

The University of California
Office of the Vice President-Administration

CONTRACT AND GRANT MEMO

No. 22-73

June 15, 1973

I. POLICY AND PROCEDURE

Each item in Section I of this Memo remains in effect until subsequently incorporated into the Contract and Grant Manual, or until specifically cancelled.

I-1. Highway Research Master Agreement with California Division of Highways - SA 13945

The cited master agreement, originally negotiated in 1966, covers research performed by the University for the Division of Highways of the State of California. Under the terms of the Highway Research Master Agreement (HRMA), studies are performed at campuses in accordance with a Research Technical Agreement (RTA) entered into for each individual study; each RTA is considered to be a part of the HRMA.

The Division of Highways recently proffered a Supplement to RTA 13945-14717 at the Berkeley campus, primarily providing for a routine extension of the project performance period and additional project funds. However that RTA Supplement also presented certain changes in terms and conditions, including the addition of new provisions on allowable costs, and a revision of the publication provisions. Responding to a Berkeley campus inquiry concerning these unexplained revisions, the Division of Highways stated that individual RTAs, and ultimately the HRMA, were to be changed to conform to new regulations of the Federal Highway Administration, since the State finances portions of this highway research with Federal-aid funds. Attachment 1, our letter of June 7, 1973 to the Division of Highways, summarized the results of lengthy negotiations. The following changes in terms and conditions have been agreed upon by the Division of Highways and by this office.

Publications. Attachment 2 is a copy of the new publication provision negotiated with the Division of Highways, dated May 21, 1973. This new provision is acceptable for inclusion in new and continuing RTAs, pending its incorporation into the HRMA. Agreement on this provision could be reached only after the Federal Highway Administration was persuaded to amend its Policy and Procedure Memorandum, since the State Division of Highways must conform to PPM guidelines in establishing provisions for its contracts, such as the HRMA, funded under 23 USC 307 (c).

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Indirect Costs. Attachment 3 is a copy of a newly added paragraph 11, concerning allowable costs, as shown within RTA 13945-14648 UCB Third Supplement, as executed. This paragraph is approved for acceptance by campuses in RTAs under the HRMA, and constitutes a clarification of the current provision of the HRMA which reads: "State will also reimburse Contractor for proper overhead expenses directly attributable to the individual study initiated under the RTA." You will note that paragraph 11 of Attachment 3 provides that indirect costs shall be computed using the appropriate standard non-Federal rate. This usage is acceptable because accurate determination of the portion of Federal funding and the portion of State funding for each RTA under the HRMA is not feasible; thus the computation of the indirect costs, and the disposition of the amount recovered, may be treated as if the funds were totally from the State of California. This is in accordance with C&G Memo 8-71 and the memorandum of December 3, 1971 from the Director of Contracts and Grants to Contract and Grant Officers and Accounting Officers.

In the event that the Division of Highways presents new or amended RTAs which include changes of HRMA terms and conditions, other than the above approved indirect cost or publication provisions, the matter should be referred to this office for resolution.

Refer: Peggy Klenz 2-2591

Index: California, State of
Cost Allowability
Indirect Costs
Publications Rights
Rights to Results
Rights in Technical
Data
Terms and Conditions

I-2. Completion of Forms NIH-1995 and NIH-1997

Refer to item I-3 of C&G Memo 21-73, which is cancelled hereby.

NIH has advised that campuses are not required to complete these forms. See attached NIH May 15 letter from Alex Smallberg to N. H. Gross.

Refer: Peggy Klenz 2-2591

Index: NIH Basic Agreement
Reports

I-3. Environmental Protection Agency - Contracts

Within recent weeks the Riverside and Santa Cruz campuses have each referred to this office a set of proposed contract documents for which the Environmental Protection Agency (EPA) required University acceptance at the time of proposal submission. The related requests for proposals came from two different EPA offices; the contents of the two were similar but not identical. Included in each set of contract documents were:

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- (1) A version of HEW-315, General Provisions (Negotiated Cost Reimbursement Contracts) with alterations;
- (2) Financial and Organizational Information (a questionnaire concerning the contractor to be completed and returned with the proposal);
- (3) Representations, Certifications, and Acknowledgments (a form to be executed by an authorized official of the contractor and returned as part of the proposal);
- (4) EPA's Guide for Preparation of Contractor's Claims for Reimbursement of Costs, to be incorporated into the contract;
- (5) EPA's Final Report Specifications for Grant, Contract and In-house Projects, to be incorporated into the contract.

It was necessary to negotiate changes in certain of the proposed General Provisions in order to bring them into consonance with University policy. Following negotiations, modifications were made in the provisions, including:

- No. 12 Rights in Data (Publication)
- No. 20 Patent Rights
- No. 25 Insurance
- No. 27 Negotiated Overhead Rates
- No. 29 Government Property

Changes or deletions were also made in the Representations, Certifications, and Acknowledgments before execution on behalf of The Regents. These changes were necessary to remove obsolete items or to bring consistency with the proposed contract provisions, and were generally accepted without question by EPA.

Further details, including copies of the contracts as executed, are available upon request from this office. Campuses receiving EPA requests for proposals in the format described above should base their responses upon the above two completed negotiations.

Refer: Peggy Klenz 2-2591

Index: Terms & Conditions
Property Management
Publication Rights
Indirect Costs
Insurance
Environmental Protection
Agency

I-4. NIH Instructions for Special Provisions to Cost-Reimbursement Research Contracts with Educational Institutions - 6000-3-7.405

Provided for your general background information is a copy of the

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reference document which was issued in 1972 by NIH for their internal use.

Refer: Peggy Klenz 2-2591

Index: Cost Reimbursement
Contracts

I-5. Indirect Cost Rates for the Period July 1, 1974 through
June 30, 1975

A Negotiation Agreement dated May 22, 1973, has been executed by the University and DHEW extending the University's negotiated indirect cost rates for an additional year, July 1, 1974 through June 30, 1975, and converting the rate expression base to a modified total direct cost basis for that year.

Attached hereto is a summary table of the research rates which should be used in proposals for awards which will be in effect on and after July 1, 1974.

Although these rates are indicated as provisional, it is expected that they will be confirmed by DHEW as fixed rates upon completion of a DHEW audit and they can be considered as fixed for proposal purposes.

The letter of December 3, 1971, currently incorporated into Appendix A of the Policy and Procedure Manual for Contract and Grand Administration, delineated indirect cost rates in effect through June 30, 1974 and instructions for their application. All matters discussed in that letter remain in full force and effect through June 30, 1974.

A similar letter for information and guidance on the modified total direct cost rates is being prepared and will be forwarded in the near future. Attached to that letter will be tables setting forth all the rates for the major functional areas in which Federally sponsored projects are conducted.

Refer: Max Connelly 2-2591

Index: Indirect Costs

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II. EXTRAMURAL SUPPORT INFORMATION

II-1. National Portrait Gallery Training Fellowships

Two one-year \$7,500 Training Fellowships are being offered by the National Portrait Gallery for a program designed to acquaint students, who will complete Master's Degrees in History by August 31, 1973, with the uses of objects as historical documents and with procedures and techniques required in museum-related careers. The program will be conducted at the Gallery in Washington D.C. from September 4, 1973 to August 31, 1974.

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For information write: The Director, National Portrait Gallery, Smithsonian Institution, Washington D.C. 20560. Deadline: July 16, 1973

Refer: Betty Strehl 2-2591

II-2. National Science Foundation - Institutional Grants for Science 1973

In past years the National Science Foundation has distributed announcements of its Institutional Grants for Science Program in May, establishing June 30 as the closing date for letters of application from qualifying institutions.


The NSF Grants and Contracts Office states that the announcement of 1973 Institutional Grants for Science has not yet been issued, but is scheduled for distribution in the first week of July. The closing date for mailing applications will be July 31, 1973. Campuses may submit letters of application prior to receipt of the announcement if they wish, since the application instructions will be unchanged from those of last year.

Refer: Peggy Klenz 2-2591

III. GENERAL INFORMATION

III-1. Material Furnished by Separate Memo

1. Memo dated 5/18/73 from N. H. Gross to Contract and Grant Officers only, distributing USAF Basic Ordering Agreement F 18600-73-A-0155.
2. Memo dated 5/23/73 from N. H. Gross to Contract and Grant Officers only requesting review and comment of Change 6 to SECTION VI to the Policy and Procedure Manual.


N. H. Gross
Director of Contracts
and Grants

Att. (6)

UNIVERSITY OF CALIFORNIA

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SANTA BARBARA • SANTA CRUZ

CHARLES J. HITCH
President of the University

OFFICE OF THE PRESIDENT
BERKELEY, CALIFORNIA 94720

JOHN A. PERKINS
Vice President—Administration

June 7, 1973

Mr. R. J. Datel
State Highway Engineer
Department of Public Works
Division of Highways
1120 N St.
Sacramento, California 95814

Dear Mr. Datel:

This responds to your May 21, 1973 letter to Mr. Richard Wolfe of my office requesting the University's review and position regarding an enclosed draft copy of a new publication provision dated May 21, 1973.

We are glad to respond that the new clause, which is based on a revision to Paragraph 5u of PPM 50-1.2, would be an acceptable substitution for the present "Publication" article of Highway Research Master Agreement No. 13945. In this regard, we will notify our campuses that the new provision is acceptable for inclusion in individual Research Technical Agreements issued by your office, pending incorporation of such clause in the Master Agreement.

As a separate but pertinent matter, we also plan to notify our respective campuses of the acceptability of your new clause pertaining to overhead and allowable costs, as revised pursuant to Paragraph 11 under RTA 13945-14648 UCB Third Supplement, issued to the Berkeley campus. It is requested that you incorporate the revised language, agreed upon with the Berkeley campus, in all future Research Technical Agreements issued to University campuses, pending incorporation of the revised language into the Master Agreement.

We greatly appreciate the cooperation and understanding offered by your office in our recent negotiations and look forward to a mutually-beneficial, continuing relationship with the State Division of Highways.

Sincerely,


N. H. Gross

cc: Mr. W. Archie

BT. 1

PUBLICATION PROVISIONS

(A) General - These Publication Provisions are to provide for adequate documentation of the completed contract obligations, to encourage publication and distribution of research information, and to protect the State and the Federal Highway Administration from unwarranted implications of policy or concurrence with the conclusions of the contractor.

(B) Review of reports - The process of the State's and the Federal Highway Administration's review of the drafts of interim and final research reports to ensure adequate compliance with provisions of this agreement will include:

1 A general technical review to ensure that all aspects of the study provided for by this agreement have been adequately carried out and documented. Correction of deficiencies found in this review is a requirement for the State's and the Federal Highway Administration's acceptance of a report as evidence of partial or final fulfillment of the agreement objectives.

2 Consideration as to whether or not the organization, language and content of the report are presented in a manner which will be intelligible to its intended audience. Reports on studies which produce an implementable product in the form of a device, procedure or the like must be written in a manner understandable

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to the user. Where studies conclude with intermediate research results, they may be written in the language of that research field but must contain a technical summary in terms intelligible to the user of the ultimate system to which the research is expected to contribute. Correction of deficiencies found in this review is also a requirement for the State's and the Federal Highway Administration's acceptance of a report as satisfactory documentation of the agreement requirements.

3 An analysis of the recommendations and conclusions of the report in relationship to the data and theories developed therein to determine whether or not the State and the Federal Highway Administration concur that the contractor's recommendations and conclusions are supported by the data. Recognizing that professional differences of opinion do arise, the concurrence of the contractor with review comments of this type is not a requirement for acceptance, but may affect decisions regarding State and Federal Highway Administration distribution of the report.

4 General comments on the technical content and presentation may be furnished for the optional use of the author in preparing the manuscript for publication.

(C) Acknowledgment and disclaimer statements - All reports published by the State and/or the contractor under provisions of this agreement shall contain the following:

1 A credit reference: "Prepared in cooperation with the State of California, Business and Transportation Agency, Department of Transportation and the U.S. Department of Transportation, Federal Highway Administration."

2 A disclaimer statement: "The contents of this report reflect the views of the author who is responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California or the Federal Highway Administration. This report does not constitute a standard, specification, or regulation."

(D) Publication rights - Reports prepared by the contractor under provisions of this agreement may be published under the following conditions:

1 Any material contained in interim or final reports which have received final acceptance by the State and the Federal Highway Administration may be published in any form and through any media the contractor may desire without further

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written permission by the State or the Federal Highway Administration, subject only to the inclusion of credit and disclaimer statements of Section C-1&2 of these Publication Provisions.

2 In the event that the contractor cannot agree with the comments of the State or the Federal Highway Administration, the contractor may publish the material contained in the report 40 days after it has been resubmitted in final form to the State subject to the inclusion of credit and disclaimer statements of Section C-1&2 of these Publication Provisions. In the event of said lack of agreement, the contractor shall include the State's and the Federal Highway Administration's technical comments in the report in a clearly identified section such as "reviewer's comments," identifying the reviewer by name and title.

3 Federal Highway Administration reviews of draft reports will normally be completed within 90 days of submission by the State. In the event that the State fails to provide the contractor with any comments on the draft report within 100 days of its submission by the contractor, the contractor may proceed to the preparation of the final manuscript and its submission for formal acceptance in documentation of completion of contract objectives. The State will authorize the contractor to publish the material contained in the report 40 days after it has been

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resubmitted in final form to the State, subject to the inclusion of (1) a statement that the Federal Highway Administration has not completed its review of the report and (2) the credit and disclaimer statements of Section C-1&2 of these Publication Provisions.

(E) Dissemination of results - The contractor may publish the results of the study or any of its particulars in separate reports or by submission of technical papers to professional organizations subject to these Publication Provisions. Both written and oral releases are considered to be within the context of publication. However, there is no intention to limit discussions of the study with small technical groups or lectures to employees or students. Lectures to other groups which describe the plans but disclose neither data nor results are permissible without advance review by the State and the Federal Highway Administration.

(F) Presentation of papers and articles - In unusual cases when the scheduled time for the preparation of a technical paper, containing previously undisclosed findings, for presentation at professional meetings or submission to professional organizations does not permit time for formal review and acceptance, an abstract and notification of intent to present the paper should be submitted through normal channels for State and Federal Highway

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Administration concurrence. Such concurrence will normally be given unless there is indication of new and controversial findings and conclusions based on data which the State and the Federal Highway Administration have not been given adequate opportunity to review. To protect the interest of the sponsoring agencies, such presentation should contain (1) a statement that the sponsoring agencies have not reviewed the paper and (2) the credit and disclaimer statements of Section C-1&2 of these Publication Provisions. Draft copies of these papers should be submitted through normal channels for State and Federal Highway Administration review as soon as completed.

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The following paragraphs shall be added:

9. The attached Form H-IC-51 (7/72) titled "Appendix A" shall apply in lieu of Form H-IC-51 (1/71) of the Highway Research Master Agreement.
10. The contractor shall comply with the Presidential Executive Order No. 11627, dated October 15, 1971, and all guidelines, rules, and regulations of the Cost of Living Council, Pay Board and Price Commission implementing it. The contractor warrants that no wages, prices or salaries to be paid under this contract will be in excess of the maximum legally allowable pursuant to the foregoing order, rules and regulations.
11. The items included in direct costs are those which are identified specifically with this research project as detailed in the research proposal. The contractor certifies that items of equipment included as direct costs have been excluded from the indirect costs.

The basis for determining overhead or indirect costs and the major items included therein shall be in accordance with the indirect cost rates applicable January 1, 1972, through June 30, 1974, to non-federal sponsored programs established for the University of California by its cognizant Federal department which is the Department of Health, Education, and Welfare. These indirect cost rates are/cited in Negotiation Agreement dated November 22, 1971, have been accepted by the Regents of the University of California and are hereby made a part of this agreement.

The cost principles for use in the determination of the allowability of individual items of the cost shall be the latest revision in effect of Office of Management & Budget Circular No. A-21 entitled, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Educational Institutions", Article II - Allowable Costs and Payment of the Highway Research Master Agreement, and other directives and contract cost principles and procedures as set forth in Part 1-15.3 of the Federal Procurement Regulations.

All other terms and conditions shall remain in full force and effect.

ATT. 5

Provisional Negotiated Organized Research Indirect Cost Rates
Applicable July 1, 1974 through June 30, 1975
To Federal Research Contracts and Grants

Rate Expression Basis - - Modified Total Direct Costs *

Components	On Campus	Off Campus	Marine Facilities San Diego & Naval Bio. Med. Res. Lab., Oakland	Slichter Hall L.A. & Space Sci. Lab., Berkeley	Gen. Clinical Res. Ctrs. SF, LA, SD	Radio Bio.Lab. Davis	Primate Center Davis
Maintenance & Operation	5.20%			5.20%		5.20%	5.20%
Use Allowance-Buildings	1.80						
Use Allowance- Equipment	2.18						
General Administration	6.50	6.50%	6.50%	6.50	6.50%	6.50	6.50
Libraries	2.18			2.18	2.18	2.18	
Departmental Administration	14.75	14.75	3.69	14.75	14.75	6.83	.73
Student Services	1.61			1.61		1.61	1.61
Rounded Totals	34.2 %	21.2 %	10.2 %	30.2 %	23.4 %	22.3 %	14.0 %

* Total direct costs modified by eliminating -

- (1) Expenditures for equipment.
- (2) Expenditures over \$50,000 on single sub-contracts with parties outside the University (only nine or ten instances in University system).
- (3) Expenditures over \$50,000 on single purchases from third parties (outside the University), such as county hospitals, of hospitalization and other services related to patient care (only two or three instances in system).
- (4) Expenditures for alterations and renovations (object code 9700).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH

RELEASE DATE

4/3/72

MANUAL TRANSMITTAL SHEET

SUBJECT

6000-3-7.405 - SPECIAL PROVISIONS TO COST-REIMBURSEMENT RESEARCH
CONTRACTS WITH EDUCATIONAL INSTITUTIONS

1. Explanation of Material Transmitted: This release provides guidance concerning clauses to be employed in the Special Provisions of cost-reimbursement research contracts with educational institutions.
2. Material Superseded: None
3. Filing Instructions:

Remove

None

Insert

6000-3-7.405 dated 4/3/72

Distribution:

NIH 6, NIH 7

Special Provisions for Cost-Reimbursement Research
Contracts with Educational Institutions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Special Provisions for Cost-Reimbursement Research
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- H. Implementation The use of the articles and alteration set forth in Attachments 1 and 2 hereto will become mandatory after July 1, 1972. However, they may be used prior to that date at the discretion of the contracting officer, and should be used whenever requested by the contractor.

SPECIAL PROVISIONS FOR COST-REIMBURSEMENT RESEARCH
CONTRACTS WITH EDUCATIONAL INSTITUTIONS

ARTICLE III

ESTIMATED COST

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

ARTICLE IV

PROVISIONS APPLICABLE TO DIRECT COSTS

A. Items Unallowable Unless Otherwise Provided

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

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

B. Travel Costs

1. Foreign Travel Foreign travel, herein defined as travel outside the United States, its Territories and Possessions, and Canada, shall not be performed and the costs thereof shall not be allowable without the prior written approval of the Contracting Officer.
2. Domestic Travel
 - a. Total expenditures for domestic travel shall not exceed \$500, or one hundred twenty-five percent (125%) of the amount, if any, specified elsewhere in this contract

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as being allotted for such travel, whichever is greater, without the prior written approval of the Contracting Officer.

- b. The cost of travel by privately-owned automobile shall be reimbursed at the mileage rate prescribed by the Contractor's established, generally applicable travel policy¹ in lieu of actual costs; provided, however, that such reimbursement shall not exceed the otherwise allowable comparative cost of travel by common carrier.
- c. Reasonable actual costs of lodging and subsistence, or per diem in lieu of actual costs, shall be allowable to the extent that such actual costs or per diem amounts do not exceed the amounts or per diem rates prescribed by the Contractor's established, generally applicable travel policy.²
- d. Any revision to the Contractor's established, generally applicable travel policy approved by the cognizant audit agency during the period of performance of this contract shall be effective, without formal modification to this contract, upon delivery to the Contracting Officer of a copy of such revised policy together with evidence of cognizant audit agency approval thereof.

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

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

Clause 26 (Subcontracting) is amended as follows: .

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

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

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ARTICLE III
COMPENSATION

(Use with A. Maximum Actual Cost
CR Contracts)

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

OGAP CONTRACTORS

(Include when B. Indirect Costs
the Contractor is an
educational
institution or a
nonprofit organiza-
tion without
predetermined rates).

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

(With B. Indirect Costs
predetermined
rates)

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

C. Direct Costs

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

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

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