) $300,000 or three-hundredths of one percent **(.0003)** of total Federal awards expended when the **auditee** has more than **$** 100 million in total Federal awards expended.

(e) **Step** 4. At a minimum, the auditor shall audit all of the following as major programs:

(1) All Type A programs, except the auditor may exclude any Type A programs identified as low-risk under Step 2 (paragraph **(c)(l)** of this section).

(2) (i) High-risk Type B programs as identified under either of the following **two** options:

(A) **Option 1.** At least one half of the Type B programs identified as high-risk under Step 3 **(paragraph (d) of this** section), except this paragraph **(e)(2)(i)(A)** does not require the auditor to audit more high-risk Type B programs than the number of low-risk Type A programs identified as low-risk under Step 2.

(B) **Option** 2. One high-risk Type B program for **each** Type A program identified as low-risk under Step 2.

(ii) When identifying which high-risk Type B programs to audit as major under either Option **l** or 2 in paragraph **(e)(2)(i)(A)** or(B), the auditor is encouraged to use an approach which provides an opportunity for different **high-**risk Type B programs to be audited as major over a period of time.

(3) Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in paragraph **(f)** of this section. This paragraph (e)(3) may require the auditor to audit more programs as major than the number of Type **A** programs.

(f) Percentage of **coverage rule.** The auditor shall audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 50 percent of total Federal **awards** expended. If the **auditee** meets the criteria in **§___.530** for a low-risk **auditee,** the auditor need only audit as major programs Federal

programs with Federal awards expended that, in the aggregate, encompass at least 25 percent of total Federal awards expended.

(g) Documentation of risk. The auditor shall document in the working papers the risk analysis process used in determining major programs.

(h) **Auditor's judgment.** When the major program determination was performed and documented in **accordance** with this part, the auditor's judgment in applying the risk-based approach to determine major programs shall be presumed correct. Challenges by Federal agencies and pass-through entities shall only be for clearly improper use of the guidance in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor shall consider this guidance in determining major programs in audits not yet completed.

(i) **Deviation from use of risk criteria.** For the first-year audits, the auditor may elect to determine major programs as all Type A programs plus any Type B programs as necessary to meet the percentage of coverage rule discussed in paragraph **(f)** of this section. Under this option, the auditor would not be required to perform the procedures discussed in paragraphs (c), **(d),** and **(e)** of this section.

(1) **A first-year** audit is the first year the entity is audited under this part or the first year of a change of auditors.

(2) To ensure that a frequent change of auditors would not preclude audit of high-risk Type B programs, this election for first-year audits may not be used by an **auditee** more than once in every three years.

§___.525 Criteria for Federal program risk.

(a) **General.** The auditor's determination should be based on an overall evaluation of the risk of noncompliance **occurring** which **could** be material to the Federal program. The auditor shall use auditor judgment and consider criteria, such as described in paragraphs **(b),** (c), and **(d)** of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with **auditee** management **and** the Federal agency or pass-through entity.

(b) **Current and prior audit experience.** (1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the **control** environment over Federal programs and such factors as the expectation of management's adherence to applicable laws and regulations and the provisions of contracts and grant agreements and the competence **and experience of** personnel who administer the Federal programs.

(i) A Federal program administered under multiple internal control structures may have higher risk. **When** assessing risk in a large single audit, the auditor shall consider whether **weaknesses** are isolated in a single operating unit (e.g., one college campus) or pervasive throughout the entity.

(ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

(iii) The extent to which computer **processing** is used to administer Federal programs, as well as the complexity of that processing, should be considered by the auditor in assessing **risk.** New **and** recently modified computer systems may also indicate risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

(3) Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) Oversight exercised by Federal agencies and pass-through entities. (I) Oversight exercised by Federal agencies or pass-through entities could indicate risk. For example, recent monitoring or other reviews performed by an oversight entity which disclosed no significant problems would indicate lower risk. However, monitoring which disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrent of OMB, may identify Federal programs which are higher risk. OMB plans to provide this identification in the compliance supplement.

(d) **Inherent risk of the Federal program.** (1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have a high-risk for time and effort reporting, but otherwise be at low-risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, laws, regulations, or the provisions of contracts or grant agreements may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

§___.530 Criteria for a low-risk auditee.

An auditee which meets all of the following conditions for each of the preceding two years (or, in the case of biennial audits, preceding two audit periods) shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with **§___.520**:

(a) Single audits were performed on an annual **basis** in accordance with the provisions of this part. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee, unless agreed to in advance by the cognizant or oversight agency for audit.

(b) The auditor's opinions on the financial statements and the schedule of expenditures of Federal **awards were** unqualified. However, the cognizant or oversight agency for audit may judge that an opinion qualification does not affect the management of Federal awards and provide a waiver.

(c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. However, the cognizant or oversight agency for audit may judge that any identified material weaknesses do not affect the management of Federal awards and provide a waiver.

(d) None of the Federal programs had audit findings from any of the following in either of the preceding two years (or, in the case of biennial audits, preceding two audit periods) in which they were classified as Type A programs:

(1) Internal control deficiencies which were identified as material weaknesses;

(2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or

(3) Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.

Appendix A to Part ___ - Data Collection Form (Form SF-SAC)
[insert SF-SAC after finalized]

Appendix B to Part - Circular A- 133 Compliance Supplement

Note: The provisional "Circular A- 133 Compliance Supplement" is available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503 and the OMB Home Page under the "OMB Documents", in the "Grants Management" section.

NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

National Boating Education Standards

Approved September 22, 1999

State-Federal Partnerships

Produced under a grant from the Aquatic Resources (Wallop-Breaux) Trust Fund Administered by the U.S. Coast Guard

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Disclaimer

NASBLA and affiliated organizations do not ;undertake to verify the continuous adherence by courses or instructors to every applicable standard or guideline. Nor does the National Association of State Boating Law Administrators warrant, guarantee, or insure that compliance with these standards will prevent any or all injury or loss that may be caused by or associated with any person's use of boats, facilities, equipment, or other items or activities that are the subjects of these standards; nor does the National Association of State Boating Law Administrators assume any responsibility or liability for any such injury or loss.

Further, the National Association of State Boating Law Administrators hereby expressly disclaims any responsibility, liability or duty to affiliated courses, organizations, instructors, boaters or their families, for any such liability arising out of injury or loss to any person by the failure of such organizations, courses, or instructors to adhere to these standards.

Adapted from: American Camping Association. (1998) Accreditation Standards for Camp Programs and Services. American Camping Association: Martinsville, IN.

The National Association of State Boating Law Administrators

Since its inception, the National Association of State Boating Law Administrators, Inc. has functioned effectively as the voice of the states and territories regarding state boating law enforcement and boating safety. Today, NASBLA coordinates approval of state and private boating education programs, promotes uniform boating regulations through the adoption of model acts and policies, develops methods to improve the nation's boating accident database, fosters cooperation between the U.S. Coast Guard and the states, and strives for the general advancement of boating safety. Since the implementation of the state assistance program, the U.S. Coast Guard has relied on NASBLA to assist in the efficient and effective management of the federal funds.

Membership in the association consists of state officials responsible for administering and/or enforcing state boating laws. "State" means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, America Samoa, Northern Mariana Islands and the District of Columbia. Officers of the association consist of a President, Vice-President, Secretary-Treasurer, and an executive board composed of the officers, two other members-at-large, the immediate Past President, and the Presidents of the three regional boating administrators associations. The Board is augmented with an Executive Director and an Executive Secretary. Officers are elected annually and take office on the first day following the conference at which they were elected, and hold office until the last day of the conference at which their successors are chosen.

The association is recognized for its stewardship of recreational boating safety. For more than 35 years, NASBLA has worked closely with the US. Coast Guard, the States and others to insure that the intent of the congress to promote uniformity, reciprocity and comity among the various states was given priority. Testimony of this is the many resolutions and model acts that have been generated by the association. In doing this NASBLA brings to the table, highly qualified personnel in the fields of boating law enforcement, education, boating safety and on-the-water search and rescue.

Preamble

The purpose of these standards is to educate boating education professionals regarding the practices and procedures followed generally within the boating education community. That purpose is furthered to the extent that the standards provide a basis for accreditation of boating education courses by the National Association of State Boating Law Administrators (NASBLA). It is not the intention of The National Association of State Boating Law Administrators to attempt to include every practice or procedure that might be desirable or implemented within a boating education course since the conditions, facilities, and goals of all courses are not identical or uniform.

The accreditation programs of the National Association of State Boating Law Administrators are designed to be applied only to those boating education courses that are consistent with the stated definitions and eligibility requirements. Courses outside of these definitions or criteria are not subject to our standards and are not considered for accreditation.

Standards Development - NASBLA developed its minimum content for boating education courses over a decade ago. These standards have served as a guide for state, non-profit and commercial providers to follow in developing boating education materials. In July of 1998. NASBLA contracted with a research team anchored at the Pennsylvania State University to evaluate the existing guidelines and develop a new minimum "standard of care" for boating education. This new set of standards is intended to prescribe the minimum body of knowledge necessary to effect safe, legal, and enjoyable boating. In addition, the proposed standard of care is predicated on reducing risk in recreational boating based on empirical accident and boating violation statistics.

Relevant documents listed in the reference section of this document were reviewed and interviews were conducted with nationally prominent and recognized boating educators. A working draft of the standards was written and submitted to the Standards Advisory Committee for review and comment. Several more drafts of the standards were completed, each going through a revision process. In December of 1998, the Penn State team met with the Standards Advisory Committee for two days of review and comment. The result of that meeting was a draft set of standards to be validated and pilot tested in the second phase of the study.

Phase 2 involved three separate tasks carried out between January and August, 1999. Task 1 solicited the input of almost 150 boating educators representing major national boating organizations. This survey asked boating experts whether or not each proposed standard should be included as a minimum boating education standard, as well as the relative importance of each standard. Task 2 involved a review of nine boating education course/texts using the draft standards. This task used volunteers who evaluated their own course materials against the standards, along with independent reviews by the research team and NASBLA representatives. The purpose of Task 2 was to simulate the NASBLA function of reviewing boating courses submitted to NASBLA for compliance with each of the National Boating Education Standards. Task 3 of the evaluation sought to understand how instructors, presented with the draft standards, dealt with the design, implementation, and teaching of a boating safety course using these standards. In this task the purpose was to gain a deeper understanding of the standards through intensive observations and discussions with boating educators using the standards. Each of the three tasks was structured to gain information that would be useful in revising the standards.

Briefly, the results of these three tasks showed a strong consensus among boating educators that the draft standards represent the minimum information that should be taught in an eight hour boating safety course. The evaluation uncovered several standards that should be moved from the recommended section to the required section. Also, there were many wording changes that increased the clarity of the standard or illuminated aspects of the standard not emphasized in the previous draft. The information gathered in this evaluation is extensive and is summarized in a separate detailed report submitted to NASBLA. The final step in the standards development process was another full day meeting with the Standards Advisory Committee to review the phase 2 findings and resulting standards. The current document presents the final

standards, as approved by the Standards Advisory Board, approved by the Education Committee and overall membership of NASBLA on September 22, 1999.

Intended Audience - These standards were developed for use by boating education course instructors, boating education text authors, and other boating education professionals who intend to submit course materials for NASBLA review and accreditation. It is anticipated that materials submitted for NASBLA course accreditation based on these standards will require less revisions than similar materials submitted in the past. It is hoped that this document will clearly communicate with prospective authors what must be included to provide a minimum standard of care, resulting in a more efficient course review process.

Applicability and Definitions - These standards apply to courses for operators of recreational motorized boats and sailboats. It is recognized that there are different types of boating courses with different target audiences. These standards identify the core topics that must be covered in most courses, and this single set of standards replaces NASBLA's previous separate standards for general boating courses and PWC courses.

The standards use the term, "course," to refer to all components of a boating education course, including instruction, texts, supplemental materials, and tests. A boating course may be presented in various formats, including classroom instruction, home study, video, distance learning, CD-ROM, or any combination of these formats. "Boat" is used to refer to all types of recreational watercraft. It is expected that any unique words or terminology used in courses submitted will be clearly defined in the course materials.

MINIMUM Standards - These standards were intended to convey to organizations and individuals the **minimum body of knowledge that must be included in a short, 6-8 hour, boating education course.** Instructors, text authors, boating professionals, and organizations are encouraged to go beyond the standards when in their judgment and experience it assists the boat operator to boat more safely. In addition, the standards are intended to show just the minimum content of the course materials, not the sequence or organization of the material. Although the standards are organized in a particular way, course/text developers are welcome to organize their information as they prefer.

Required Materials for NASBLA Review - It is assumed that the standards will be met in various ways and that materials submitted to NASBLA may include course texts, supplemental texts, instructor guidelines or outlines, and handout materials. State-specific and localized information that is relevant to the particular course audience may be provided through any of these media (see standard 8.2 for the required content of this material). To assist in the determination of whether the standards are met, the learning objectives and exams must be included in the package of materials submitted to NASBLA for review.

Accuracy Requirement – It is mandatory that all information contained in course materials receiving NASBLA accreditation be factually correct.

Standards Revision - At this point in time procedures for the revision of the National Boating Education Standards are being developed. It is expected that any new proposed standards or revisions to the standards will be subject to the same rigorous review that the present standards have undergone.

The National Boating Education Standards

NASBLA accredited boating education courses and texts will address at least the following minimum standards.

The Boat

Standard 1.1 - Boat Capacities

The course will describe how to determine acceptable loading based on locating and determining a boat's gross load capacity (total weight and # persons) from the boat capacity plate and horsepower recommendations.

Rationale - A boat operator must be able to avoid capsizing situations by adhering to boat capacity limits and properly distributing the weight in the boat for safe operation. Coast Guard accident statistics indicate that capsizing was the leading cause of boater fatalities in the last five years. Many capsizing incidents have resulted from overloaded boats.

Standard 1.2 - Boat Registration Requirements

The course will describe:

1. that all motorized boats and many other boats are required to be registered (check state requirements),
2. requirements for hull identification number,
3. the required certificate of number (registration documentation), and external display of numbers,
4. the rquirements for federally documented vessels,
5. reciprocity regulations, and
6. registration requirements in the boat's state of principal use.

Rationale - In a recent survey of state boating law administrators (NASBLA 1998), 20% of boating citations were due to improper display of vessel registration numbers. Understanding the legal requirements for boat registration will help boaters to avoid unnecessary violations and resulting fines.

Boating Equipment

Standard 2.1 - Personal Flotation Device Types and Carriage

The course will describe the types of Coast Guard approved personal flotation devices (PFDs) and their respective uses, advantages, and disadvantages. The course will also describe the number and types of PFDs that must be carried on the boat according to applicable regulations.

Rationale - U. S. Coast Guard statistics consistently show that at least 85% of the people who died in boating accidents were not wearing PFDs. Nationally. carrying improper PFDs for the number and types of passengers on board is the second highest category of citations issued to boaters. Special attention must be given to the use of hybrid Type 5 inflatable PFDs and special restrictions for totally inflatable PFDs.

Standard 2.2 – Personal Flotation Device Sizing and Availability

The course will communicate that PFDs must be readily accessible and correctly sized for the persons using them.

Rationale - Capsizing and falls overboard accounted for 488 fatalities in 1997 – nearly 60% of all boating fatalities. Proper use of PFDs is essential for boater safety. The participant needs to understand how to adjust PFDs of various types and styles for themselves and other passengers.

Standard 2.3 – Wearing Personal Flotation Devices

The course must inform boat operators of the advisability of wearing PFDs at all times. The course must emphasize the need for boat operators to be alert to changing boating conditions and to inform all persons on board they should be wearing PFDs in dangerous conditions such as high boat traffic, severe weather, dangerous water conditions, dangerous local hazards, distance from shore, operation at night, boating alone, etc. The course will address the difficulty of putting PFDs on in the water.

Rationale - Nine out of 10 drowning victims in 1997 were not wearing lifejackets. It is essential that boater safety education repeatedly emphasize the importance of wearing PFDs, along with constant vigilance and attention to changing conditions and adapting behavior to those conditions. Hazardous waters and weather are major causes of deaths in boating accidents. In 1997 these two factors caused nine percent of reported boating accidents but accounted for 2 1% of all boating fatalities.

Standard 2.4 - Personal Flotation Device Serviceability

The course will describe the characteristics of serviceable (good) PFDs and when to replace PFDs due to excessive wear or damage. Special attention must be given to the maintenance of inflatable PFDs as per manufacturer recommendations.

Rationale - PFDs are often subjected to rough handling, ultra violet sunlight, and improper storage. These conditions reduce the ability of the PFD to perform its intended function. The operator should be able to distinguish serviceable PFDs and identify the key conditions that necessitate replacing the PFD. Regular maintenance checks are essential to ensure the proper functioning of all PFDs and especially the inflatable PFD.

Standard 2.5 - Fire Extinguishers

The course will describe the legal requirements for fire extinguishers on recreational boats, the kind of fire extinguishers needed for different types of fires, the importance of placing fire extinguishers in a readily accessible location, and the need for regular inspection of fire extinguishers.

Rationale - U.S. Coast Guard requirements specify the number and types of fire extinguishers that must be carried for class "B" fires on boats of various sizes. Boat operators must be able to respond quickly in the event of fire. Anticipating the emergency by outfitting the vessel with the appropriate equipment and understanding how to use it reduces exposure to danger.

Standard 2.6 - Back-Fire Flame Control Device

The course will describe the purpose and maintenance of a back-fire flame control device (a required device on all enclosed engines with a carburetor).

Rationale - The U. S. Coast Guard requires that boats with gasoline engines be quipped with an acceptable means of backfire flame control.

Standard 2.7 – Ventilation Systems

The course will discuss the ventilation system rquirements for different types of boats.

Rationale – The U. S. Coast Guard requires that all recreational boats which "use gasoline engines for electrical generation, mechanical power or propulsion" must be quipped with a ventilation system. Gasoline vapors can collect in the bilge and explode. "Boat owners are responsible for keeping their boats' ventilation in operating condition."

Standard 2.8 – Navigation Light Equipment

The course will cover the navigation light requirements for recreational boats from applicable sections of Navigation Rules (Part C) as summarized in [redacted] Safety Tips for [redacted] Boats. (Also see standard 5.3.7)

Rationale – Recreational boats are required to display navigation lights between sunset and sunrise and during periods of reduced visibility. Boating accident statistics indicate that nighttime collisions account for a significant proportion of total boat collisions. Boat operators who know and follow navigation and anchorage light requirements can help reduce nighttime collisions. Many of the navigation rules are devoted to navigation lights. The Coast Guard pamphlet. [redacted], provides a summary of the most relevant lighting requirements for recreational boaters.

Standard 2.9 - Sound Signaling Equipment

The course will describe the types and use of sound producing devices required on recreational boats. (Also see standard 5.3.6).

Rationale -- Sound devices are required equipment on recreational boats. In certain boating conditions, boat operators must be able to alert other boats to their presence or operation intentions. The number one type of reported boating accident is "collision with another vessel," underscoring the importance of carrying the appropriate sound warning equipment on board.

Also see Standard 53.10 – Visual Distress Signals

Trip Planning and Preparation

Standard 3.1 - Checking Local Weather And Water Conditions

The course will describe how to make informed boating decisions based on forecasted local weather and water conditions. It will also describe dangerous weather conditions such as strong wind, storms, lightning, hun-icanes, fog, and their importance in trip planning.

Rationale - Capsizing continues to be reported as one of the leading or contributing causes of boater fatalities. Boat operators must be able to use weather information to make judgments about probable water conditions and decisions about whether to continue with the float plan. Often poor weather in combination with other unexpected emergencies accelerates the danger to boat operators and their passengers.

Standard 3.2 - Checking Local Hazards

The course will describe how to obtain information about local hazards that may impede the operation of a recreational boat.

Rationale - Boating accidents continue to indicate that a lack of understanding of local conditions contributes to boating fatalities. Hazards requiring special attention include: low-head dams, rapids, sudden winds, tides, currents, white water, overhead cables, bridges, waves, and heavy boating traffic.

Standard 3.3 - Filing a Float Plan

The course will describe the importance of notifying someone of your boating plans and the basic information that should be included.

Rationale - In the event of an accident, rescue authorities can respond much faster and in a more focused way if a float plan has detailed information about the expected destination, boat description, course, time of departure, and time of expected return.

Standard 3.4 - Boat Preventive Maintenance

The course will communicate the need for regular inspection and maintenance of the boat and its key components (e.g., through-hull fittings, motor, electrical system, fuel system).

Rationale - Keeping a boat in good working order is as much a part of the boating experience as boating itself. Almost all elements of safety revolve around the fact that the boat has been maintained and all its parts and systems are able to perform as they were designed. Negligence in this area will eventually lead to an unsafe or disastrous experience. In the last few years, 27% of vessels in reported accidents involved boat equipment/maintenance related factors. In addition, 34% of boating citations issued were due to boat equipment-related violations.

Standard 3.5 – Transporting and Trailering

The course will describe procedures to prevent trailering accidents and resulting injury and property damage. The course will cover safe trailering procedures including: 1) safe towing preparation, 2) road handling factors when pulling a trailer, 3) launching a boat, and 4) retrieving a boat from the water.

Rationale – The majority of recreational boats in the U.S. are trailered to and from the water. A boat trailer is one part of the entire boating package, which includes boat, trailer, hitch, and towing vehicle. Neglecting the trailer's maintenance can result in damage to a boat, the towing vehicle, or both, as well as create a hazard for other boats and vehicles.

Standard 3.6 - Fueling Procedures

The course will provide information on proper procedures for fueling, ventilation during fueling, and protection of the marine environment during fueling.

Rationale - Gasoline and gasoline vapors are extremely explosive. Ignition of spilled fuel or vapors continues to cause boating accidents, injuries, and fatalities. Following safe fueling procedures reduces the opportunity for gasoline explosions.

Standard 3.7 - Pre-Departure Checklist & Passenger Communication

The course must describe the importance of using a pre-departure checklist and conducting an onboard safety discussion with passengers. Passengers should be informed about the location of PFDs, fire extinguishers, flares, first-aid kit, discharge and management of waste procedures, anchoring procedures, emergency radio operation (if applicable), storm/rough weather procedures, line handling, emergency boat operation, and falls overboard procedure.

Rationale - The mental and physical rehearsal of procedures for various boating emergencies can reduce the time passengers, crew and operators are exposed to dangerous conditions and increase the efficiency of rescue operations. Boat operators should inform passengers of relevant safety information to prevent accidents, increase safety, and reduce response time in the event of an emergency.

Marine Environment

Standard 4.1 – Environmental Laws and Regulations

The course will describe the environmental laws and regulations concerning littering (e.g.. garbage and plastic), waste management plans, and display of information placards (where applicable).

Rationale - Boat operators should remember that water pollution ruins not only the aesthetic beauty of the area, but harms human life, marine life and damages boating equipment. The degree and amount of garbage adrift on our coastal waterways continues to increase. Plastic, which many species mistake as food, is a big threat to marine life. Birds are found entangled in plastic rings, fishing line, or nets. Various federal and state laws prohibit throwing, discharging or depositing any sort of refuse matter in the waters of the U.S. Other acts require boats of various sizes to display placards and keep records of their refuse disposal. A person who violates any of the rquirements is liable to civil penalties, fines, and imprisonment. Regional, state, and local laws may also have specific restrictions on refuse disposal.

Standard 4.2 - Human Waste Disposal

The course will describe the proper procedure for disposal of human waste from recreational boats and how to identify no discharge zones and pumpout station locations.

Rationale - It is illegal to discharge raw sewage from a vessel within territorial waters (within the three-mile limit), the Great Lakes, and navigable rivers. Recreational boats are not required to be equipped with a toilet. However, the Clean Water Act requires that, if a toilet is installed, it must be equipped with a Coast Guard approved and operable Marine Sanitation Device (MSD).

Standard 4.3 – Disposal of Toxic Substances

The course will describe procedures for the prevention of spills and improper disposal of toxic substances such as fuels, oils, and cleaning products into the marine environment and the associated fines for non-compliance.

Rationale – Oil residue tends to build up in the bilges of boats and can easily be discharged directly in the water. The federal Water Pollution Control Act prohibits the discharge of oil or hazardous substances into navigable waters. Powerboats must have the capacity to retain oily mixtures on board and to transfer them to an approved reception facility.

Safe Boat Operation

Standard 5.1 - Operator Responsibilities

The course will describe a boat operator's ultimate responsibility for safety and all activity aboard the boat. This responsibility extends to other water users and includes: controlling boat speed, obeying no wake/limited wake restrictions, refraining from careless, reckless, or negligent operations on the water, controlling boat noise, and other general boater courtesy.

Rationale – Boaters need to respect the rights of other people who live, recreate, or work on the water. Approximately 80% of all reported boating accidents involve operator controllable factors. The most common types of such factors include operator inattention or carelessness, operator inexperience, excessive speed, and failure to maintain a proper lookout. According to the Nighttime Boating Accident & Fatality Study, operator error is to blame for the majority of nighttime boating accidents and fatalities.

Negligent operation of a recreational boat which endangers lives or property is illegal. Nationally, 32% of boating citations in recent years were due to improper boat handling (e.g., negligent operation, excessive speed, operating in restricted areas, no wake area violations, collisions, going too fast at night, etc.).

Standard 5.2 - Influence of Drugs and Alcohol on Boat Operation

The course will describe the effects of drinking alcohol or using drugs while boating, and the boating laws pertinent to operating a boat while under the influence.

Rationale – One-third of all boating fatalities are drug or alcohol related. It is illegal to operate a boat while under the influence of such substances. Further, according to the Nighttime Boating Accident & Fatality Study, alcohol was by far the leading contributing cause (53%) of nighttime boating accidents and fatalities.

Standard 5.3 - Navigation Rules of the Road

The course will describe safe boating operation and good seamanship, including at least the following navigation rules:

5.3.1 – Definitions relevant to understanding the navigation rules [Navigation Rule 3]
5.3.2 – Rule of responsibility (to act in a reasonable and prudent manner consistent with the ordinary practices of recreational boating) [Navigation Rule 2]
5.3.3 – Proper lookout [Navigation Rule 5]
5.3.4 -Safe speed [Navigation Rule 6]
5.3.5 -Collision avoidance rules [Navigation Rules 7, 8, 11-18]
5.3.6 – Operation within narrow channels [Navigation Rule 9]
5.3.7 – Sound signals [Navigation Rules 32-37]
5.3.8 – Navigation light display and recognition [Navigation Rules 20-25]
5.3.9 – Restricted visibility [Navigation Rule 19]
5.3. IO – Visual distress signals [Navigation Rules 36-37]
5.3. 11 – Rendering Assistance [Chapter 23]

Rationale: - According to 1997 boating accident statistics, "collision with another vessel" was the most reported type of accident, resulting in 1,309 injuries, 80 fatalities, and 7.3 million dollars in property damage. "Excessive speed" and "no proper lookout" were the third and fourth most common factors in boating accidents involving operator controllable factors. The Navigation Rules were designed to reduce accidents by standardizing boat navigation. Various laws require recreational boaters to operate according to established rules such as those mentioned above. More than two-thirds of boating accidents involving operator controllable factors are caused by violations of one or more of these navigation rules.

Standard 5.4 - Aids to Navigation

The course will describe the Federal U.S. Aids to Navigation (USATONS) and the Uniform State Waterway Marking System (USWMS). The course must provide information about regulatory/informational markers (identified by orange bands on the top and bottom of each buoy) used to advise of situations, dangers, or directions indicating shoals, swim areas, speed zones, etc.

Rationale - Citations are regularly issued due to failure to obey regulatory markers. In order to navigate safely from place to place on the water, boat operators must depend on road signs just as we do on land. Aids to navigation are the road signs of the water. There are two systems of marking the waterways in the United States – U.S. Aids to Navigation (USATONS) and the Uniform State Waterway Marking System (USWMS). USATONS is a system prescribing regulatory markers and aids to navigation that mark navigable waters of the United States. USWMS is a system that prescribes regulatory markers and aids to navigation for navigable state waters. The USWMS may also mark the non-navigable internal waters of a state.

Note: Effective July 20, 1998, the United States Coast Guard commenced a five-year phased-in merger of the Uniform State Waterway Marking System with the United States Aids to Navigation System. This merger eliminates distinctions between the two systems and will ultimately create safer, less confusing waterways.

Standard 5.5 - Docking and Mooring

The course will describe common practices for docking and mooring a boat relative to boat size, type of boat, location, weather, and current.

Kationale – Significant boat/property damage, accidents and injuries result from docking and mooring of boats in marinas and boat ramp areas, particularly in adverse weather conditions. Docking techniques vary depending on wind, current, location, degree of boat traffic in the harbor, type of boat, size of boat and skills/abilities of the boater and crew.

Standard 5.6 – Anchoring

The course will describe the selection of anchors, related ground tackle, and their use for different types of boats in various boating conditions. The course must describe procedures for anchoring, use of anchors as safety devices in emergency situations, and the hazards of stern anchoring.

Rationale – Anchoring skills and decisions of where to anchor can make the difference between a successful or unsuccessful boating experience. Significant property and environmental damage can occur when improperly anchored boats slip anchor and drift into reefs, boats, marinas, or run aground.

Emergency Preparedness

Standard 6.1 - Rendering Assistance

The course will explain that, according to the Navigation Rules, boat operators are required to render assistance to a boat in distress to the extent they are able. (Also see standard 5.3.11)

Rationale – In the event of an emergency, individuals in charge of a vessel are required to provide assistance so far as they can do so without serious danger to their own vessel or the individuals on board their vessel. Assistance from other boaters can reduce the loss of life, injury or property damage resulting from boating accidents.

Standard 6.2 - Capsizing Emergencies

The course will describe how to prevent and respond to capsizing emergencies. These responses will include at least the following: donning lifejackets, taking a head count, staying with the craft when appropriate, signaling for assistance, using improvised floating aids, and initiation of procedures to recover people in the water.

Rationale – Every year, capsizing emergencies are the leading cause of boating fatalities. More significantly, in nearly half of the capsizing emergencies there was at least one fatality. These statistics underscore the need for boater education courses to stress the proper response/action in a capsizing emergency.

Standard 6.3 - Falls Overboard Emergencies

The course will describe procedures for preventing and responding to falls-overboard, including the proper response of persons on board for retrieval of a person in the water.

Rationale – Falls overboard are the second leading cause of boating fatalities. In 1997, 30% of total boating fatalities (243 deaths) resulted from falls overboard situations. Overloading, passenger movement on smaller crafts, and standing up contribute to many of the falls overboard accidents.

Standard 6.4 - Hypothermia Prevention

The course will describe the conditions under which hypothermia is likely to occur as well as its signs, symptoms, and prevention.

Rationale – Boaters have a much greater risk of dying when involved in a cold water immersion accident. Boaters' risk of dying increases with colder water temperatures. Sportsmen who hunt or fish from boats in cold weather are at greater risk of fatalities from capsizing or falling overboard. Water temperature varies by season and location.

Standard 6.5 - Fire Emergency Preparedness

The course will describe procedures to prevent and respond to boating fires such as proper use of fire extinguishers and basic knowledge of fire suppression principles.

Rationale - The potential for catastrophic emergencies from tire requires that boat operators take measures to prevent and be prepared to deal quickly and efficiently with fires. A key to understanding fire suppression is to know that eliminating one of the fire's key ingredients, fuel, oxygen. or heat, can extinguish the fire.

Standard 6.6 - Running Aground Prevention and Response

The course will describe how to prevent and respond to running aground for recreational boats.

Rationale – In 1997, groundings accounted for 15 fatalities, 217 injuries, and $1.3 million in property damage. Preventing running aground is an important boat operator competence. Following proper procedures in the event of a grounding can reduce or minimize fatalities, boat damage, submerged object damage, and responses by public and private entities for salvage operations.

Standard 6.7 - Accident Reports

The course will describe what kinds of boating accidents require an accident report as well as how, when, and where to file the report.

Rationale – Accident reports are legally rquired when the accident involves: 1) loss of life; or 2) Personal injury requiring medical treatment beyond first aid; or 3) property damage in excess of $500.00; or 4) complete loss of the boat. Proper filing of accident reports provides information that can be used to assist boating safety professionals to address the most serious concerns to boater safety.

Standard 6.8 - Boating Accident Report Form

The course will include a sample accident report form, which can be included in the textbook or as a separate handout.

Rationale – U.S. Coast Guard reports indicate that only 5 to 10 percent of non-fatal boating accidents are reported. Most accidents are not reported because of ignorance of the law and difficulty in enforcing the law. Every effort to assist boaters to report accidents may increase the rate of compliance in reporting accidents.

Other Water Activities

Standard 7.1 – Personal Watercraft and other Jet Propelled Watercraft

The course will state that a Personal Watercraft is defined as a boat and must observe all boating regulations. It must describe the unique characteristics of Personal Watercraft (PWC), including at least the following topics:

7.1.1 – Operational characteristics of PWCs , including steering, stopping and stability of PWC
7.1.2 – Off- throttle steering
7.1.3 – PWC load capacities as per manufacturer recommendations
7.1.4 – Reboarding a PWC
7.1.5 – The purpose and use of a Lanyard/Cut (Shut) off switch
7.1.6 – The purpose and use of a fuel reserve tank
7.1.7 – Laws and regulations
7.1.8 – Accident prevention
7.1.9 – Noise control
7.1.10 – Hours of operation

Rationale - Recreational boaters share waterways with personal water-craft or may themselves be operators of personal watercraft. Understanding the handling characteristics of personal watercraft can help keep adequate navigational distances to limit collisions and fatalities. PWC sales are growing faster than any other type of recreational boat, accounting for 30% of all sales. Of the 4,555 injuries from boating accidents in 1997, 40% involved personal watercraft. In addition, 27 more fatalities were reported with the use of PWCs in 1997 than in 1996, for an all time high of 84 fatalities. For these reasons, special attention needs to be addressed to PWC accident prevention.

Each PWC model has its own unique characteristics. New operators must read their owner's manual to understand the characteristics of their particular PWC. Knowing how to effectively handle a PWC also takes practice. New operators should practice their skills with an experienced operator who can guide them on controlling the PWC and making safe boating decisions.

PWCs operate differently than other boats. Releasing the throttle completely eliminates the ability to steer the craft. This is an important operating characteristic that is difficult for novice operators to conceive, particularly in situations of potential collisions.

PWC are highly maneuverable. The jet drive propulsion system is extremely responsive to slight turns of the handlebars. The responsiveness in maneuvering encourages operators of PWCs to try unusual stunts. These actions can push the operators to attempt maneuvers that are dangerous and beyond the safe operation of the PWC.

Operators must be able to reboard the PWC in deep water after falling off. This is most easily done from the rear (stem) of the craft. This maneuver is more challenging when the operator is tired. The weight of the person reboarding and the stability of the model PWC being used also affect the ease of reboarding.

Many states and local areas have laws and regulations specific to PWC operation and safety, including laws that deal with the preservation of the environment. Operators must understand these regulations in order to boat safely and legally.

PWC have special operating concerns that relate to the type of accidents these craft are most commonly involved in. A review of these accidents and how they could be prevented should be provided. For example, a proper lookout must be maintained when turning (look all around and behind before turning). Many accidents involving PWCs are caused by operators who do not own the PWC.

Making excessive noise is one way to make PWC presence on the water unpopular. PWC operators should avoid operating continuously in one area and should stay a reasonable distance from home and cottage owners trying to relax and enjoy the waterfront.

PWCs are not quipped with lights and, according to manufacturer recommendations, are not intended for nighttime use. Many states and localities further limit the hours of operation of PWCs.

Standard 7.2 - Water Skiing

The course will describe procedures to follow when pulling water-skiers or operating in the vicinity of water-skiing or other activities using towed devices.

Rationale – The forces generated by water skiers and their possible trajectory in a fall necessitate that each boat maintain as much distance as possible with a minimum of a 200-foot wide "ski-corridor" (100 feet on either side of the boat). "Skier mishaps" constituted the fifth most common type of boating accident as measured by total boats involved (445 boats in 1997) and injuries were reported in all but one of these accidents.

Standard 7.3 - Diving and Snorkeling

The course will describe how to recognize a diver down flag and the legal requirements for operating a boat in the vicinity of snorkeling or scuba diving activities.

Rationale – Recreational boats can present a hazard to divers in the water. Federal and state navigation rules may require that diving flags be displayed during diving activities. Flags can help prevent injuries by informing boat operators to keep a respectful distance.

Standard 7.4 - Hunting & Fishing

The course will inform people who fish and hunt from boats that they are boaters and need to follow safe boating practices. Information must be provided about accident risks unique to this group of recreational boaters.

Rationale - Fishermen and hunters often don't consider themselves boaters and thus pay little attention to learning and observing boating safety rules. In a recent survey, 50% of those who purchased boats say they bought them to go fishing. Approximately one-third of national boating fatalities occurred while people were fishing from a boat. Likewise, more hunters die each year from drowning and the effects of hypothermia than from gunshot wounds. Many water-based hunting and fishing accidents occur when a hunter reaches for a decoy, or the boat capsizes from an unbalanced load, or a person falls overboard while standing up.

Boating Education Practices

Standard 8.1 - Continuing Education

The course will outline the need for additional boating safety education and staying informed of changes in boating safety requirements.

Rationale – It is important for boat operators to understand that one of their responsibilities is to keep up-to-date with new developments in boating laws and safety information. State laws vary with regard to licensing, equipment requirements, accident reporting procedures, etc. Boating equipment and safety information available to boat operators is constantly changing and improving. Boat operators who stay abreast of these changes will be ready for new situations, thus improving their own boating enjoyment as well as the safety of all boating participants.

Standard 8.2 - State Specific Boating Information

The course will contain (as part of the text or a separate handout) state specific information in regard to boating laws/regulations and local boating conditions. The course will include the following topics as applicable:

8.2.1 - registration and titling requirements such as number of years registration decals are valid, expiration date of registration, decal placement.
8.2.2 - laws for required wearing of PFD's for children, certain types of boats, and for special boating activities such as personal watercraft, skiers and others being towed.
8.2.3 - additional equipment requirements such as anchor, lanyard, bailing devices, visual distress signals.
8.2.4 - mufflers and noise levels.
8.2.5 - requirements for waste discharge, no discharge zones, and litter laws.
8.2.6 - special requirements for mandatory education, licensing, rental operation, and proficiency test certifications.
8.2.7 - age/horsepower restrictions and adult supervision requirements for children.
8.2.8 - laws further defming careless, reckless, unsafe, and negligent operations such as becoming airborne and operating less than specified distances behind a water skier.
8.2.9 - boat speed limits and operation in zoned and restricted areas.
8.2.10 - laws on operating under the influence of drugs and alcohol such as implied consent and BAC levels.
8.2.11 - law enforcement officer authority and boater responsibility to comply.
8.2.12 - boat accident reporting requirements.
8.2.13 - a state approved boating accident report form.
8.2.14 - other laws or regulations as required by the state approving authority.

Rationale - Although course materials intended for national distribution do not need to include state specific information, it is assumed that sponsoring boating organizations have procedures in place to assure that instructors provide supplemental materials and instruction to meet the intent of this requirement. For state courses, the relevant state specific information must be included in the course materials.

Recommended Boating Safety Information

The following items contain recommended course content but are not considered part of the minimum standards for boater education courses.

R1 – Boat Types and Uses

The course should describe the common types of recreational boats, common hull designs, and their performance in various types of boating situations.

Rationale - Boat operators should understand the handling characteristics of various boat types so as to match the boat to the water and planned activity. Boat performance characteristics as determined by design features should be- known to a boat operator and factored into their boating decisions.

R2 - Boating Terms

The course should describe commonly used boating terms in addition to those terms required to follow the Navigation Rules. (see also standard 5.3.1).

Rationale - Knowing common boating terms could save time and confusion in the event of an emergency by enabling boat operators to secure the situation efficiently and communicate clearly.

R3 - Boat Theft Prevention

The course should contain information that addresses actions the boat owner can take to deter or prevent boat theft.

Rationale - Statistics indicate that boat theft is increasing. Boat owners can deter theft and assist law enforcement authorities through their actions and observations.

R4 - Communication Procedures

The course should describe the protocol and use of VHF marine radios and other equipment for contacting the Coast Guard or other rescue personnel in the event of a boating emergency.

Rationale - In the event of an emergency the boat operator must be able to respond quickly and communicate his or her situation to relevant authorities. Understanding how to use marine communication procedures is an essential element of responding to emergencies.

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