

(2) The trainee is not eligible or able to continue in attendance in accordance with its standards and practices.

[45 FR 73658, Nov. 6, 1980. Redesignated at 61 FR 6131, Feb. 16, 1996]

§ 58.232 What additional Department regulations apply to grantees?

Several other Department regulations apply to grantees. They include, but are not limited to:

- 42 CFR part 50, subpart D—Public Health Service grant appeals procedure
- 45 CFR part 16—Procedures of the Departmental Grant Appeals Board
- 45 CFR part 46—Protection of human subjects
- 45 CFR part 74—Administration of grants
- 45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964
- 45 CFR part 81—Practice and procedure for hearings under part 80 of this title
- 45 CFR part 83—Regulation for the administration and enforcement of sections 794 and 855 of the Public Health Service Act
- 45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
- 45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance
- 45 CFR part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance
- 45 CFR part 93—New restrictions on lobbying [49 FR 38116, Sept. 27, 1984. Redesignated and amended at 61 FR 6131, Feb. 16, 1996]

§ 58.233 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 74 concerning audit and inspection.

[61 FR 6131, Feb. 16, 1996; 61 FR 51020, Sept. 30, 1996]

§ 58.234 Additional conditions.

The Secretary may impose additional conditions in the grant award before or at the time of the award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity,

the interest of the public health, or the conservation of grant funds.

[45 FR 73658, Nov. 6, 1980. Redesignated at 61 FR 6131, Feb. 16, 1996]

Subparts E-F [Reserved]

PART 59—GRANTS FOR FAMILY PLANNING SERVICES

Subpart A—Project Grants for Family Planning Services

Sec.

- 59.1 To what programs do these regulations apply?
- 59.2 Definitions.
- 59.3 Who is eligible to apply for a family planning services grant?
- 59.4 How does one apply for a family planning services grant?
- 59.5 What requirements must be met by a family planning project?
- 59.6 What procedures apply to assure the suitability of informational and educational material?
- 59.7 What criteria will the Department of Health and Human Services use to decide which family planning services projects to fund and in what amount?
- 59.8 How is a grant awarded?
- 59.9 For what purposes may grant funds be used?
- 59.10 What other HHS regulations apply to grants under this subpart?
- 59.11 Confidentiality.
- 59.12 Additional conditions.

Subpart B [Reserved]

Subpart C—Grants for Family Planning Service Training

- 59.201 Applicability.
- 59.202 Definitions.
- 59.203 Eligibility.
- 59.204 Application for a grant.
- 59.205 Project requirements.
- 59.206 Evaluation and grant award.
- 59.207 Payments.
- 59.208 Use of project funds.
- 59.209 Civil rights.
- 59.210 Inventions or discoveries.
- 59.211 Publications and copyright.
- 59.212 Grantee accountability.
- 59.213 [Reserved]
- 59.214 Additional conditions.
- 59.215 Applicability of 45 CFR part 74.

Subpart A—Project Grants for Family Planning Services

AUTHORITY: 42 U.S.C. 300a-4.

§ 59.1

SOURCE: 65 FR 41278, July 3, 2000, unless otherwise noted.

§ 59.1 To what programs do these regulations apply?

The regulations of this subpart are applicable to the award of grants under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family planning projects. These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children.

[65 FR 41278, July 3, 2000; 65 FR 49057, Aug. 10, 2000]

§ 59.2 Definitions.

As used in this subpart:

Act means the Public Health Service Act, as amended.

Family means a social unit composed of one person, or two or more persons living together, as a household.

Low income family means a family whose total annual income does not exceed 100 percent of the most recent Poverty Guidelines issued pursuant to 42 U.S.C. 9902(2). "Low-income family" also includes members of families whose annual family income exceeds this amount, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources.

Nonprofit, as applied to any private agency, institution, or organization, means that no part of the entity's net earnings benefit, or may lawfully benefit, any private shareholder or individual.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State includes, in addition to the several States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, the U.S. Outlying Islands (Mid-

42 CFR Ch. I (10-1-00 Edition)

way, Wake, *et al.*), the Marshall Islands, the Federated State of Micronesia and the Republic of Palau.

[65 FR 41278, July 3, 2000; 65 FR 49057, Aug. 10, 2000]

§ 59.3 Who is eligible to apply for a family planning services grant?

Any public or nonprofit private entity in a State may apply for a grant under this subpart.

§ 59.4 How does one apply for a family planning services grant?

(a) Application for a grant under this subpart shall be made on an authorized form.

(b) An individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of the grant, including the regulations of this subpart, must sign the application.

(c) The application shall contain—

(1) A description, satisfactory to the Secretary, of the project and how it will meet the requirements of this subpart;

(2) A budget and justification of the amount of grant funds requested;

(3) A description of the standards and qualifications which will be required for all personnel and for all facilities to be used by the project; and

(4) Such other pertinent information as the Secretary may require.

§ 59.5 What requirements must be met by a family planning project?

(a) Each project supported under this part must:

(1) Provide a broad range of acceptable and effective medically approved family planning methods (including natural family planning methods) and services (including infertility services and services for adolescents). If an organization offers only a single method of family planning, it may participate as part of a project as long as the entire project offers a broad range of family planning services.

(2) Provide services without subjecting individuals to any coercion to accept services or to employ or not to employ any particular methods of family planning. Acceptance of services must be solely on a voluntary basis and

may not be made a prerequisite to eligibility for, or receipt of, any other services, assistance from or participation in any other program of the applicant.¹

(3) Provide services in a manner which protects the dignity of the individual.

(4) Provide services without regard to religion, race, color, national origin, handicapping condition, age, sex, number of pregnancies, or marital status.

(5) Not provide abortion as a method of family planning. A project must:

(i) Offer pregnant women the opportunity to be provided information and counseling regarding each of the following options:

(A) Prenatal care and delivery;

(B) Infant care, foster care, or adoption; and

(C) Pregnancy termination.

(ii) If requested to provide such information and counseling, provide neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant woman indicates she does not wish to receive such information and counseling.

(6) Provide that priority in the provision of services will be given to persons from low-income families.

(7) Provide that no charge will be made for services provided to any persons from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized to or is under legal obligation to pay this charge.

¹Section 205 of Pub. L. 94-63 states: "Any (1) officer or employee of the United States, (2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or (3) person who receives, under any program receiving Federal assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."

(8) Provide that charges will be made for services to persons other than those from low-income families in accordance with a schedule of discounts based on ability to pay, except that charges to persons from families whose annual income exceeds 250 percent of the levels set forth in the most recent Poverty Guidelines issued pursuant to 42 U.S.C. 9902(2) will be made in accordance with a schedule of fees designed to recover the reasonable cost of providing services.

(9) If a third party (including a Government agency) is authorized or legally obligated to pay for services, all reasonable efforts must be made to obtain the third-party payment without application of any discounts. Where the cost of services is to be reimbursed under title XIX, XX, or XXI of the Social Security Act, a written agreement with the title XIX, XX or XXI agency is required.

(10)(i) Provide that if an application relates to consolidation of service areas or health resources or would otherwise affect the operations of local or regional entities, the applicant must document that these entities have been given, to the maximum feasible extent, an opportunity to participate in the development of the application. Local and regional entities include existing or potential subgrantees which have previously provided or propose to provide family planning services to the area proposed to be served by the applicant.

(ii) Provide an opportunity for maximum participation by existing or potential subgrantees in the ongoing policy decisionmaking of the project.

(11) Provide for an Advisory Committee as required by § 59.6.

(b) In addition to the requirements of paragraph (a) of this section, each project must meet each of the following requirements unless the Secretary determines that the project has established good cause for its omission. Each project must:

(1) Provide for medical services related to family planning (including physician's consultation, examination prescription, and continuing supervision, laboratory examination, contraceptive supplies) and necessary referral

§ 59.6

to other medical facilities when medically indicated, and provide for the effective usage of contraceptive devices and practices.

(2) Provide for social services related to family planning, including counseling, referral to and from other social and medical services agencies, and any ancillary services which may be necessary to facilitate clinic attendance.

(3) Provide for informational and educational programs designed to—

(i) Achieve community understanding of the objectives of the program;

(ii) Inform the community of the availability of services; and

(iii) Promote continued participation in the project by persons to whom family planning services may be beneficial.

(4) Provide for orientation and in-service training for all project personnel.

(5) Provide services without the imposition of any durational residency requirement or requirement that the patient be referred by a physician.

(6) Provide that family planning medical services will be performed under the direction of a physician with special training or experience in family planning.

(7) Provide that all services purchased for project participants will be authorized by the project director or his designee on the project staff.

(8) Provide for coordination and use of referral arrangements with other providers of health care services, local health and welfare departments, hospitals, voluntary agencies, and health services projects supported by other federal programs.

(9) Provide that if family planning services are provided by contract or other similar arrangements with actual providers of services, services will be provided in accordance with a plan which establishes rates and method of payment for medical care. These payments must be made under agreements with a schedule of rates and payment procedures maintained by the grantee. The grantee must be prepared to substantiate, that these rates are reasonable and necessary.

(10) Provide, to the maximum feasible extent, an opportunity for participation in the development, implemen-

42 CFR Ch. I (10–1–00 Edition)

tation, and evaluation of the project by persons broadly representative of all significant elements of the population to be served, and by others in the community knowledgeable about the community's needs for family planning services.

[65 FR 41278, July 3, 2000; 65 FR 49057, Aug. 10, 2000]

§ 59.6 What procedures apply to assure the suitability of informational and educational material?

(a) A grant under this section may be made only upon assurance satisfactory to the Secretary that the project shall provide for the review and approval of informational and educational materials developed or made available under the project by an Advisory Committee prior to their distribution, to assure that the materials are suitable for the population or community to which they are to be made available and the purposes of title X of the Act. The project shall not disseminate any such materials which are not approved by the Advisory Committee.

(b) The Advisory Committee referred to in paragraph (a) of this section shall be established as follows:

(1) *Size.* The Committee shall consist of no fewer than five but not more than nine members, except that this provision may be waived by the Secretary for good cause shown.

(2) *Composition.* The Committee shall include individuals broadly representative (in terms of demographic factors such as race, color, national origin, handicapped condition, sex, and age) of the population or community for which the materials are intended.

(3) *Function.* In reviewing materials, the Advisory Committee shall:

(i) Consider the educational and cultural backgrounds of individuals to whom the materials are addressed;

(ii) Consider the standards of the population or community to be served with respect to such materials;

(iii) Review the content of the material to assure that the information is factually correct;

(iv) Determine whether the material is suitable for the population or community to which is to be made available; and

(v) Establish a written record of its determinations.

§ 59.7 What criteria will the Department of Health and Human Services use to decide which family planning services projects to fund and in what amount?

(a) Within the limits of funds available for these purposes, the Secretary may award grants for the establishment and operation of those projects which will in the Department's judgment best promote the purposes of section 1001 of the Act, taking into account:

- (1) The number of patients, and, in particular, the number of low-income patients to be served;
- (2) The extent to which family planning services are needed locally;
- (3) The relative need of the applicant;
- (4) The capacity of the applicant to make rapid and effective use of the federal assistance;
- (5) The adequacy of the applicant's facilities and staff;
- (6) The relative availability of non-federal resources within the community to be served and the degree to which those resources are committed to the project; and
- (7) The degree to which the project plan adequately provides for the requirements set forth in these regulations.

(b) The Secretary shall determine the amount of any award on the basis of his estimate of the sum necessary for the performance of the project. No grant may be made for less than 90 percent of the project's costs, as so estimated, unless the grant is to be made for a project which was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975.

(c) No grant may be made for an amount equal to 100 percent for the project's estimated costs.

§ 59.8 How is a grant awarded?

(a) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for three to five years.

(b) Generally the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 59.9 For what purpose may grant funds be used?

Any funds granted under this subpart shall be expended solely for the purpose for which the funds were granted in accordance with the approved application and budget, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed in 45 CFR Part 74 or Part 92, as applicable.

§ 59.10 What other HHS regulations apply to grants under this subpart?

Attention is drawn to the following HHS Department-wide regulations which apply to grants under this subpart. These include:

- 37 CFR Part 401—Rights to inventions made by nonprofit organizations and small business firms under government grants, contracts, and cooperative agreements
- 42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
- 45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
- 45 CFR Part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments
- 45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and

§ 59.11

- Human Services effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance
45 CFR Part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments

§ 59.11 Confidentiality.

All information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and must not be disclosed without the individual's documented consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

§ 59.12 Additional conditions.

The Secretary may, with respect to any grant, impose additional conditions prior to or at the time of any award, when in the Department's judgment these conditions are necessary to assure or protect advancement of the approved program, the interests of public health, or the proper use of grant funds.

[65 FR 41278, July 3, 2000; 65 FR 49057, Aug. 10, 2000]

Subpart B [Reserved]

Subpart C—Grants for Family Planning Service Training

AUTHORITY: Sec. 6(c), 84 Stat. 1507, 42 U.S.C. 300a-4; sec. 6(c), 84 Stat. 1507, 42 U.S.C. 300a-1.

SOURCE: 37 FR 7093, Apr. 8, 1972, unless otherwise noted.

§ 59.201 Applicability.

The regulations in this subpart are applicable to the award of grants pursuant to section 1003 of the Public Health Service Act (42 U.S.C. 300a-1) to

42 CFR Ch. I (10-1-00 Edition)

provide the training for personnel to carry out family planning service programs described in sections 1001 and 1002 of the Public Health Service Act (42 U.S.C. 300, 300a).

§ 59.202 Definitions.

As used in this subpart:

(a) *Act* means the Public Health Service Act.

(b) *State* means one of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Trust Territory of the Pacific Islands.

(c) *Nonprofit* private entity means a private entity no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) *Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

(e) *Training* means job-specific skill development, the purpose of which is to promote and improve the delivery of family planning services.

§ 59.203 Eligibility.

(a) *Eligible applicants.* Any public or nonprofit private entity located in a State is eligible to apply for a grant under this subpart.

(b) *Eligible projects.* Grants pursuant to section 1003 of the Act and this subpart may be made to eligible applicants for the purpose of providing programs, not to exceed three months in duration, for training family planning or other health services delivery personnel in the skills, knowledge, and attitudes necessary for the effective delivery of family planning services: *Provided*, That the Secretary may in particular cases approve support of a program whose duration is longer than three months where he determines (1) that such program is consistent with the purposes of this subpart and (2) that the program's objectives cannot be accomplished within three months because of the unusually complex or specialized nature of the training to be undertaken.

[37 FR 7093, Apr. 8, 1972, as amended at 40 FR 17991, Apr. 24, 1975]

§ 59.204 Application for a grant.

(a) An application for a grant under this subpart shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe.¹ The application shall contain a full and adequate description of the project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart, and a budget and justification of the amount of grant funds requested, and such other pertinent information as the Secretary may require.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the regulations of this subpart and any additional conditions of the grant.

(Sec. 6(c), Public Health Service Act, 84 Stat. 1506 and 1507 (42 U.S.C. 300, 300a-1, and 300a-4))

[37 FR 7093, Apr. 8, 1972, as amended at 49 FR 38116, Sept. 27, 1984]

§ 59.205 Project requirements.

An approvable application must contain each of the following unless the Secretary determines that the applicant has established good cause for its omission:

(a) Assurances that:

(1) No portion of the Federal funds will be used to train personnel for programs where abortion is a method of family planning.

(2) No portion of the Federal funds will be used to provide professional training to any student as part of his education in pursuit of an academic degree.

(3) No project personnel or trainees shall on the grounds of sex, religion, or creed be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the project.

¹Applications and instructions may be obtained from the Program Director, Family Planning Services, at the Regional Office of the Department of Health and Human Services for the region in which the project is to be conducted, or the Office of Family Planning, Office of the Assistant Secretary for Health, Washington, DC 20201.

(b) Provision of a methodology to assess the particular training (e.g., skills, attitudes, or knowledge) that prospective trainees in the area to be served need to improve their delivery of family planning services.

(c) Provision of a methodology to define the objectives of the training program in light of the particular needs of trainees defined pursuant to paragraph (b) of this section.

(d) Provision of a method for development of the training curriculum and any attendant training materials and resources.

(e) Provision of a method for implementation of the needed training.

(f) Provision of an evaluation methodology, including the manner in which such methodology will be employed, to measure the achievement of the objectives of the training program.

(g) Provision of a method and criteria by which trainees will be selected.

§ 59.206 Evaluation and grant award.

(a) Within the limits of funds available for such purpose, the Secretary may award grants to assist in the establishment and operation of those projects which will in his judgment best promote the purposes of section 1003 of the Act, taking into account:

(1) The extent to which a training program will increase the delivery of services to people, particularly low-income groups, with a high percentage of unmet need for family planning services;

(2) The extent to which the training program promises to fulfill the family planning services delivery needs of the area to be served, which may include, among other things:

(i) Development of a capability within family planning service projects to provide pre- and in-service training to their own staffs;

(ii) Improvement of the family planning services delivery skills of family planning and health services personnel;

(iii) Improvement in the utilization and career development of paraprofessional and paramedical manpower in family planning services;

(iv) Expansion of family planning services, particularly in rural areas, through new or improved approaches to

§ 59.207

program planning and deployment of resources;

(3) The capacity of the applicant to make rapid and effective use of such assistance;

(4) The administrative and management capability and competence of the applicant;

(5) The competence of the project staff in relation to the services to be provided; and

(6) The degree to which the project plan adequately provides for the requirements set forth in § 59.205.

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either: (1) On the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as travel or supply costs) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(c) Allowability of costs shall be in conformance with the applicable cost principles prescribed by Subpart Q of 35 CFR part 74.

(d) All grant awards shall be in writing, shall set forth the amount of funds granted and the period for which support is recommended.

(e) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application annually at such times and in such form as the Secretary may direct.

[37 FR 7093, Apr. 8, 1972, as amended at 38 FR 26199, Sept. 19, 1973]

42 CFR Ch. I (10-1-00 Edition)

§ 59.207 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred in the performance of the project to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 59.208 Use of project funds.

(a) Any funds granted pursuant to this subpart as well as other funds to be used in performance of the approved project shall be expended solely for carrying out the approved project in accordance with the statute, the regulations of this subpart, the terms and conditions of the award, and, except as may otherwise be provided in this subpart, the applicable cost principles prescribed by subpart Q of 45 CFR part 74.

(b) Prior approval by the Secretary of revision of the budget and project plan is required whenever there is to be a significant change in the scope or nature of project activities.

(c) The Secretary may approve the payment of grant funds to trainees for:

(1) Return travel to the trainee's point of origin.

(2) Per diem during the training program, and during travel to and from the program, at the prevailing institutional or governmental rate, whichever is lower.

[37 FR 7093, Apr. 8, 1972, as amended at 38 FR 26199, Sept. 19, 1973]

§ 59.209 Civil rights.

Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d *et seq.*) and in particular section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which applies to grants made under this part, has been issued by the Secretary of Health and Human Services with the

approval of the President (45 CFR part 80).

§ 59.210 Inventions or discoveries.

Any grant award pursuant to § 59.206 is subject to the regulations of the Department of Health and Human Services as set forth in 45 CFR parts 6 and 8, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligations. Laboratory notes, related technical data, and information pertaining to inventions and discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary, or those he may designate at such times and in such manner, as he may determine necessary to carry out such Department regulations.

§ 59.211 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films or similar materials developed or resulting from a project supported by a grant under this part, subject, however, to a royalty-free, non-exclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 59.212 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for direct and

indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) [Reserved]

(c) *Accounting for grant-related income—(1) Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(d) *Grant closeout—(1) Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;

(iii) Any other amounts due pursuant to subparts F, M, and O of 45 CFR part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or

§ 59.213

assignees by setoff or other action as provided by law.

[36 FR 18465, Sept. 15, 1971, as amended at 38 FR 26199, Sept. 19, 1973]

§ 59.213 [Reserved]

§ 59.214 Additional conditions.

The Secretary may with respect to any grant impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or the conservation of grant funds.

§ 59.215 Applicability of 45 CFR part 74.

The provisions of 45 CFR part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in subpart A of that part 74. The relevant provisions of the following subparts of part 74 shall also apply to grants to all other grant-ee organizations under this subpart.

45 CFR PART 74

Subpart:

- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

[38 FR 26199, Sept. 19, 1973]

PART 59a—NATIONAL LIBRARY OF MEDICINE GRANTS

Subpart A—Grants for Establishing, Expanding, and Improving Basic Resources

Sec.

- 59a.1 Programs to which these regulations apply.
- 59a.2 Definitions.
- 59a.3 Who is eligible for a grant?
- 59a.4 How are grant applications evaluated?
- 59a.5 Awards.
- 59a.6 How may funds or materials be used?

42 CFR Ch. I (10–1–00 Edition)

59a.7 Other HHS regulations that apply.

Subpart B—Establishment of Regional Medical Libraries

- 59a.11 Programs to which these regulations apply.
- 59a.12 Definitions.
- 59a.13 Who is eligible for a grant?
- 59a.14 How to apply.
- 59a.15 Awards.
- 59a.16 What other conditions apply?
- 59a.17 Other HHS regulations that apply.

SOURCE: 56 FR 29189, June 26, 1991, unless otherwise noted.

Subpart A—Grants for Establishing, Expanding, and Improving Basic Resources

AUTHORITY: 42 U.S.C. 286b-2, 286b-5.

§ 59a.1 Programs to which these regulations apply.

(a) The regulations of this subpart apply to grants of funds, materials, or both, for establishing, expanding, and improving basic medical library resources as authorized by section 474 of the Act (42 U.S.C. 286b-5).

(b) This subpart also applies to cooperative agreements awarded for this purpose. In these circumstances, references to "grant(s)" shall include "cooperative agreements(s)."

§ 59a.2 Definitions.

Undefined terms have the same meaning as provided in the Act. As used in this subpart:

Act means the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*).

Project period—See § 59a.5(c).

Related instrumentality means a public or private institution, organization, or agency, other than a medical library, whose primary function is the acquisition, preservation, dissemination, and/or processing of information relating to the health sciences.

Secretary means the Secretary of Health and Human Services and any other official of the Department of Health and Human Services to whom the authority involved is delegated.