

1-44-40 (Continued)

D. Prior Approval Requirements:

1. Recipients are required to anticipate the full extent of their alteration and renovation needs; and to describe, justify in terms of essentiality, and budget for those costs in the initial application. Accordingly, approval of a budget prior to award of a grant or cooperative agreement will constitute prior approval of alteration and renovation costs that are incurred as anticipated. If, however, an unanticipated need for additional alteration and renovation arises subsequent to the award of the grant or cooperative agreement, recipients shall be required to submit the request for OSM approval.
2. Should any question arise concerning the application of criteria in paragraphs A or C above, the recipient is to seek clarification from OSM.

E. Inventory Requirements:

1. Each separate building alteration and renovation that exceeds a total cost of \$1,000 shall be inventoried and reported to OSM.
2. The recipient shall account for modifications at the expiration of a grant or cooperative agreement. (See section 1-44-40F and Chapter 1-410).
3. Retained properties/modifications shall be carried forward to subsequent grants or cooperative agreements.

- F. Disposal of Modified Properties. When assets acquired with OSM grant funds are sold, no longer available for use in a federally-sponsored program or used for purposes not authorized by OSM, OSM's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly-acquired assets is allowable.

1-44-50 ALLOWABLE COSTS

- A. Alteration and renovation costs charged to grants or cooperative agreements shall be limited to the costs of modifying existing space and utilities within a completed and finished structure. The cost of adapting any of the following building features to the needs of the grant or cooperative agreement supported activity are allowable:

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1-44-50 (Continued)

1. Physical characteristics - interior dimensions, surfaces, furnishings, and finishes.
  2. Environment - temperature, humidity, ventilation, acoustics.
  3. Utility Services - plumbing, electricity, gas, vacuum.
- B. The following costs are not allowable as alteration and renovation of facilities:
1. New construction.
  2. Relocation of exterior walls, roofs, or floors.
  3. Installation of utilities, furnishings, or finishes in an unfinished shell space as to make it suitable for human occupancy. This limitation does not preclude modifying such space to make it suitable for purposes other than human occupancy; for example, the storage of survey equipment.
  4. Routine maintenance and repair of the institution's physical plant or equipment.
- C. Costs of installing equipment may be listed as either equipment costs or alteration and renovation costs. These include the temporary removal and replacement of wall sections, door frames, etc., in order to place equipment in its permanent location. The costs of connecting utility lines, replacing finishes and furnishings, and installing any accessory devices required for the equipment's proper and safe utilization may be considered either equipment costs or alteration and renovation costs. Structural changes (e.g., permanent relocation of a partition as opposed to its temporary removal and replacement) must be shown as alteration and renovation costs.

1-44-60 COST ANALYSES

- A. General requirements for analysis. The analysis of modifications, versus lease or purchase (see Exhibits X1-44-1 through 4 for an example) should be based on the following guidelines:
1. All economic costs incurred as a result of modification of property must be included whether or not actually paid. Such costs not generally involving a direct payment include imputed increased market values of public property, State and local property taxes, and imputed insurance premiums.

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1-44-60A (Continued)

2. The costs that will occur in each year of the period of analysis must be estimated in constant dollars (i.e., effects of inflation excluded) in terms of the general price level at the time of modification.
  3. Alternatives will be compared on the basis of the expected time period of stable program use of the property. If such period is greater than the contract term permitted under authority for long-term leasing, the analysis should assume renewal of the lease at the last constant dollar payment.
  4. Cost projections may be changed over the period of analysis to reflect only real changes in costs due to changes in amounts of services or their prices relative to the general price level—for example, an increase in amount of repair and improvements at prices in effect at the beginning of the period of analysis or an increase in the relative price of these services.
  5. The present values of alternative cost projections over the relevant time period will be the basis for determining the most economic choice.
  6. The discount rate policy to be applied to cost projections to determine present value is specified in OMB Circular A-94. The rate represents an estimate of the internal rate of return on general purpose real property leased from the private sector, exclusive of property taxes and expected inflation. The OMB periodically reviews this discount rate estimate based upon the above criteria and revises the rate as necessary.
- B. Costs to be Included. Constant dollar cost projections will include the following, adjusted as necessary to insure valid comparisons:
1. Alteration/renovation alternative.
    - a. Purchase/lease/rental cost (as appropriate), (if the facility is State owned and rented to the recipient, rental cost will be used);
    - b. Alteration/renovation costs (include all construction, installation, site, design, management, and other costs associated with the modifications of the asset and its preparation for use);
    - c. Repair and improvement (after alteration/renovation);
    - d. Operation and maintenance (after alteration/renovation);

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1-44-60B.1 (Continued)

- e. Imputed property taxes (after purchase, alteration and renovation);
  - f. Imputed insurance premiums (after purchase, alteration and renovation); and
  - g. Cost offset (after purchase, alteration and renovation): residual value at end of period.
2. Purchase alternative
- a. Purchase costs (include all construction, installation, site, design, management, and other costs associated with the acquisition of the asset and its preparation for use);
  - b. Repair and improvement;
  - c. Operation and maintenance;
  - d. Imputed property taxes;
  - e. Imputed insurance premiums; and
  - f. Cost offset: residual value at end of period.
3. Lease alternative
- a. Lease payments;
  - b. Repair and improvement (if not included in lease payments); and
  - c. Operation and maintenance (if not included in lease payments).
4. Lease-purchase (or purchase-contract) alternative.
- a. Lease payments;
  - b. Repair and improvement (after purchase or if not included in lease payments prior to purchase);
  - c. Operation and maintenance (after purchase or if not included in payments prior to purchase);

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1-44-60B.4 (Continued)

- d. Purchase costs (when acquired) less applicable credit for previous payments;
  - e. Imputed property taxes (after purchase or if not included in payments prior to purchase);
  - f. Imputed insurance premiums (after purchase); and
  - g. Cost offset (after purchase): residual value at end of period.
- C. Costs that may be excluded. Some costs may be excluded from each of the alternative cost projections if they are estimated to be the same for all alternatives or too small to affect the economic choice among the alternatives under consideration; for example, such conditions may exist for:
1. Repair and improvement costs;
  2. Operation and maintenance costs;
  3. Property taxes; and
  4. Insurance premiums.
- D. Estimating certain costs. Potential problems of estimating certain costs should be resolved as follows:
1. Purchase costs. Determine market value for property that is already owned, donated, or acquired by condemnation.
  2. Imputed property taxes.
    - a. Determine the property tax rate for comparable property in the intended locality. If there is no basis by which to estimate future changes in tax rates and assessed (taxable) value, the first-year rate and assessed value can be applied to all years.
    - b. Multiply the assessed value by the tax rate to determine the annual charge.
    - c. As an alternative to the procedure of section D.2.a and b above, obtain an estimate of the local effective property taxes from the Building Owners and Managers Association's Regional Exchange Reports. If there is no basis for estimating future property taxes, the first-year rate can be applied to all years.

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1-44-60D (Continued)

3. Imputed insurance premiums. Determine local estimates of standard, commercial coverage for like property from the Building Owners and Managers Association's Regional Exchange Reports.
  4. Annual lease payments.
    - a. Determine annual lease payments for comparable property and terms of lease in the intended locality at the time of proposed acquisition.
    - b. When estimates of lease payments are based on actual lease contracts on comparable property, they should be adjusted to exclude the expected inflation for the period to first renewal, as described in Exhibit X1-44-1.
  5. Cost offset: residual value at end of period.
    - a. The objective is to predict the market value of the property at the end of the time period under consideration, excluding inflation.
    - b. Residual values of property are determined by applying a method that best approximates the historically observed changes in market values experienced. The residual value of the property is obtained by adding the results of a decrease in the constant dollar market value of the building and an increase in the constant dollar market value of the site. To approximate the residual value of the building, a decay and obsolescence rate of 1.7 percent should be applied to each year's remaining constant dollar market value. To approximate the residual value of the site, the constant dollar market value should be increased by 1.5 percent each year. To assist in calculation, Exhibit X1-44-2 contains building decay and obsolescence factors of 1.7 percent and site appreciation factors of 1.5 percent compounded for each of the years 1 to 30.
    - c. Whenever possible, the residual value of the property should be adjusted to incorporate the current market value for comparable property in similar locales for similar commercial property whose age is approximately equal to the period of analysis.
- E. Present value calculations and format for comparisons.
1. Calculation of present values of the alternative cost projections will be performed in accordance with established discounting procedures, using either continuous or end-of-year discount factors.

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1-44-60E (Continued)

2. Exhibit X1-44-3 illustrates the method to be used in developing the present value comparisons.
3. Exhibit X1-44-4 illustrates the required format for the comparative analysis of lease-or-purchase alternatives presented in prospectuses, proposed legislation, budget justifications, or other proposals for submission to OMB. All assumptions and basic cost data must be explicitly provided in the materials presented.
4. Exhibit X1-44-5 presents various present values of \$1 (i.e., discount rates) to be used as needed.

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EXHIBIT X1-44-1  
PAGE 10

PRESENT VALUE CONSTANT DOLLAR ANNUAL PAYMENT CALCULATIONS

To determine the present value constant dollar annual payments, where, for example,

- the date of initial acquisition/modification is January 1972;
- the initial period of level payments = n = 20 years;
- the annual payment is \$1,128,000 for 250,000 net square feet; and
- the payments are made at the end of the year,

calculate the average annual rate of inflation during the past n years.

The average inflation rate is found by (1) dividing the consumer price index at the beginning of the contract period (See the Economic Report of the President, February 1972, Table B-45, p. 247 for consumer price indexes.) by the consumer price index n years ago, and (2) comparing this result to the compound interest factors for n years. In this example, the consumer price index for 1971, 121.3 is divided by the consumer price index for 1951, 77.8 yielding 1.56. According to compound interest tables, the rate which would yield 1.56 in 20 years is approximately 2.2 percent.

Then, apply the determined constant dollar price deflator to each annual payment.

In this example, each annual current dollar payment of \$1,128,000 must be multiplied by the appropriate constant dollar price deflator at 2.2% per year.

Finally, multiply each constant dollar annual payment by the appropriate 7 percent present value discount factor.

Year	Current dollar payment	Constant dollar price deflator @ 2.2%	Constant dollar payment	7% present value discount factor	Present value
1	1,128,000	.978	1,103,184	.935	1,031,477
2		.957	1,079,496	.873	942,400
3		.937	1,056,936	.816	862,460
4		.917	1,034,376	.763	789,229
5		.897	1,011,816	.713	721,423
6		.878	990,384	.666	659,596
7		.859	968,952	.623	603,657
8		.840	947,520	.582	551,457
9		.822	927,216	.544	504,406
10		.804	906,912	.508	460,711
11		.787	887,736	.475	421,675
12		.770	868,560	.444	385,641
13		.754	850,512	.415	352,962
14		.737	831,336	.388	322,558
15		.722	814,416	.362	294,819
16		.706	796,368	.339	269,969
17		.691	779,448	.317	247,083
18		.676	762,528	.296	225,708
19		.661	745,608	.277	206,533
20	1,128,000	.647	729,816	.258	188,293
					<u>10,042,061</u>



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EXHIBIT 1-44-2  
 PAGE 11

BUILDING DECAY-OBSOLESCENCE AND SITE APPRECIATION

<u>Period of Analysis</u>	<u>Building Decay-Obsolescence Factors</u>	<u>Site Appreciation Factors*</u>
1	0.98300	1.01500
2	0.96629	1.03023
3	0.94986	1.04568
4	0.93371	1.06136
5	0.91784	1.07728
6	0.90224	1.09344
7	0.88690	1.10984
8	0.87182	1.12649
9	0.85700	1.14339
10	0.84243	1.16054
11	0.82811	1.17795
12	0.81403	1.19562
13	0.80019	1.21355
14	0.78659	1.23176
15	0.77322	1.25023
16	0.76007	1.26899
17	0.74715	1.28802
18	0.73445	1.30734
19	0.72197	1.32695
20	0.70969	1.34686
21	0.69763	1.36706
22	0.68577	1.38756
23	0.67411	1.40838
24	0.66265	1.42950
25	0.65139	1.45095
26	0.64031	1.47271
27	0.62943	1.49480
28	0.61873	1.51722
29	0.60821	1.53998
30	0.59787	1.56308

\*The factors presented in the table above implicitly assume end-of-year building decay-obssolescence and site appreciation changes.

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EXHIBIT X1-44-3  
PAGE 12

PRESENT VALUE PURCHASE COST CALCULATIONS

Year	Constant Dollars (in thousands)				Present value (in thousands)				
	Improvements, sites <sup>a/</sup>	Repair and improvement	Property taxes	Residual value	7% discount factor	Improvements, sites <sup>a/</sup>	Repair and improvement	Property taxes	Residual value
0	11,850	-	-		1.000	11,850			
1		48	200		.935		45	187	
2		48	200		.873		42	175	
3		48	200		.816		39	163	
4		48	200		.763		37	153	
5		48	200		.713		34	143	
6		80	200		.666		53	133	
7		80	200		.623		50	125	
8		80	200		.582		47	116	
9		80	200		.544		44	109	
10		80	200		.508		41	102	
11		144	200		.473		68	95	
12		144	200		.444		64	89	
13		144	200		.415		60	83	
14		144	200		.388		56	78	
15		144	200		.362		52	72	
16		144	200		.339		49	68	
17		144	200		.317		46	63	
18		144	200		.296		43	59	
19		144	200		.277		40	55	
20		144	200	9,270 <sup>b/</sup>	.258		37	52	2,392
					Total				
					Present Value	11,850	947	2,120	2,392

a/ For simplicity improvements (design and construction) costs of \$10,500,000 and site costs of \$1,350,000 are assumed to be paid at the start of year 1. All other costs shown assume payment at the end of the year specified.

b/ This figure represents the remaining value of the building which declines at 1.7 percent per year (\$7,552,000) and the remaining value of the site which appreciates at 1.5 percent per year (\$1,818,000).

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EXHIBIT 1-44-4  
PAGE 13

PRESENT VALUE COST SUMMARIES FOR  
ALTERNATIVE METHODS OF ACQUISITION

Item	20 years; 7%
<b>ALTERATION/RENOVATION:*</b>	
Improvements (i.e. buildings/structures).....	8,140
Site (i.e. land).....	1,350
Alteration and renovation (i.e. heating plant, wiring, remodling, parking-lot, etc.)	3,200
Repair and improvement (after modification).....	947
Property taxes (after modification).....	2,120
Subtotal.....	15,757
Less residual value.....	2,392
Total.....	13,365
<b>PURCHASE:**</b>	
Improvements (i.e. buildings/structures).....	10,500
Site (i.e. land).....	1,350
Repair and improvement.....	947
Property taxes.....	2,120
Subtotal.....	14,917
Less residual value.....	2,392
Total.....	12,525
<b>LEASE:*</b>	
Total annual payments**.....	10,024
<b>LEASE-PURCHASE (or PURCHASE-CONTRACT)*</b>	
Annual payments until purchase***.....	8,845
Purchase cost less credit.....	3,556
Repair and improvement (after purchase).....	515
Property taxes (after purchase).....	714
Subtotal.....	13,630
Less residual value.....	2,392
Total.....	11,238

\* Operation and maintenance costs are borne by the recipient and are assumed to be identical for all four acquisition methods. Therefore, they are omitted in this comparison. Imputed insurance premiums are estimated to be negligible relative to other costs and therefore omitted.

\*\* Annual lease payments in constant dollars are calculated. Then, each constant dollar lease payment is discounted at 7 percent (See Exhibit XI-44-1).

\*\*\* Annual lease-purchase (or purchase-contract) payments of \$1,400 + purchase of \$21,000 (15 years annual payments) less credit of \$14,000. The annual payments in constant dollars are calculated. Then each constant dollar payment is discounted at 7 percent (technique is shown in Exhibit XI-44-1).

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**EXHIBIT 1-44-5  
PAGE 14**

Present value of \$1													
Year	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	12%	14%	16%
1	.990	.980	.971	.962	.952	.943	.935	.926	.917	.909	.893	.877	.870
2	.980	.961	.943	.925	.907	.890	.873	.857	.842	.826	.797	.789	.766
3	.971	.942	.916	.889	.864	.840	.816	.794	.772	.751	.712	.676	.658
4	.961	.924	.889	.856	.823	.792	.763	.736	.708	.683	.636	.592	.572
5	.951	.906	.863	.822	.784	.747	.713	.681	.650	.621	.567	.519	.497
6	.942	.888	.838	.780	.746	.706	.668	.630	.598	.564	.507	.456	.432
7	.933	.871	.813	.760	.711	.665	.623	.583	.547	.513	.452	.400	.376
8	.923	.853	.788	.731	.677	.627	.582	.540	.502	.467	.404	.351	.327
9	.914	.837	.766	.703	.645	.592	.544	.500	.460	.424	.351	.308	.284
10	.905	.820	.744	.676	.614	.558	.508	.463	.422	.386	.322	.270	.247
11	.896	.804	.722	.650	.585	.527	.476	.429	.388	.350	.287	.237	.216
12	.887	.788	.701	.625	.557	.497	.444	.397	.355	.319	.257	.208	.187
13	.879	.773	.681	.601	.530	.469	.416	.368	.326	.290	.228	.182	.163
14	.870	.758	.661	.577	.505	.442	.388	.340	.299	.263	.205	.160	.141
15	.861	.743	.642	.555	.481	.417	.362	.315	.275	.239	.183	.140	.123
16	.853	.728	.623	.534	.458	.394	.339	.292	.252	.218	.163	.123	.107
17	.844	.714	.606	.513	.436	.371	.317	.270	.231	.198	.146	.108	.093
18	.836	.700	.587	.484	.406	.340	.286	.250	.212	.180	.130	.095	.081
19	.828	.686	.570	.475	.396	.329	.276	.232	.194	.164	.116	.083	.070
20	.820	.673	.554	.456	.377	.312	.258	.215	.178	.149	.104	.073	.061
25	.785	.610	.478	.375	.285	.233	.184	.146	.118	.082	.059	.038	.030
30	.742	.562	.412	.308	.231	.174	.131	.098	.075	.051	.033	.020	.016
Year	18%	19%	20%	24%	28%	32%	36%	40%	50%	60%	70%	80%	90%
1	.862	.847	.833	.808	.781	.758	.736	.714	.687	.625	.568	.516	.428
2	.743	.718	.694	.650	.610	.574	.541	.510	.444	.381	.346	.309	.277
3	.641	.609	.578	.524	.477	.436	.398	.364	.288	.244	.204	.171	.146
4	.562	.518	.482	.423	.373	.328	.292	.260	.188	.153	.120	.096	.077
5	.478	.437	.402	.341	.287	.250	.215	.185	.132	.095	.070	.053	.040
6	.410	.370	.335	.275	.227	.188	.158	.133	.088	.060	.041	.029	.021
7	.364	.314	.279	.222	.178	.143	.118	.095	.059	.037	.024	.016	.011
8	.308	.256	.233	.179	.139	.109	.085	.068	.039	.023	.014	.008	.006
9	.263	.226	.194	.144	.108	.082	.063	.048	.028	.016	.008	.005	.003
10	.227	.181	.162	.116	.085	.062	.048	.035	.017	.008	.005	.003	.002
11	.195	.162	.135	.084	.065	.047	.034	.025	.012	.006	.003	.002	.001
12	.169	.137	.112	.078	.062	.038	.025	.018	.008	.004	.002	.001	.001
13	.145	.116	.093	.061	.040	.027	.018	.013	.005	.002	.001	.001	.000
14	.125	.089	.078	.048	.032	.021	.014	.009	.003	.001	.001	.000	.000
15	.108	.084	.065	.040	.025	.018	.010	.008	.002	.001	.000	.000	.000
16	.093	.071	.054	.032	.019	.012	.007	.005	.002	.001	.000	.000	.000
17	.080	.050	.046	.028	.015	.009	.005	.003	.001	.000	.000	.000	.000
18	.068	.051	.038	.021	.012	.007	.004	.002	.001	.000	.000	.000	.000
19	.060	.043	.031	.017	.009	.005	.003	.002	.000	.000	.000	.000	.000
20	.051	.037	.028	.014	.007	.004	.002	.001	.000	.000	.000	.000	.000
25	.024	.016	.010	.005	.002	.001	.000	.000	.000	.000	.000	.000	.000
30	.012	.007	.004	.002	.001	.000	.000	.000	.000	.000	.000	.000	.000

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## CHAPTER 1-45 USE OF CONSULTANTS

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1-45-00	Purpose
10	Applicability
20	Definition of Consultant
30	Prior Approval by OSM
40	Consulting Payments to Federal Employees
50	Consulting Fees Paid by Recipients and Subrecipients to Their Own Employees
60	Reports by Consultants
70	Documentation Standards

### 1-45-00 PURPOSE

- A. This chapter sets forth basic policies on the use of individual consultants under OSM grants and cooperative agreements, and establishes standards for documentation of consulting fees paid by recipient and subrecipient organizations to individuals.
- B. Reasonableness and allocability of consultant costs is to be determined in accordance with the cost principles prescribed by OMB Circular A-21 and OMB Circular A-87.

### 1-45-10 APPLICABILITY

This chapter applies to all OSM programs that issue grants or cooperative agreements. It applies only to the use of individual consultants by recipient and subrecipient organizations and only when the consultant's fees are borne by an OSM grant or cooperative agreement used to satisfy a non-Federal share requirement of an OSM grant. It does not apply to the use of consultants whose fees are treated as an indirect cost or to the procurement of consulting services from firms or organizations.

### 1-45-20 DEFINITION OF CONSULTANT

- A. For purposes of this chapter, a consultant is a party engaged to give professional advice or services for a fee, but not as an employee of the party that engages him or her. The term includes paid guest lecturers (and other paid guest speakers) when not acting as employees of the party that engages them.

## USE OF CONSULTANTS

PAGE 2

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1-45-20 (Continued)

- B. Under this definition, it might happen in unusual situations that a person is at the same time a consultant and an employee of the same party. That is, for certain work he or she is salaried as an employee, while for other work, not as an employee, he or she receives a consulting fee from the same party. (See 1-45-50.)

### 1-45-30 PRIOR APPROVAL BY OSM

For OSM grant or cooperative agreement funded programs, applicants should anticipate their need for consultants and indicate the proposed use of consultants in their applications and budgets for OSM approval.

### 1-45-40 CONSULTING PAYMENTS TO FEDERAL EMPLOYEES

Consulting fees paid to a Federal employee may not be charged to an OSM grant or cooperative agreement or to a nonfederal share required by an OSM grant or cooperative agreement.

### 1-45-50 CONSULTING FEES PAID BY RECIPIENTS AND SUBRECIPIENTS TO THEIR OWN EMPLOYEES

#### A. Faculty Members of Colleges and Universities

Charges representing extra compensation (above base salary) paid by an educational institution to a salaried member of its faculty for consulting work are allowable only in unusual cases, and only if both of the following conditions exist:

1. The consultation is across departmental lines or involves a separate or remote operation; and
2. The work performed by the consultant is in addition to his regular departmental load.

#### B. All Other Cases

In all other cases, consulting fees paid in addition to salary by recipients or subrecipients to people who are also their employees may be charged to OSM grants or cooperative agreements, (or to a nonfederal share required by an OSM grant) only in unusual cases, and only if all of the following three conditions exist:

1. The policies of the recipient or subrecipient permit such consulting fee payments to its own employees regardless of whether Federal grant funds are involved;

## 1-45-50 (Continued)

2. The work involved is clearly outside the scope of the person's salaried employment; and
3. It would be inappropriate to compensate for the additional work paying additional salary to the employee.

C. Approval Requirements

Consulting fees that are subject to Paragraphs A and B of this section must be specifically authorized in writing, on a case by case basis, by the head of the recipient or subrecipient organization or his designated representative. If the designated representative is personally involved in the project or program under consideration, the authorization may be given only by the head of the recipient or subrecipient agency or organization. The authorization must include a determination that the applicable required conditions are present.

1-45-60 REPORTS BY CONSULTANTS

- A. The variety of possible consulting arrangements is too great to permit definitive rules on submission of written reports by consultants. In some cases, such as guest lecturers, a written report might serve little or no useful purpose. In other cases, the very reason for hiring the consultant might be to obtain his report.
- B. In general, recipients and subrecipients should be encouraged to obtain written reports from the consultants except when, in their judgment, a report is not feasible or would probably not be useful. However, under an OSM grant, if the consultation constitutes a transfer of project activities, the Federal assistance unit may require the recipient to obtain a written report from the consultant as a condition of its approval.

1-45-70 DOCUMENTATION STANDARDS

- A. Charges for consulting payments must be supported in the recipient's or subrecipient's records by an invoice from the consultant and a copy of the written report, if any, received from the consultant.
- B. Any of the following information that is not shown by the invoice and/or report from the consultant must be shown in a memorandum or other document prepared by the recipient or subrecipient for its files, or noted in handwriting on the invoice by the recipient or subrecipient. The memorandum, other document, or handwritten notation must be signed by an official of the recipient or subrecipient organization.
  - I. The name of the consultant;

## USE OF CONSULTANTS

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1-45-70 (Continued)

2. The nature of the services rendered (such as statistical analysis of data or participation on project advisory committee);
3. The relevance of the services to the grant-assisted project or program, if not apparent from the nature of the services; and
4. Whichever of the following is applicable:
  - a. If the fee was based on a rate per day or hours worked, the rate and the actual dates and/or hours worked;
  - b. If the fee was based on a rate per unit of service rendered, the rate, the number of units of service rendered, and the beginning and ending dates of the overall period of service; or
  - c. If the fee was determined on some other basis, the basis for determining the fee and the beginning and ending dates of the period in which services were rendered.



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## CHAPTER 1-47 PROCUREMENT STANDARDS

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1-47-00	Purpose
01	Recipient/OSM Responsibility
02	Recipient Procurement Improvement
03	Procurement System Reviews
04	Protest Procedures
05	OSM Review of Proposed Contracts
06	Code of Conduct
07	Procurement Procedures
08	Affirmative Action Requirements
09	Selection Procedures
10	Method of Procurement
11	Contract Pricing
12	Recipient Procurement Records
13	Contract Provisions
14	Contract Administration

### 1-47-00 PURPOSE

This chapter provides standards and guidelines applicable to procurement of supplies, equipment, construction, and other services under projects supported by OSM funds. Chapter 1-47 is developed to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal laws and the Grants Management Common Rule.

### 1-47-01 RECIPIENT/OSM RESPONSIBILITY

- A. These standards do not relieve the recipient of any contractual responsibilities under its contracts. The recipient is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant. These include, but are not limited to: source, evaluation, protests, disputes, and claims. OSM shall not substitute its judgment for that of the recipient unless the matter is primarily an OSM concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.
- B. Recipients shall use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements for Federal assistance programs conform to the standards set forth in this chapter and applicable Federal law.

1-47-02 RECIPIENT PROCUREMENT IMPROVEMENT

In accordance with provisions of the Grants Management Common Rule, OSM will provide recipients with technical assistance, training, publications, and other aid to the extent that resources allow.

1-47-03 PROCUREMENT SYSTEM REVIEWS

- A. OSM is encouraged to perform reviews of a recipient's procurement system. The purpose of the review shall be to determine: (1) whether a recipient's procurement system meets the standards described by this chapter or other criteria acceptable to the Office of Federal Procurement Policy, such as provisions of the Model Procurement Code for State and Local Governments and (2) whether the recipient's procurement system should be certified by the Office of Surface Mining. Such a review will also give OSM an opportunity to give technical assistance to a recipient to remedy inadequacies within its procurement system if it does not fully comply. In addition, such a review may provide a basis for deciding whether the recipient's contracts and related procurement documents should be subject to OSM's prior approval, as provided by paragraph 1-47-06.
- B. Normally, the cognizant agency is responsible for performing and certifying the recipient's procurement system. In the case where OSM is not the cognizant agency, OSM should be requested by the cognizant agency to comment on the procurement certification process.
- C. In conducting procurement system reviews, OSM will evaluate a recipient's procurement system in terms of whether it complies with the standards described in this chapter and represents a fair, efficient and effective procurement system. To the maximum extent feasible, reviews will rely upon State or local evaluations and analyses performed by agencies or organizations independent of the recipient's contracting activity.
- D. When OSM completes a procurement review, it shall furnish a report to the recipient, with a copy to the Office of Federal Procurement Policy.
- E. All agencies should normally rely upon the resultant findings or certification for a period of 24 months before another review is performed.
- F. Reviews shall be conducted in accordance with standards and guidelines approved or issued by the Office of Federal Procurement Policy.
- G. The reviews of proposed contracts authorized by paragraph 1-47-06 are waived if a recipient's procurement system is certified.

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1-47-04 PROTEST PROCEDURES

- A. OSM shall develop an administrative procedure to handle complaints or protests regarding recipient contractor selection actions.
- B. No protest shall be accepted by OSM until all administrative remedies at the recipient level have been exhausted.
- C. OSM review is limited to:
  - 1. Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.
  - 2. Violations of recipient's protest procedures or failure to review a complaint or protest.
- D. The development of protest procedures is the responsibility of Budget and Administration coordinating all procedures with POI.

1-47-05 OSM REVIEW OF PROPOSED CONTRACTS

- A. OSM pre-award reviews and approval of the recipient's proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, is permitted only under the following circumstances:
  - 1. The procurement is expected to exceed \$10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation; or
  - 2. The procurement is expected to exceed \$10,000 and specifies a "brand name" product; or
  - 3. The recipient's procurement procedures or operation fails to comply with one or more significant aspects of this chapter. OSM shall notify the recipient in writing and send a copy of such notification to the Office of Federal Procurement Policy.

1-47-06 CODE OF CONDUCT

- A. Recipients will maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by OSM funds. No employee, officer or agent of the recipient shall participate in the selection, or in the award, or administration of a contract supported by OSM funds if a conflict of interest, real or apparent, would be involved.

## PROCUREMENT STANDARDS

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### 1-47-06 (Continued)

- B. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:
1. The employee, officer or agent;
  2. Any member of his immediate family;
  3. His or her partner; or
  4. An organization which employs, or is about to employ, any of the above.
- C. The recipient's officers, employees or agents, shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements.
- D. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.
- E. To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the recipient's officers, employees, or agents, or by contractors or their agents.

### 1-47-07 PROCUREMENT PROCEDURES

- A. The recipient shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by recipient organization officials to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidation or breaking out to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency, recipients (and subrecipients, to the extent feasible) are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

### 1-47-08 AFFIRMATIVE ACTION REQUIREMENTS

- A. It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

1-47-08A. (Continued)

1. Include qualified small and minority businesses on solicitation lists;
  2. Assure that small and minority businesses are solicited whenever they are potential sources;
  3. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation;
  4. Where the requirements permit, establishing delivery schedules which will encourage participation by small and minority businesses.
  5. Use the services and assistance of the Small Business Administration and the Department of Commerce Minority Business Development Agency Information Clearinghouse, 202/377-2414.
  6. If any subcontracts are to be let, requiring the prime contractor to take affirmative steps in 1) through 5) above.
- B. Recipients shall take similar appropriate affirmative action in support of women's business enterprises.
- C. Recipients are encouraged to procure goods and services from labor surplus areas.
- D. OSM may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or Presidential direction.

1-47-09 SELECTION PROCEDURES

- A. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this chapter. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms in order for them to qualify to do business, (2) noncompetitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.
- B. The recipient shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:
1. Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

## PROCUREMENT STANDARDS

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1-47-09B. (Continued)

- a. 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.
  - b. Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals, such as a deadline for completion of project work.
2. Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

### 1-47-10 METHOD OF PROCUREMENT

- A. Procurement under grants and cooperative agreements shall be made by one of the following methods: 1) small purchase procedures; 2) competitive sealed bids (formal advertising); 3) competitive negotiation; 4) noncompetitive negotiation.
  1. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than \$10,000. Recipients shall comply with State or local small purchase dollar limits under \$10,000. If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.
  2. In competitive sealed bids (formal advertising), sealed 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 lowest in price.

## 1-47-10A. (Continued)

- a. In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:
  - (1) A complete, adequate and realistic specification or purchase description is available.
  - (2) Two or more responsible suppliers are willing and able to compete effectively for the business.
  - (3) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of the price.
- b. If formal advertising is used for procurement, the following requirements shall apply:
  - (1) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.
  - (2) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.
  - (3) All bids shall be opened publicly at the time and place stated in the invitation for bids.
  - (4) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the recipient indicates that such discounts are generally taken.
  - (5) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

## PROCUREMENT STANDARDS

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1-47-10A. (Continued)

3. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized. Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for procurement under a grant or cooperative agreement, the following requirements shall apply:
  - a. Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.
  - b. The Request for Proposal shall identify all significant evaluation factors, including price or cost where required, and their relative importance.
  - c. The recipient shall provide mechanisms for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.
  - d. Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.
  - e. Recipients may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.
  
4. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is unfeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:
  - a. The item is available only from a single source;
  - b. Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;



## 1-47-10A. (Continued)

- c. OSM authorizes noncompetitive negotiation (which will, in the absence of compelling special circumstances, be limited to those circumstances listed in the Federal Procurement Regulations, 41 CFR Part 1.3); or
  - d. After solicitation of a number of sources, competition is determined inadequate.
5. Additional innovative procurement methods may be used by recipients with the written approval of OSM. A copy of the approval shall be sent by OSM to the Office of Federal Procurement Policy.

1-47-11 CONTRACT PRICING

The cost-plus-a-percentage-of-cost and percentage-of-construction-cost method of contracting shall not be used. Recipients shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

1-47-12 RECIPIENT PROCUREMENT RECORDS

Recipients shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to, information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

1-47-13 CONTRACT PROVISIONS

- A. In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts, as required by these provisions, Federal law or OSM.
- 1. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanction and penalties as may be appropriate.

## PROCUREMENT STANDARDS

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1-47-13A. (Continued)

2. All contracts in excess of \$10,000 shall contain suitable provisions for termination by the recipient, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
3. All contracts awarded in excess of \$10,000 by recipients and their contractors or subrecipients shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
4. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor/subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to OSM.
5. The Surface Mining Control and Reclamation Act (SMCRA) does not require compliance with the Davis-Bacon Act (40 USC 276a). We have been advised by the Associate Solicitor, Division of Surface Mining, by letter of October 4, 1981, that the provisions of the Davis-Bacon Act will apply to OSM programs only where OSM deals directly with a private contractor.

The Davis-Bacon Act and its enforcement provisions are applicable to OSM Federal assistance programs when:

- a. OSM expends funds for contracts for emergency restoration, reclamation, abatement or prevention of adverse effects of coal mining. (Section 410 of the Act is applicable only to the extent practical.)
- b. OSM is promulgating a Federal program and letting contracts in a State (Section 504 of the Act); and
- c. There is privity of contract between OSM and a construction contractor. The legal term "privity of contract" refers to the relationship between parties (e.g., OSM and a contractor) participating directly in or having a secondary interest in a legal transaction (a contract.) Without a direct relationship between OSM and a

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1-47-13A. (Continued)

contractor, State law and administrative procedures govern whether all construction contracts in excess of \$2,000 awarded by recipients and subrecipients shall include a provision for compliance with the Davis-Bacon Act.

6. SMCRA does not require compliance with the Contract Work Hours and Safety Standards Act (40 USC 327-330). Therefore, State law and administrative procedures govern whether all contracts awarded by recipients and subrecipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Section 103 and 107 of the Contract Work Hours and Safety Standards Act.
7. The contract shall include notice of OSM requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of OSM requirements and regulations pertaining to copyrights and rights in data.
8. All negotiated contracts (except those awarded by small purchases procedures) awarded by recipients shall include a provision to the effect that the recipient, the Department of the Interior, the Comptroller General of the United States, or any of their duly authorized representative, shall have access to any books, documents, papers, and pertinent records of the contractor which are pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcription. Recipients shall require contractors to maintain all required records for three years after recipients make final payments and all other pending matters are closed.
9. Contracts, subcontracts, and subgrants of amounts in excess of \$100,000 shall contain a provision which requires compliance with all applicable standards, order, or requirements issued under Section 306 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15), which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to OSM and to the EPA Assistant Administrator for Enforcement.
10. Contracts shall recognize 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 (P.L. 94-165). OSM may require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the Office of Federal Procurement Policy.

1-47-14 CONTRACT ADMINISTRATION

Recipients shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

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**CHAPTER 1-67**  
**GRANT AND COOPERATIVE AGREEMENT AWARD DOCUMENT**

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1-67-00	Purpose
10	Policy
20	Contents of an Award
30	Grant Conditions
40	Special Grant Conditions
50	Signatures

**1-67-00 PURPOSE**

This chapter sets forth minimum requirements and conditions for an OSM grant or cooperative agreement award document.

**1-67-10 POLICY**

The grant or cooperative agreement award document is the official instrument used in OSM Federal financial assistance programs that: (1) establishes a legally binding arrangement between OSM and the recipient; (2) contains or references all the terms and conditions of the grant or cooperative agreement; and (3) provides the documentary basis for the obligation of Federal funds in the OSM accounting systems.

**1-67-20 CONTENTS OF AN AWARD**

A grant or cooperative agreement award shall:

1. State the legal name of the recipient and the formal name of OSM.
2. State the amount being awarded.
  - a. For the revised AML grant awards, include an attachment (Attachment A) to the agreement which provides budget/cost category financial information (see Exhibit X1-67-1).
  - b. For awards funded from more than one source of funding, a subaccount number must be assigned to each source of funds. Include as an attachment to the agreement the following information for each source of funds: source of funds, subaccount number, and approved amount.
3. State the dates of the grant or cooperative agreement performance period.

## GRANT AND COOPERATIVE AGREEMENT AWARD DOCUMENT

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1-67-20 (Continued)

4. State the purpose of the grant or cooperative agreement. In many cases, a descriptive title of the project being supported is sufficient.
5. Incorporate, by reference, the application for the grant or cooperative agreement, including amendments.
6. Incorporate, by reference, any OSM policy directives which are not incorporated into the applicable regulations. All such documents shall be provided along with the notice or shall otherwise be made readily available to the recipient.
7. Include or incorporate by reference all terms, conditions, or agreement clauses that are required by Departmental, OSM, or program policies to be incorporated in each individual grant or cooperative agreement award document for the type of grant or cooperative agreement being made.
8. If not clearly stated in a document reference, clearly state:
  - a. Performance and financial reporting requirements applicable to the grant or cooperative agreement, including the frequency and contents of reports.
  - b. Prior approval requirements applicable to the grant or cooperative agreement and how approval may be obtained.

### 1-67-30 GRANT CONDITIONS

- A. The following conditions are part of every agreement award:
1. The scope and conditions of the tasks to be undertaken by the Grantee with the amount of money identified as the Federal Grant Amount during the time identified as the Grant Period are contained in the grant application, as amended, which is made part of the grant by reference.
  2. The funds for the grant shall only be used to cover allowable costs which are incurred during the **grant period**. In addition, valid obligations incurred before the end of the **grant period** for purchased services, equipment and supplies specifically identified in the approved application shall be considered allowable **grant period** costs to the extent of actual subsequent expenditures. If obligations are included in the claimed grant costs, adequate records shall be maintained to disclose fully the date and amount incurred and the date and amount of subsequent payment. Obligations claimed in one **grant period** shall be excluded from expenditures claimed in prior or subsequent periods. *[Under the revised AML grant program, use the term "budget period" instead of "grant period."]*

## 1-67-30A (Continued)

3. No transfer of funds to agencies other than those identified in the approved grant application shall be made without prior approval of OSM.
4. The Grantee shall submit financial status reports, performance reports, and other such reports according to the timing, content and format as required by OSM. The Grantee shall report program outlays and program income on a cash basis. Grantees are exempt from submitting the form SF 272, Federal Cash Transactions Report.
5. For nonconstruction grants, transfers of funds between total direct cost categories in the approved budget shall receive the prior approval of OSM when such transfers exceed ten percent of the total budget.
6. The Grantee shall transfer to OSM the appropriate share, based on the Federal support percentage, of any refund, rebate, credit or other amounts arising from the performance of this agreement, along with accrued interest, if any. The Grantee shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with OSM in any claim or suit in connection with amounts due.
7. The Grantee shall comply with the requirements, as applicable, of the Grants Management Common Rule, adopted by the Department of the Interior at 43 CFR Part 12, regarding administrative procedures; Treasury Circular No. 1075 and 31 CFR 205.6 on financial procedures; OMB Circulars No. A-87, A-21 and A-122 on cost principles; and OMB Circular No. 128, as implemented by 43 CFR 12, on audit requirements.
8. No employee of the State, Indian Tribal Government or Federal Government performing any function or duty under the State regulatory or reclamation program plan shall have a direct or indirect financial interest in any coal mining operation. The Grantee shall comply with all requirements and regulations established by OSM to carry out this requirement, including 30 CFR Part 705, and those requirements which it has adopted in its regulatory program or reclamation plan.
9. The agreement can be amended only by compliance with the requirements of 30 CFR 735.20 and 886.17. The grant shall be subject to reduction or termination pursuant to 30 CFR 735.21 and 886.18.
10. Grant funds shall not be used to attempt to influence the public on legislation pending before Congress.

1-67-30A (Continued)

11. For purposes of this grant, program income includes, but is not limited to, income earned during the grant performance period from the sale of publications, the sale of real or personal property purchased with grant funds, the sale of services under a grant (such as the sale of computer time), permit fees, income earned from investment of permit fees or other program income, income from royalties received as a result of copyrights or patents produced under the grant and insurance premiums under the subsidence insurance program. Program income does not include income from fines, penalties, taxes or forfeitures. Program income earned on the non-Federal lands portion of an administration and enforcement grant shall be used to finance the Grantee's matching share of grant costs (cost sharing option). When a grant includes funds for Federal lands activities, the program income derived from such activities shall be deducted from the total allowable Federal lands costs for the purpose of determining the net allowable Federal lands costs (deductive option). Program income earned under the subsidence insurance program may be used to further the objectives of the State's approved subsidence insurance program (additive option). All other grants shall deduct program income from the total allowable costs to determine the net allowable costs (deductive option). Proceeds from the sale, transfer or distribution of real or personal property must be handled in accordance with the Grants Management Common Rule and Implementing DOI regulations.
12. Prior to the start of any construction activity, the Grantee shall ensure that all applicable Federal, State and local permits and clearances are obtained.
13. It is a national policy to place a fair share of purchases with minority business firms. Minority Business Enterprises/Women's Business Enterprises (MBE/WBE) utilization is based on Executive Orders 11625, 12138 and 12432, and the Grants Management Common Rule. The Department of the Interior (DOI) is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness. In particular, recipients should:
  - a. Place minority business firms on bidders' mailing lists.
  - b. Solicit these firms whenever they are potential sources of supplies, equipment, construction or services.
  - c. Where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms.



1-67-30A (Continued)

- d. Use the assistance of the Minority Business Development Agency<sup>1</sup> of the Department of Commerce, the Small Business Administration, the Office of Small and Disadvantaged Business Utilization, DOI, the Business Utilization and Development Specialists who reside in each DOI bureau and office, and similar State and local offices, where they exist.

If the Federal amount of this grant is \$500,000 or more, and involves the procurement of supplies, equipment, construction, or services in excess of \$10,000, the Grantee shall complete a Standard Form 334 (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and other Federal Financial Assistance). The form shall be submitted to the appropriate OSM Field Office Director within 30 calendar days after the end of each Federal fiscal quarter, up to and including the Federal fiscal quarter in which the grant performance period ends.

14. The Grantee is free to copyright any original work developed in the course of or under the agreement. OSM reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, the work for Government purposes. Any publication resulting from work performed under the agreement shall include an acknowledgement of OSM financial support and a statement that the publication does not necessarily reflect OSM's views.
15. No subsequent [reclamation/regulatory] grants, monetary increase amendments or time extension amendments shall be approved unless all overdue final financial or performance reports have been submitted by the recipient to the appropriate Field Office. Exceptions to this policy can be approved only by the Deputy Director, OSM, or his designate.
16. OSM reserves the right to transfer equipment acquired with grant funds to the Federal Government or a third party. [Note: In order to invoke this provision, the OSM FOD also must notify the grantee in writing of the specific item of equipment to be transferred.]
17. This grant takes effect at the time of signing by the Director of OSM or his authorized delegate. However, the Grantee shall have a period of 20 calendar days from the date of signing to execute this grant in order to indicate its agreement of the terms and conditions. Unless an extension of time is formally approved by OSM, failure to execute the agreement within the stated period shall result in a deobligation of the total Federal Grant Amount.
18. The Grantee shall:
  - a. Specify in any announcement of the awarding of the contract for the procurement of the goods or services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

GRANT AND COOPERATIVE AGREEMENT AWARD DOCUMENT

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1-67-30A (Continued)

- b. Express the amount announced pursuant to paragraph a. as a percentage of the total costs of the planned acquisition.

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

- B. The following conditions are added to an agreement to address specific program or funding requirements:

- 1. This condition is added to all Regulatory Program Grant Agreements:

This grant is for the administration and enforcement of an approved State program for the regulation and control of surface coal mining and reclamation operations. Grant funds shall not be used for other purposes. As a condition of the grant, the State shall implement the State regulatory program as approved by the Secretary of the Interior, including all findings and conditions set forth in the Secretary's approval decision or as may be modified by the Secretary. Grant funds shall not be used for implementation of any changes to the State regulatory program which have not been approved by the Secretary of the Interior.

- 2. These conditions are added to all Abandoned Mine Land Reclamation Program Grant Agreements:

- This grant is for the administration of the approved Grantee reclamation plan and for carrying out the specific reclamation activities included in the plan and described in the approved program narrative statement included in the grant application for each project in accordance with 30 CFR Part 886. Grant funds shall not be used for any other purposes.

- The funding for this grant is from the following available State-share and/or Federal share funds:

State-share: \$ \_\_\_\_\_  
Federal-share: \$ \_\_\_\_\_  
Total Award Amount: \$ \_\_\_\_\_

- 3. To assure that abandoned coal mine-related problems which do not currently meet the criteria for emergency declaration but which may deteriorate into emergencies will be given the highest priority consideration for reclamation, the following condition is added to all AML Grant in States that do not administer the AML Emergency Programs. [Grants to States administering the AML Emergency Program do not require this condition because they manage both emergency and high priority projects.]

## 1-67-30B.3 (Continued)

The Grantee shall assure that high priority abandoned coal mine-related problems which do not currently meet criteria for emergency declaration but which may deteriorate into emergencies will be considered and given the highest priority for reclamation in the recipient's project selection process. This condition is applicable to the following types of sites:

- a. Those high priority abandoned coal mine-related problems which are referred to the Office of Surface Mining Reclamation and Enforcement (OSM) for emergency consideration but are not declared an emergency.
  - b. Those high priority abandoned coal mine-related problems which remain after the emergency situation has been abated.
  - c. Those high priority abandoned coal mine-related problems which come to the attention of OSM or the State/Tribe outside of the emergency program that could deteriorate into an emergency.
4. This condition is added to Abandoned Mine Land Reclamation Program Grant Agreements that include funding for the special set-aside program:

The Grantee may spend the monies in the special trust fund only after September 30, 1995, and for the coal priorities outlined in Section 403(a) of SMCRA.

5. This condition is added to Abandoned Mine Land Reclamation Program Grant Agreements that include funding for the acid mine drainage fund:

The Grantee shall establish under State law an acid mine drainage abatement and treatment fund. Amounts (together with all interest earned on such amounts) expended from the fund shall be used by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

1-67-30B (Continued)

6. This condition is added to all Small Operator Assistance Program Grant Agreements:

This grant is for reimbursing costs incurred by qualified laboratories for performance of technical work as provided in 30 CFR 795(b) and for reimbursing costs incurred by qualified laboratories or State regulatory authorities for performance of planned activities. Planning activities must be directly related to individual assistance sites and are limited to compiling and evaluating available hydrologic and geologic information and developing specifications, work statements or monitoring plans for the work to be performed at each site. Grant funds shall not be used for any other purpose including expenses incurred by the regulatory authority to administer the SOAP, such as the purchase of equipment or funding of indirect costs.

1-67-40 SPECIAL GRANT CONDITIONS

- A. In addition to the above conditions, other conditions may be added to the agreement award to address a specific situation in a State/Indian Tribe that has been deemed a problem or needs special attention. However, the addition of Grantee specific conditions is not the preferred method for achieving compliance. Action plans developed jointly by the Grantee and OSM have a greater probability of success than unilaterally imposed conditions which often disrupt Grantee processes and plans. Therefore, the addition of Grantee-specific conditions is reserved for serious situations. When utilized, such a condition shall be situation-specific and shall identify exactly what and how the Grantee shall perform and shall be monitored very closely to ensure strict adherence.
- B. Before a Grantee specific condition can be included in a grant or cooperative agreement, approval must be obtained from the Director after review by the Assistant Director, Reclamation and Regulatory Policy and the Deputy Director.

1-67-50 SIGNATURES

- A. Each grant or cooperative agreement award must be signed by the Director of OSM, or his/her delegate.
- B. The signature on the grant or cooperative agreement award shall constitute the signer's certification that, in his/her opinion, the grant or cooperative agreement is in accordance with all applicable laws and regulations and Departmental, OSM grant and program policies. No person shall be required to sign a grant or cooperative agreement award unless he/she is fully satisfied with the award.

ATTACHMENT A TO AML GRANT GR \_\_\_\_\_

Subaccount Number	Budget/Cost Category	Current Award Amount	This Change	Received Award Amount	Type of AML Pends			Type of Action
					(1)	(2)	(3)	
								Award Amendment / Budget Revision Closeout



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**CHAPTER 1-85**  
**STANDARDS FOR AN ACCOUNTING SYSTEM AND INTERNAL CONTROLS**

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1-85-00	Purpose
10	Applicability
20	Recipient Requirements
30	Criteria for an Accounting System
40	Criteria for Internal Control System
50	Review of Accounting Procedures and System of Internal Controls

**1-85-00 PURPOSE**

This chapter provides standards for a financial management system for grant or cooperative agreement supported activities of State and Indian tribal governments.

**1-85-10 APPLICABILITY**

This chapter is applicable to all OSM programs that issue grants or cooperative agreements.

**1-85-20 RECIPIENT REQUIREMENTS**

- A. The recipient is required to establish and maintain an adequate system of accounting and internal controls and to ensure that an adequate system exists for each of its subrecipients, contractors and for any delegated programs. Deviations from the accounting procedures prescribed in this chapter require prior written concurrence from OSM.
- B. The recipient is responsible for establishing and maintaining a system of internal controls to adequately safeguard grant and cooperative agreement funds and resources; to check the accuracy and reliability of the grant accounting and financial data; to promote its operational efficiency; and to encourage adherence to prescribed managerial policies.

**1-85-30 CRITERIA FOR AN ACCOUNTING SYSTEM**

- A. For OSM programs, an acceptable and adequate accounting system is one which:
  - 1. Provides the recipient with financial data for planning, control, measurement and evaluation required for efficient and economical operation of the grant or cooperative agreement funded programs;

## STANDARDS FOR AN ACCOUNTING SYSTEM AND INTERNAL CONTROLS

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2. Provides sufficient controls to ensure that the expenditure of funds and use of property are in conformance with the Federal regulations and OSM requirements;
  3. Ensures, by means of cost and property control and prudent management, that efficient use is made of the grant or cooperative agreement funds;
  4. Meets the prescribed requirements for periodic financial reporting of operations; and
  5. Classifies and presents the projected and historical cost of the grant or cooperative agreement, as required for budgetary and evaluation purposes.
- B. An accounting system is comprised of a series of operations that involve classifying, recording, summarizing and reporting transactions. Elements of the system shall consist of an account structure, accounting records, source documents, a system for coding financial transactions and written procedures prescribing the manner in which and by whom these operations are performed. To be adequate and acceptable to OSM, a recipient's accounting system shall meet the following criteria:
1. Accounting records shall identify adequately the receipt and the expenditure of funds for each recipient, subrecipient, contractor and delegated program.
  2. The accounting system shall provide accurate, current and complete financial reporting information.
  3. The coding or classification of the system shall permit the summarization and reporting of grant expenditures and receipts using the cost classifications included in the approved budget.
  4. The accounting system shall be integrated with an adequate system of internal controls to safeguard grant and cooperative agreement funds and properties, determine the accuracy and reliability of accounting data, promote operational efficiency and encourage adherence to prescribed management policies.

### 1-85-40 CRITERIA FOR INTERNAL CONTROL SYSTEM

- A. The internal controls required of a recipient are comprised of a plan or organization (its policies, structure, division of staff functions, procedures, staff qualifications, etc.) designed to provide the recipient with effective financial and operational control over both direct and indirect programs. While the degree of internal control is dependent upon the size of the recipient and the funds and resources for which the recipient is responsible, the following criteria are basic to an adequate



system of internal control.

1. The operating policies shall be clearly stated; systematically communicated throughout the organization; in conformance with applicable laws and external regulations and policies; and designed to promote the execution of authorized activities effectively, efficiently and economically.
2. An organizational structure shall define and assign responsibility for the performance of all duties necessary to carry out the functions of the project.
3. Responsibility for assigned duties and functions shall be classified according to authorization, performance, recordkeeping, custody of resources and review, to provide proper internal checks on performance and to minimize unauthorized, fraudulent, or otherwise irregular acts.
4. A system of forward planning embracing all phases of the operation shall be developed to determine and justify financial, property and personnel requirements and to carry out project operations effectively, efficiently and economically.
5. An adequate system of authorization, recordkeeping and transaction coding procedures shall be designed by the recipient to ensure compliance with applicable laws, regulations and internal management policies; to prevent illegal or unauthorized transactions; and to provide proper accounting records for the expenditure of grant or cooperative agreement funds.
6. An adequate and efficiently operated information system shall provide prompt, essential and reliable operating and financial data to those officials responsible for making decisions or reviewing performance.
7. The performance of all duties and functions of recipient personnel shall be properly supervised. All performance is to be subject to adequate review under an effective internal audit and management review program to determine whether performance is effective, efficient and economical; management policies are adhered to; applicable laws, prescribed regulations and grant or cooperative agreement conditions are obeyed; and unauthorized, fraudulent, or otherwise irregular transactions or activities are minimized.
8. The qualifications of officials and other personnel as to education, training, experience, competence and integrity shall be appropriate for the responsibilities, duties and functions assigned to them.
9. Each official and employee shall be fully aware of his/her assigned responsibilities and understand the nature and consequence of his/her performance. Each person is to be held

## STANDARDS FOR AN ACCOUNTING SYSTEM AND INTERNAL CONTROLS

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fully accountable for the honest and efficient discharge of his duties and functions, including, where applicable, the custody and administration of funds, property and compliance with grant or cooperative agreement regulations and legal requirements.

10. Effective procedures shall be implemented to ensure that needed goods and services are acquired at the lowest possible cost; that the goods and services paid for are actually received; that the quality, quantity and prices are in accordance with the applicable contracts or other authorizations by recipient organization officials; and that such authorizations are consistent with applicable statutes, regulations, policies and grant or cooperative agreement conditions.
11. All funds, property and other resources for which the recipient is responsible shall be appropriately safeguarded and periodically inventoried to prevent misuse, unwarranted waste, deterioration, destruction, or misappropriation.

### 1-85-50 REVIEW OF ACCOUNTING PROCEDURES AND SYSTEM OF INTERNAL CONTROLS

Periodically, DOI auditors from the OIG or their designated representatives may visit the recipient after the grant or cooperative agreement is approved to review the established accounting procedures and system of internal controls. These visits should afford an opportunity to answer questions about OSM grant and cooperative agreement accounting requirements. Soon after completion of this accounting survey, the OIG issues to the appropriate AD a report on the results of the field review.

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**CHAPTER 1-95**  
**ACCOUNTING FILES AND SUPPORTING DOCUMENTATION**

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- 1-95-00 Purpose
- 15 Documentation Required to Support Nonconstruction Costs
- 20 Documentation Required to Support Construction Costs

**1-95-00 PURPOSE**

This chapter prescribes standards to be followed when establishing accounting files and documentation to support costs for OSM grant or cooperative agreement supported activities of State and Indian regulatory agencies.

**1-95-15 DOCUMENTATION REQUIRED TO SUPPORT NONCONSTRUCTION COSTS**

A. A recipient will be required to provide financial reports at reasonably frequent intervals on the following types of costs, when such costs appear in the approved budget, and if such costs meet the criteria for allowability.

1. Personnel

a. Compensation for personnel includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant or cooperative agreement.

b. Supporting Documents

Amounts charged to a grant or cooperative agreement for personnel must be based on payrolls that have been documented and approved in accordance with generally accepted accounting practices. Payrolls must be supported by time and attendance (or equivalent) records of individual employees. Salaries and wages of employees chargeable to more than one grant or cooperative agreement must be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

ACCOUNTING FILES AND SUPPORTING DOCUMENTATION

PAGE 2

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1-95-15A. (Continued)

2. Fringe Benefits

a. Fringe benefits are allowable as a direct cost (if not included as an indirect cost) in proportion to the salary charged to the grant or cooperative agreement.

b. Supporting Documents

Amounts charged to the grant or cooperative agreement must be based on a formally established and consistently applied organizational policy.

3. Travel

a. This category includes per diem reimbursements for traveling, personnel transportation charges, and reimbursement for authorized use of personally-owned automobiles. Travel costs must not be proposed at rates in excess of the current rate for Federal employees.

b. Supporting Documents

Travel expenditures must be supported by evidence showing that travel costs were properly authorized, as well as a statement of expenses submitted by the traveler.

4. Equipment

a. This category includes the cost of equipment to be purchased for regulatory or reclamation purposes, office machines, furniture and fixtures, computers and copiers and any other special equipment. OSM's definition of nonexpendable equipment means an article of nonexpendable tangible personal property having a useful life of more than one year, and an acquisition cost of \$5,000 or more per unit.

b. Supporting Documents

Expenditures for the purchase of such equipment must be supported by quotations, approved purchase orders and/or contracts, receiving reports, purchase requisitions, and vendor's invoices.

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1-95-15A. (Continued)

5. Supplies

a. This category includes such expendable items as stationary, postage, and small items of equipment.

b. Supporting Documents

Expenditures for consumable supplies must be supported by vendor's invoices, receipts, or other evidence that funds were disbursed for grant or cooperative agreement purposes.

6. Contractual (Services and Consultants)

a. This category includes payment to approved consultants and experts for professional and technical services, such as accounting or legal assistance, and payment for services rendered by other qualified individuals or organizations.

b. Supporting Documents

Whenever feasible, consultant and contract fees paid will be substantiated by proposals from more than one reputable consultant. Moreover, in a cost type contract, the recipient or a designated representative shall have reviewed the contractor's records and shall include a copy of all resultant reports in its grant or cooperative agreement files. Further, billings for consultants and contract services must provide a clear statement of the services performed and, if appropriate, the number of person-days of service.

7. Construction

a. This category includes payments for the cost of minor leasehold improvements. Do not enter the AML project construction costs.

b. Supporting Documents

Expenditures for leasehold improvements must be supported by vendor's invoices, receipts, or other evidence that renovation was accomplished using OSM funds and the method used to calculate the cost.

1-95-15A. (Continued)

8. Other Direct Costs

a. Other direct costs includes such items as transportation of equipment, repairs, utilities, telephones and telegraph, publications and printing, subscriptions, and other miscellaneous expenses related to the grant or cooperative agreement, but which do not fit into one of the other direct cost categories.

b. Supporting Documents

Expenditures for other direct costs must be supported by vendor's invoices, receipts, or other evidence that the funds were disbursed for grant or cooperative agreement purposes.

c. Space Costs and Rentals

Space costs and rentals must be confined to the costs of renting or leasing space for use by the recipient including a lease/purchase agreement, plus normal maintenance and operation costs required to make or maintain buildings usable for program purposes.

d. Supporting Documents

Costs for procurement of space must be substantiated by a rental or lease agreement which includes the following items:

- (1) description of space to be leased;
- (2) purpose for which it is to be used;
- (3) period of lease (limited to grant period);
- (4) options to renew lease;
- (5) utilities, insurance, and other services to be furnished to lessee;
- (6) rate or rental, depreciation, or use allowance;

1-95-15A.8 (Continued)

- (7) method and time of payment;
- (8) other conditions required of lessor or lessee (recipient); and
- (9) signatures of both parties and witnesses.

9. Indirect Costs

- a. Indirect costs are those that are: (1) incurred for a common or joint purpose, benefiting more than one cost objective (e.g., grants, cooperative agreements, projects, contracts, activities); and (2) not readily assignable to specifically benefited cost objectives without an effort disproportionate to the results achieved.

- b. Supporting Documents

Indirect costs must be supported by an analysis of the cost elements composing the indirect pools, and an explanation of the structure of the distribution base and the cost allocation rationale. The State/Tribal agency should have on file with OSM the most recently negotiated Indirect Cost agreement.

1-95-20 DOCUMENTATION REQUIRED TO SUPPORT CONSTRUCTION COSTS

- A. A recipient will be required to provide periodic financial reports on the following costs, when such costs appear in the approved budget and if such costs meet the criteria for allowability. Each construction project is to have files that support the following expenditures:
  - 1. Administration Expense. This category includes the cost for administrative expenditures including such items as travel, legal fees, rental of vehicles and any other expense incurred in the administration of a construction project.
  - 2. Preliminary Expense. This category includes the cost pertaining to the work of locating, conducting field investigations, compiling reports of investigation, real estate activities, planning and design, surveys and maps, sinking test holes, and other work required prior to actual construction.
  - 3. Land Structures, Right-of-Way. This category includes the costs which are directly associated with the acquisition of land, existing structures, and related right-of-way.

## 1-95-20A. (Continued)

4. Architectural Engineering Basic Fees. This category includes the basic fees for architectural and engineering services.
5. Other Architectural Engineering Fees. This category includes costs for other architectural engineering services such as surveys, tests, and borings.
6. Project Inspection Fees. This category includes costs for construction monitoring, inspection and audit fees of construction and related programs.
7. Land Development. This category includes costs associated with the development of land where the primary purpose of the grant or cooperative agreement is land improvement. Site work normally associated with major construction should be excluded from this category and reported as construction and project improvement.
8. Relocation Expenses. This category includes costs incurred to provide relocation advisory assistance, and the net amounts for replacement housing (last resort). Do not include amounts needed for relocation administration expenses; these amounts should be included in Administrative Expense.
9. Relocation Payments to Individuals and Business. This category includes costs for relocation payments made by the recipient to displaced persons, farms, business concerns and nonprofit organizations.
10. Demolition and Removal. This category includes costs for gross salaries and wages of employees of the recipient who will be directly engaged in performing demolition or removal of structures from developed land. This category includes the cost of demolition or removal of improvements on developed land under a third-party contract. Reduce the costs on this line by the amount of expected proceeds from the sale of salvage.
11. Construction and Project Improvement. This category includes costs for the actual construction of, addition to, or restoration of a facility.
12. Equipment. This category includes costs for equipment both fixed and movable *exclusive of equipment used for construction.* For example, include amounts for permanently attached laboratory tables, built-in audio visual systems, movable desks, chairs, and laboratory equipment.



## 1-95-20 (Continued)

13. Miscellaneous. This category includes construction-related costs for items not specifically mentioned above. Report indirect costs on this line.
14. Estimated Income. This category is to include the amount of the program income that was earned during the grant or cooperative agreement period and applied to the construction project.

B. Supporting Documents

Personnel costs must be based on payrolls that have been documented and approved. Travel expenditures must be supported by evidence showing that travel costs were properly authorized, as well as a statement of expenses submitted by the traveler. Other expenditures must be supported by contracts, receiving reports, purchase requisitions and vendor's invoices.

