

**HUMAN SERVICE
AGREEMENTS MANUAL**

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Section 100- INTRODUCTION

101 Scope - This manual specifies administration and fiscal policy for grants/contracts, cost reimbursement contracts, grant-in-aid and purchase of services contracts for human services funding which are made by the Maryland Department of Health and Mental Hygiene (DHMH) and which are processed through the Division of Program Cost and Analysis. This manual does not address programmatic issues. This manual shall, by reference, become part of each DHMH grant/contract agreement and the provisions are extended to any and all subvendors. All Department units are required to have their human services funding instruments reviewed, authorized and processed through the Division of Program Cost and Analysis. The role of the Division of Program Cost and Analysis is to provide assistance to the program administrations in the area of human services agreements within the parameters of sound fiscal management and proper accountability of public funds.

102 Background

DHMH human services funding has grown in both scope and complexity over the years. This manual describes the particulars of the funding system. Sections of the manual have been created with an eye toward easy use with most information arranged by subject and backup materials appended where appropriate. This document is not intended to be static; provision for manual updating has been made. This manual supersedes the DHMH "Grants Manual" issued January, 1978 and revised July, 1980 and supersedes the following Departmental policies: DHMH 3901, DHMH 3536, DHMH 3537, and DHMH 3940.

103 Updates and Inquiries

One manual will be issued to each vendor and program administration.

When a manual is issued, the program administration and the vendor are placed on the mailing list for manual updates. Address all requests for additional manuals to:

Chief, Division of Program Cost and Analysis

Department of Health and Mental Hygiene

201 W. Preston Street Room 546
Baltimore, Maryland 21201

Please contact a Grants Management Officer of the Division of Program Cost and Analysis for questions concerning the manual, its distribution and its application. The telephone number of the Division of Program Cost and Analysis is: (410) 767-6062.

104 Overview of Funding Process

The DHMH human services funding system is generally one of contributory funding to support health related services which may derive income from user fees, insurance payments, charitable contributions and endowments, other government programs and other third party incomes. DHMH FUNDING DOES NOT GENERALLY COVER THE FULL COST OF THE SERVICE.

Several program administrations of the DHMH use grant/contracts as a mechanism for funding human services programs. An administration may issue a Request for Proposal (RFP) and base funding decisions on the State's procurement process or it may fund and operate human service programs

through Local Health Departments or other entities exempt from that process. Any governmental agency or private association, partnership, individual or corporation entitled to do business in the State of Maryland may be eligible to receive DHMH funding and may submit a grant/contract proposal at any time.

Those program administrations funding human services programs via the system described in this manual are listed below:

Addictions Service Administration
Local Health Administration (except Case Formula)

Health Systems Financing Administration

Mental Hygiene Administration
Developmental Disabilities Administration

AIDS Administration
Community Health Surveillance Administration

Family Health Services Administration

The grant/contract application process itself is frequently a lengthy one and will be usually governed by either the Department's budget and planning cycle and/or by the State's procurement process. This time requirement will vary from program to program and from one program administration to another. Start-up money is sometimes available. The appropriate program administration should be contacted by specific requirements.

Payments are made primarily in two ways: 1) as a transfer to an account maintained for Local Health Departments and 2) per invoice from private vendors as an advance against anticipated expenses.

Vendors are required to maintain records in accordance with generally accepted accounting principles and as specified by DHMH. At the end of each

fiscal year a financial reconciliation is conducted subject to audit and settlement.

Grant/contracts are routinely audited by the DHMH Audit Division. Post audit resolution of both fiscal and programmatic aspects of the grant is based on this audit findings; this process is known as "Settlement."

A grant/contract may be re-awarded and continued from year to year. Alternatively, programs may award multi-year contracts, customarily running from one to three years, subject to budgetary approval.

105 Manual Format - For most users, the manual will have five major sections: Definitions, Process and Policy, Appendices, Forms and Index. The most important of these is PROCESS and POLICY (Section 2000) and, accordingly, the discussion of format will focus there. In Section 2000, each major topic is numbered at intervals of ten and identified also by the title being displayed at the top of a right-hand page in all capital letters. Subsection titles are shown in lower case letters except for the first letter. The subsection will contain a suffix of two or more numerals. A sample display is:

2120 FISCAL REPORTING

2120.01 General - (Followed immediately by text)

The DEFINITIONS section (1000) is also numbered. Also, the definitions are alphabetized. The Appendices (3000) have been numbered as well.

However, because the documents in the appendices are administered by units other than the Division of Program Cost and Analysis integral structure of the appendices does not conform to the rest of the manual.

Forms (4000) is next, followed by the INDEX (5000)

106 Summary of Responsibilities - When making inquiries or routing documents to the Department, the vendor should use the following guidelines:

- a) Responding to Annual Budget Instruction: (LHD only) -Division of Program Cost and Analysis
- b) Responding to a Request for Proposal or other solicitation - program administration
- c) Status of award - program administration
- d) Request for payment via invoice (DHMH 437) - Division Program Cost and Analysis
- e) Request of supplemental funding - program administration
- f) Request for budget modification - program administration
- g) Year - end Report (DHMH 440) - Division of Program Cost and Analysis
- h) Reconciliation - Division of Program Cost and Analysis
- i) Audit - Audit Division
- j) Post - audit Settlement - Division of Program Cost and Analysis
- k) Billing (general) - General Accounting Division
- l) Disputes on billing - Division of Program Cost and Analysis or program administration
- m) Policy clarification generally and for technical or, fiscal issues - Division of Program Cost and Analysis
- n) Corrections to form 28-409 (LHD only) - General Accounting Division except as these corrections are occasioned by reconciliation; in this case, inquiry should be directed to Division of Program Cost and Analysis
- o) Forms - Division of Program Cost and Analysis
- p) Procurement issues - the Division of Contracts

Note: Any references to the procurement statutory law, "Article XXI" Annotated Code of Maryland, are currently codified in the State Finance and Procurement Article, Title II et. seq.

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Section 1000

Definitions

SECTION 1000 - DEFINITIONS

- 1000 Accrual basis - A matching process whereby revenue is recognized as services are rendered and expenses are recognized as efforts are expended or services utilized to obtain the revenue.
- 1002 Acquisition of Services - a term for the processes by which the Department obtains vendors to deliver health related human services. It incorporates both "procurement" processes.
- 1003 Advance Payment - a payment made prior to the signing of the funding agreement or the issuance of an award letter.
- 1004 Award - as defined by COMAR 21.01.02.06 and also in the sense of the contract or agreement and/or as it refers to that part of the total program budget which is DHMH funded.
- 1005 Award Letter - a document which summarizes provisions of the funding agreement (contract of MOU) or which acts as the funding instrument.
- 1006 Block Grant - Irrespective of the source of funding, a Block Grant is defined here to be any grant/contract for human service program funding which is directed to a vendor (the primary vendor) for distribution to any number of subvendors (secondary vendors) who provide human services to third party clients under the terms of the grant/contract.
- 1007 BPW - Board of Public Works, consisting of the Governor, the Treasurer and Comptroller.
- 1008 Budget - An expenditure plan and income estimate detailed by line item entries approved by the Department of Health and Mental Hygiene to carry out the purposes of the grant/contract supported project.
- 1009 Budget Modification - A line item revision of the approved budget, as differentiated from a contract modification, which neither increases or

- decreases the amount of the award and/or the services to be performed
- 1010 Contract - as defined in COMR 21.01.02.20
- 1011 Contractor - an individual or organization with whom the vendor engages to deliver goods or services for the operation of the vendor's organization. Such services are not health related and are not delivered directly to their party clients. Examples of such service include bookkeeping, legal, accounting, etc. See "Purchase of Service Contractor."
- 1012 Consultant - an individual who the vendor engages to deliver health-related services of a particular type or discipline directly to third party clients. A consultant is a non-salaried individual receiving compensation for professional discipline. Designation as a consultant is exclusive of trades persons or employees, whether fulll or part time. See section 2181 for a more complete definition of Consultant. See also, "Purchase of Service Contractor."
- 1013 DBM- Department of Budget and Management
- 1014 Delinquent Account - as defined by COMAR 17.01.01.03B or 17.01.01.04B (3)
- 1015 DHMH - The Department of Health and Mental Hygiene of the State of Maryland, synonymous with the Department.
- 1016 Director - Refers to the chief executive authority in any of the DHMH program administrations.
- 1017 Emergency Payment - a payment to a vendor which is marked for expeditious handling.
- 1018 Employee - See Section 2180.
- 1019 Encumbrance - the obligation to expend funds, supported by a contract or purchase order. An encumbrance may be recognized as an expenditure under certain conditions.

- 1021 Fiscal year - the State of Maryland's fiscal year, running from July 1 through June 30.
- 1022 Grant - as defined by COMAR 21.01.02.36 and, for the purposes of this policy, as any finding agreement or award made to an organization which is exempt from procurement.
- 1023 Grant-in-Aid - a funding agreement which specifies neither standards for the recipient's fiscal management of the funds nor programmatic deliverables. When either issue is addressed, only the most general terms are employed. Reporting requirements may be established.
- 1024 Human Health Services - Shelter, support and health or health-related care, including corollary operations necessary to the delivery of that care, to third party clients via independently operated second party vendors, which is funded in whole or part by the Department of Health and Mental Hygiene.
- 1025 Income - an inflow of resources, in the form of cash, receivables or other property from customers or clients, which results from the sale of assets or merchandise or the rendering of services or from investments. This includes fee collections, ordinary income and capital gains and/or that which results from grants, gifts donations, etc.
- 1026 LHD - Local Health Department. A local health department is located in Baltimore City and each of the twenty-three Maryland counties.
- 1027 Local Executive Authority - a local government official authorized to enter into and execute human services grant/agreements with the DHMH. Typically, this would be the Mayor, County Executive, the County Council or County Commission, etc. or their designees.
- 1028 Local Funds - refers to that funding supplied by the local subdivision or municipal government. The Local Health Department may or may not be

- the conduit of such finding and the finding may or may not be a stationary requirement or a matching requirement.
- 1029 Matching funds - refers to funding that is supplied by more than one source (e.g.state and local) pursuant to a specific agreement to share or match expenditures by some ratio, such as a 90%/10% match.
- 1030 Minority Business Enterprise (MBE) - per COMAR 21.11.03.B. (4), any legal entity, other than a joint venture, organized to engage in commercial transactions, that is at least 51% owned and controlled by one or more minority persons, or a non-profit entity organized to promote the interests of the physically or mentally disables.
- 1031 Minority Person - per COMAR 21.11.03.03.B.(4), a member of a socially or economically disadvantaged minority group, and includes Blacks (not of Hispanic origin), Hispanics, American Indians, Alaska natives, Asians, Pacific Islanders, women, and the physically or mentally disabled.
- 1032 MOU - Memorandum of Understanding, the same as "contract" except the parties to the agreement are organizationally related or both are government units. In this context an MOU would be appropriate for any relationship between the program administration and a Local Health Department or other state, county or municipal agency.
- 1033 New Construction - refers to construction which creates a structure or which adds space to an existing structure.
- 1034 Offset - is the netting of outstanding receivables and payables from the same vendor to achieve a new net result. Offset is governed by COMAR 17.01.01.04E.
- For a more specialized definition see Sections 2220.12, 2220.16 and 2220.17.

- 1035 Prior Approval - written permission provided by an authorized official in advance of an act, particularly when that act might be expected to result in either the obligation of expenditure of funds which differs from the approved budget where such approval is required.
- 1036 Procurement - as defined by COMAR 21.01.02.48 specifically and by the process described generally by the State Finance and Procurement Article and by COMAR Title 21.
- 1037 Program Administration - a unit of the Department which funds and administers health related programs and elects to deliver services to third party clients through vendors.
- 1038 Purchase of Service Contractor - an organization engaged to deliver health related services directly to third party clients. See "Consultants."
- 1039 Reconciliation - a year-end process in which the fiscal aspects of a grant are resolved subject to audit and settlement.
- 1040 Renovation/Remodeling - refers to construction which alters, converts or restores all or part of an existing structure. The term also includes the installation or replacement in whole or part, of fixtures or systems such as plumbing, heating/cooling and electrical. Renovation/remodeling may then include activities which would otherwise be considered Repair and Maintenance such as painting, installation and replacement of minor fixtures, etc.
- 1041 Repair and Maintenance - refers to activities which sustain, prevent damage to or restore existing components of a structure or a system. The term excludes both construction entailing structural modification and the installation or replacement of fixtures or systems such as plumbing, heating/cooling and electrical.

- 1042 RFP - Request for Proposal. One of the methods of securing needed services.
- 1043 Settlement - a post audit process in which managerial decisions regarding both fiscal and programmatic issues are made based on reports filed by the DHMH Audit Division.
- 1044 Supplemental award - is synonymous with the term "supplemental agreement" which is defined by COMAR 21.01.02.66. In the context of this policy a "supplement" increases funding; a "reduction" reduces funding.
- 1045 Third party clients - as defined by COMAR 21.01.02.68-1
- 1046 Vendor - means any organization, public or private, including a local health department, which delivers health related services to third party clients under a funding arrangement governed by this policy.
- 1047 Vendor - of - record- in the context of a Block Grant, the official vendor; the entity which entered into an agreement with the DHMH and to whom the grant/contract award letter is addressed and to whom the grant/contract is officially awarded.

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Section 2000

Process and Policy

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PROCESS AND POLICY
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2001 SCOPE

- 2001.01 This manual shall govern all grants/contracts grants-in-aid and purchase of services contracts for human services made by the Department of Health and Mental Hygiene which are processed through the Division of Program Cost and Analysis.
- 2001.02 This manual shall, by reference, become part of each agreement between the Department of Health and Mental Hygiene and its human services vendor.
- 2001.03 In event of conflict between this manual and the aforesaid agreement, the provisions of said agreement shall prevail.
- 2001.04 Each vendor-of-record who subcontracts for the delivery of the human services for which it is responsible shall incorporate, by reference, this manual into any and all subcontracts.
- 2001.05 This manual addresses administrative and fiscal aspects of budget-based human services funding; programmatic manual is established by the respective program administrations.

2002 BACKGROUND

Most DHMH human services programs use a budge-based funding system limited to those costs incurred by the vendor which the department agrees to support; it is not a system of full-cost reimbursement. The funding system generally employed by the Department and that which is described in this manual has the following characteristics:

- a. It is based on an approved budget.
- b. It incorporates limited line item control of the vendor's expenditures.
- c. It assumes the existence of other incomes to support the program.

- d. it operates under the condition that Departmental monies are spent last and recovered first, and
- e. it requires the vendor to collect fees from clients for certain specified human services.

Other funding systems/arrangements may be employed by the Department. Such systems/arrangements may or may not utilize the principles and mechanisms of this policy. Policy for an alternative system will be codified when any such system is implemented.

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2010 ELIGIBILITY FOR VENDOR STATUS

2010.01 General - Any individual, partnership, organization, association, agency, local government, or corporation which is legally entitled to do business in the State of Maryland may submit a proposal for a grant/contract or a grant-in-aid and receive an award. However, eligibility may be limited by statute or by policy of the program administrations.

2010.02 Conflict of Interest - It is the policy of the Department of Health and Mental Hygiene that vendors avoid conflicts of interest or the appearance of same in the direction and operation of a program under a state grant/contract or grant-in-aid. The Department discourages placement of staff of an eligible agency on the agency's board of directors. A financial interest, by any person in a decision-making position on the board of staff of a vendor, in any part of the services of eligible vendors constitutes, on its face, a conflict of interest. Consequently, any costs for which the vendor seeks reimbursements will be questioned where it is determined by the Department or its authorized agents that a conflict of interest exists.

Under the basic concept governing related organizations, an organization related to a vendor as a result of common ownership or control, is treated as if it were part of the vendor. Consequently, costs to the related organization for services, facilities and supplies furnished the vendor may not exceed the lower of actual cost or the price of comparable services, facilities or supplies that could be purchased elsewhere. The purpose of this principle is two-fold:

(1) to avoid payment of a profit factor through the related organization, and (2) to avoid the payment of artificially inflated costs which may be generated from less than arms-length bargaining. The books and records of the related organization shall be made available to the Department's auditors.

The term "related to the vendor" means that the vendor, to a significant extent, is associated or affiliated with, or has control of or is controlled by, the organization furnishing the services, facilities or supplies to the vendor.

Common ownership exists when an individual, individuals or organization possesses significant ownership or equity in the vendor and the institutions or organizations serving the vendor.

The Department may seek a ruling from the State Ethics Commission on questions relating to conflict of interest, related organization and common ownership.

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- 2020 ACQUISITION OF SERVICES
- 2020.01 General - A program administration which has had funding appropriated to it to have services delivered to a target population but either cannot or does not which to deliver those services itself, will be faced with two major technical questions: (1) the nature of the funding mechanism and (2) the acquisition of vendors to deliver services. This section is concerned with the latter issue.
- 2020.02 Choice of Vendor: Options - The acquisition of vendor services is reduced to two major choices: (1) the use of the State's procurement process or (2) the selection of a vendor exempt from that process.
- 2020.03 Use of the State's Procurement Process - The selection of vendors to deliver human services is governed by the State Finance and Procurement Article of the Annotated Code of Maryland and COMAR Title 21 (Procurement). Program administrations which wish to use private agencies, and bound by those statutory and regulatory provisions.
- 2020.04 Selection of an Exempt Vendor - The Director of the program administration must consider the use of a Local Health Department before issuing a solicitation under the procurement process. Although any exempt agency may act as a vendor, the Local Health Departments are considered the principal operational arm of the Department. The process for consideration of a Local Health Department as a vendor for new human services programs is specified in section 2021 and for existing programs in section 2030.
- 2020.05 Exclusions and Exemptions - The State Finance and Procurement Article 21, Subsection 1-202 and COMAR 21.01.03.01 enumerate classes Of agreements which are exempt from the procurement process.

- 2020.06 Director Responsibility - The Director of the program administration is responsible for the determination of the content nature and specifications of the services to be delivered and of the level of State funding available. The Director, Office of Contract Policy, Management and Procurement will act as Procurement Officer in accordance with specific delegation instructions of the Deputy Secretary. Acquisition of services subject to the procurement process will undergo review by the DBFP or the BPW.
- 2021 New Programs - The Director of the program administration shall make a determination whether to utilize the Local Health Department as the vendor for all new human services programs within the respective jurisdiction. New programs include types of services to clients not previously supported by Department funds and additional or expansion services to clients that are already supported by Department funds.
- 2021.01 Initial Offer to Local Health Departments - The Director of the appropriate program administration shall utilize the Local Health Departments as vendors unless the Director believes the services provided by alternate vendors would be preferable. The Director shall simultaneously:
a. Notify Local Health Departments of intent to request funds for new human services contracts for the next fiscal year on or before the first working day of February in the current fiscal year. Such notice must solicit expressions of interest from the Local Health Department regarding such programs. The notice must also specify that the expression of interest must be received on or before the first working day of March in the

current fiscal year in order to be afforded full consideration.

- b. Consider such other vendors who express interest and make a determination based upon them, as well as on other relevant factors, as to whether to utilize the Local Health Department for service, notifying the appropriate local health officer of the decision in writing on or before the working day of April.

2021.02 Expression of interest - in the expression of interest in the local health officer or the vendor shall demonstrate its capacity and cost effectiveness to act as vendor of service in the manner prescribed by the Director of the program administration, appending relevant documentation.

2021.03 Mutual Agreement to Use Alternative Vendor - The Director of the appropriate program administration and the local health officer may mutually agree that the vendor shall be other than the Local Health Department.

2021.04 Mediation and Appeal Process - If the Director and local health officer do not agree on the role of the Local Health Department, the issue shall be resolved by the mediation/appeal steps:

Level 1: An attempt to mediate will be managed by the Director, Local Health Administration, or designee

Level 2: The appropriate Deputy Secretaries, or designee

Level 3: The Secretary, or designee.

2021.05 Local Health Department as Review Agent - When not serving as the vendor for new human services programs, the Local Health Department shall comment on contract proposals, per Section 2040.04d.

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- 2030 GRANT APPLICATION/CONTRACT PROPOSAL
- 2030.01 Eligibility - Any individual, governmental agency, private association, partnership, or corporation legally entitled to do business in the State of Maryland may apply for and receive a grant/contract from any of the program administrations within the Department of Health and Mental Hygiene. Minority Business Enterprises are encouraged to apply.
- 2030.02 Procurement - If the program administration elects to secure services from the private sector, it will commonly issue a solicitation in the form of a Request for Proposal (RFP). The specifications of the RFP will govern the submission of a contract proposal. The procurement process itself is governed by COMAR Title 21 which is available from the superintendent of State Documents.
- 2030.03 Contact - The program administrations are to be contacted directly for preliminary discussion of grant/contract proposals and to request of them a grant/contract application package.
- 2030.04 Timing - A solicitation, Request For Proposal (RFP) will generally specify a deadline for submitting a proposal. Awards are customarily made for the State fiscal year, which begins July 1 and ends the following June 30. (Note: Local Health Department, See 2030.05 below.)
- 2030.05 Local Health Department - The Local Health Department will receive instructions for grant applications in the document "Annual Budget Instructions" issued each year by the Division of Program Cost and Analysis. Also, the LHD will receive notices of intent to fund new programs per Section 2021.01. Local Health Department applications must conform to these instructions.

- 2030.06 Review - All grant/contract proposals are subject to review and approval by the program administration. Also, the program administration is obliged to secure prospective review of the proposal lby the local health officer in whose jurisdiction the grant/contract will impact. As such, it will direct the applicant to submit a copy of its proposal to the local health officer. See Section 2040.
- 2030.07 Proposal Content - The Request for Proposal (RFP) and any agenda, conferences, instructions, etc. pursuant to the RFP which are provided by the Issuing Office shall collectively be deemed to specify in full the scope, content and format of the proposal.
- 2030.08 Selection and Notice - Proposals will be reviewed and acted upon by the Director of the program administration or his designee. The respondent will be notified of the result of that review per timelines in the RFP or as otherwise specified by the program administration.
- 2030.09 Verification of Legal Status - A new respondent when not a governmental agency, must present acceptable verification of its legal status (corporation, partnership, fictitious name statement, etc.) prior to the advancement of funds.
- 2030.10 Proposal Form - Form DHMH 432 (Human Service Contract Proposal) is the standard proposal form (except for most Local Health Departments, subsection 05 above) provided by the Division of Program Cost and Analysis; however, a program may elect to use an alternative application form.
- 2030.11 Budget - The budget form (DHMH 432B for most vendors and DHMH 1209 by most Local Health Departments) must be completed unless an alternative budget or cost form is specified by the program administration.

The DHMH 432B budget form is the second page of the DHMH 432 application package and contains the most common cost items; any additional items are to be identified in the blank spaces left for this purpose. On form DHMH 1209 (Budget and Personnel Detail-Local Health Department), a Local Health Department must identify line items and code them according to the Department's chart of accounts for Local Health Departments.

2030.12 Routing - Completed proposals and attendant documents are to be sent directly to the program administration or as specified by the RFP.

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- 2040 REVIEW BY AND NOTICE TO THE LOCAL HEALTH OFFICER
- 2040.01 Review - Each grant/contract proposal (Technical proposal only) must be submitted for review to the appropriate local health officer.
- 2040.02 Notice of Award - The local health officer shall be notified in writing by the Director of the program administrations of every contract award (hereinafter understood to include supplemental awards, reductions and terminations) made to organizations located within his/her jurisdiction.
- 2040.03 Notice of New Program Funding - The local health officer shall be notified of all new human service programs to be funded or having a potential to be funded in the local jurisdiction per Section 2021 et sequential so as to afford an opportunity to the Local Health Department to express interest in being the vendor of service.
- 2040.04 Responsibilities of the Director - The Director of the program administration shall:
- a. provide notice of intent to fund new human services programs per section 2021 et sequential.
 - b. instruct every applicant (other than a Local Health department) to submit a copy of its technical proposal to the appropriate local health officer concurrent with submission of the original proposal to the program administration (see 2040.05),
 - c. inform the Director of the Local Health Administration whenever there is an intent to fund or an intent to use a single vendor or consortium of vendors for statewide delivery of service so that the Director, LHA may coordinate local health review of the affected program,
 - d. afford the local health officer an opportunity to review

- f. notified the local officer in writing of every grant award to be made to the Local Health Department, and
- g. issued an annual summary report to the Director of the Local Health Administration of all awards made and of projected grant activity.

2040.05 Applicant's Responsibilities -
An applicant shall submit a copy of its technical proposal to the local health officer in whose jurisdiction the organization's operations site is located. This submission shall be concurrent with submission of the original proposal to the Director of the program administration.

2040.06 Local Health Officer's Responsibilities - The local health officer shall:

- a. review each contract proposal received, make appropriate comments and recommendations, sign the application to signify that review has occurred, forward the application to the Director of the appropriate administration and send a copy to the Director of the Local Health Administration within the time allotted for review,
- b. inform the Director of the appropriate administration when he/she has an interest in or sits on the board of an organization whose proposal is under review. Such disclosure shall be appended to the local health officer's formal review of said proposal,
- c. inform the local executive authority in the matter, frequency and degree of detail as that authority may require, of all human services funding applications which the local health officer has received for review or submitted on behalf of the local health department.

- d. notify the local executive authority of each grant award made to the Local Health Department and of each contract award made to any other organization within its subdivision.
- e. notify the local executive authority of the amount of any required matching funds for which it is obligated as a result of DHMH human services funding operations, and
- f. determine what additional review is required by other local health officers when a proposal identifies services which are to be delivered in one or more contiguous jurisdictions.
- g. Submit proposals, grants or contracts to advisory boards having review authority, as appropriate.

2040.07 Local Health Administration Responsibilities - The Director, LHA, shall:

- a. review funding and vendor selection proposals for statewide delivery of service and monitor local health review of contract proposals to ensure that the appropriate degree of coordination among the local health officers is achieved, and
- b. ensure that forms DHMH 1209 and DHMH 528 contains provisions for the local health officer's signature.

2040.08 Division of Program Cost and Analysis Responsibilities - The Chief, Division of Program Cost and Analysis shall:

- a. not authorize an encumbrance/transfer or a payment of monies (except under the provisions of Section 2140, Advance Payment) for any award unless the local health officer has signed:
 - i. the Local Health Department's own grant application as the official making the application, or

- ii. the contract proposal for local health review, unless the Director of the appropriate administration has furnished a written declaration that the appropriate review period has passed without response from the local health officer and that the Director has either confirmed that the local health officer received the technical proposal and had sufficient time to review and comment or that the local health officer has waived review rights in this instance, and
- b. ensure that the instructions for completing a DHMH application (form DHMH 432) contain explicit directions to the applicant to furnish a review copy of said application to the local health officer.

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2050 FUNDING AGREEMENTS - CONTRACTS AND MEMORANDA OF UNDERSTANDING

2050.01 Contract/MOU - Every award must be perfected by a signed contract (with a private vendor) or by either a Memorandum of Understanding (MOU) or an award letter (with a Local Health Department or other government entity). If provisions of a contract, MOU or award letter contradict the provision(s) of this manual, said instrument shall prevail over this manual.

2050.02 Fiscal Year - Grants/Contracts are usually awarded for one fiscal year in accordance with state appropriations. In case of multi-year agreements, vendor budgets must be approved annually and are subject to annual appropriations.

2050.03 Specifications - When selected, a private vendor will be asked to sign a contract; a government agency will be asked to sign an MOU or will be issued in award letter. The agreement or award letter will include, at a minimum, the following:

- (a) Standard contract clauses, as appropriate, from COMAR Title 21 (contract only). If award is over \$24,000 publication in Maryland Register is required,
- (b) Name of Vendor/Vendor-of-record,
- (c) Award Number and the federal tracking number (when federal funds are used for all or part of the grant/contract),
- (d) Project Number (in the case of grants to Local Health departments),
- (e) Amount of Award,
- (f) Source(s) of Funding,
- (g) Fiscal Years for which the award is made,
- (h) Detail if any, of matching fund requirements of any other contribution.

- (i) The specification of all deliverables (with deadlines as appropriate),
- (j) A line item detail budget (for each year of funding)

2050.04 Award Letter - When a contract is used, an award letter summarizing the agreement will be prepared by the program administration and released by the Division of Contracts. It should contain items b,c,d,e and g in Section 2050.03 noted above. For Local Health Departments a unified grant award letter will summarize all DHMH grants/MOU's. These will be updated monthly as required by the Division of Program Cost and Analysis.

2050.05 Addenda - Addenda to the agreement must be completed as follows:

- a. Those affidavits required by the State Finance and Procurement Article, Title 11 through Title 21.
- b. Those addenda specified in the RFP or may be attached to the contract/MOU or Award Letter by the program administration or Division of Contracts.
- c. A Supplemental Award must be perfected by an addendum to the contract/MOU or Award Letter. See Section 2070.
- d. An Award Reduction must be perfected by an addendum to the contract/MOU or Award Letter. See Section 2090.
- e. Budget Modification when signed by both parties, becomes an addendum to contract/MOU or Award Letter.

See Section 2080.

2050.06 Board of Public Works (BPW) - Proposed contracts with vendors subject to procurement by COMAR 21.01.03.01 are subject to review by the Board of Public Works if the amount of the award exceeds \$100,000 and in certain other situations involving emergency or sole source procurements or certain contract modifications.

2050.06.01 BPW review is governed by COMAR 21.02.01 and by such procedures as that body may issue.

- 2050.06.02 Submittal of proposed human service contracts to the BPW shall be made via the Division of Contracts.
- 2050.07 Department of Budget and Fiscal Planning (DBFP) – Proposed contracts of \$100,000 or less with vendors not exempt from procurement by COMAR 21.01.03.01 are subject to review by the Department of Budget and Fiscal Planning.
- 2050.7.01 DBFP review is governed by COMAR 21.02.03.02 and by such procedures as that agency may issue.
- 2050.07.02 Submittal of proposed human service contracts to the DBFP shall be made via the Division of Contracts.

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2060 FUNDING PRINCIPLES

2060.01 General - The DHMH human service funding system is generally one of contributory funding to support health related services which derive income from user fees, insurance payments, charitable contributions and endowments, other government programs and other third-party incomes. DHMH FUNDING IS GENERALLY NOT A FULL-COST REIMBURSEMENT SYSTEM. Should a program administration wish to support all costs (or all costs less those covered by a specified type of other income) the funding agreement should contain an explicit provision to that effect. In the absence of an explicit disclaimer, the fundamental principle is that Departmental monies are spent last and recovered first.

2060.02 Maximum Award - The award figure stated in the agreement is the maximum amount of funding for which the Department shall be liable.

2060.03 Supplemental Award - Funding may be increased via a budget modification. See Section 2070.

2060.04 Modifications - The funding agreement may be modified with respect to allocation of incomes and expenditures via a budget modification. See Section 2080.

2060.05 Reduction/Termination - An award may be reduced or terminated for cause at the discretion of the Director of the program administration. The Director shall consult with the Division of Contracts to determine the appropriate procedures to be followed. In the event of reduction or termination, the Department will ensure funding for the legitimate obligations of the vendor incurred for the human services program. See Reduction, Section 2090 and Termination, Section 2100.

2060.06 Unauthorized Expenditures - Unauthorized expenditures become the

liability of the vendor. Unauthorized expenditures include but are

not necessarily limited to:

- (a) those which cause total expenditures to exceed the approved budget total,
- (b) unbudgeted expenditures,
- (c) those which differ from the approved budgeted amount (for controlled line items only, see Budget Modification, Section 2080), and
- (d) those which are at variance to an explicit provision of the funding agreement.

2060.07 Excess Income - Excess incomes will serve to reduce the amount of DHMH participation unless the Director of the program administration elects to permit the vendor either to use such incomes for program expansion (formalized via a Budget Modification, Section 2080) or to retain them without prejudice to the Department's support.

2060.08 Income Shortfall – Any shortfall in income (including user fee collections), unless recognized by the Department via an approved budget modification, becomes the liability of the vendor. Such shortfall may be compensated for by either a reduction in expenditures or an increase in other incomes, or both.

2060.09 Funding Period - Funds are awarded for a specific Grant/contract period as noted in the funding agreement or award letter. The vendor must expend those funds during such period. (See Accounting - Encumbrance, Section 2110.)

2060.10 Unspent Funds - Funds unspent at the close of the grant/contract period may be treated in one of the two following methods (See Section 2190.12.03):

- (a) federal funds, may be carried-forward to the subsequent fiscal year, or
- (b) general funds will revert to the state by means of a carry-over or collections.

2060.11 Net Income - A net income, profit or contingency reserve shall

not be allowed to the vendor, unless specifically permitted in the contract. In any case, the net profit shall be limited to 8%.

2061 Federal Block Grant Funds - Grants funded by federal funds under the Alcohol, Drug Abuse, and Mental Health (ADM) Services Block Grant or the Preventive Health Services (PHS) Block Grant are expressly prohibited from the following expenditures unless waived by the Secretary, Department of Health and Human Services:

- (a) Inpatient hospital services
- (b) Cash payment to intended recipients of health services
- (c) Purchasing or improving land, purchasing, constructing or permanently improving (other than minor remodeling) any building or other facility, or purchasing major medical equipment.
- (d) Satisfying any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds.
- (e) Financial assistance to any entity, other than a public or nonprofit private entity.

2060.01 Patient Records - A system must be in effect to protect patients from inappropriate disclosure of records which may be maintained in connection with any activity funded under an ADM or PHS Block Grant allotment.

2061.02 Public Health Services Act - The requirements and restrictions for the Alcohol, Drug Abuse and Mental Health and Preventive Health Services Block Grants are mandated under the Public Health Services Act, Title XIX, as amended by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.

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2070 SUPPLEMENTAL AWARDS

2070.01 Nature - A supplemental award is the means by which the

Department provides additional funding to a human service program. The decision to provide additional funding is made by the Director of the program administration. Supplemental awards may be subject review by the Board of Public Works and the Department of Budget Fiscal Planning, in accordance with procurement law. (See Section 2050.06 - 2050.07.02.)

The Division of Contracts will coordinate the submission of supplemental awards to the review.

2070.02 Conditions - The vendor may request supplemental funding at

any time. Generally, supplemental funding is requested when one or more of the following conditions is present:

- (a) the cost of human services has increased, in multi-year contracts, and the increase in cost is supported by an increase in specific appropriations.
- (b) an error occurred in the original budget process and additional funds are required to maintain the same quantity and/or quality of service as that originally contemplated,
- (c) an unforeseen event causes a need for administration funds to maintain services,
- (d) program expansion is desired, or
- (e) additional resources are desired to enhance program quality.

2070.03 Vendor Request - A vendor may request supplemental funding

at any time. The request should be submitted using the same type form (DHMH 432 or 1209) as was used in the original application, although it should be labeled "Supplemental Request": The budget document should be accompanied by a narrative explaining the nature of the request. The program administration should be contacted prior to submission to

ensure availability of funds and to discern any special conditions which may be imposed.

2070.04 Status - If approved, the supplemental budget replaces the original budget and any intervening budget modification. See Section 2050.05.

2070.05 Notice - The vendor is notified by the program administration in writing respecting the decision on supplemental funding. If approved, the same processes as the employed for an initial award shall be used. Also, the program administration shall notify the Local Health Department of any supplemental awards made to vendors in the subdivision.

2070.06 Procurement - Supplemental funding is subject to the state's procurement laws and regulations. All requirements or exemptions which apply to human services funding generally, also apply to supplemental funding. Supplemental funding under the procurement process is considered a contract modification. Note: "Contract modification" is not synonymous with "budget modification," the former is defined in COMAR 21: the latter is specified in Section 2080.

2070.07 Approvals - The program administration must obtain the necessary approvals prior to issuance of a supplemental award. For Local Health Departments a "Change in Grant Status in Local Health Departments" (DHMH Form 4291) must be submitted when a supplement has been approved. See Section 2070.01.

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2080 BUDGET MODIFICATION

2080.01 Nature - Budget Modification is a revised budget which restates the original budget and incorporates line item changes desired by either the vendor or the program administration to achieve a new approved budget. A budget modification does not affect the total amount of the DHMH award but may affect the total amount of other funding services. A budget modification is to be distinguished from a supplemental award budget. Both are revised budgets. However, the former does not alter the amount of the DHMH grant/contract award, whereas the latter increased the amount of the DHMH grant/contract award.

2080.02 Status - A budget modification, when signed by both parties, becomes an addendum to the agreement (See Section 2050.05) and supercedes the original budget or any intervening supplemental budget or budget modification.

2080.03 Implementation - A vendor must submit a budget modification to the program administration for proposed changes whenever;

- a. a change would effect any of the following controlled line items to the degree specified:
 - i. Total of salaries, consultants, special payments and fringe costs by ...
 - 4 % for Local Health Departments
 - of 3% for vendors other than Local Health Departments
 - ii. Equipment by \$1,000.
 - iii. Purchase of Service by the greater of 3% or \$2,000 for vendors other than Local Health Departments
 - iv. Renovation/Remodeling by 10% (See Section 2170.07) for vendors other than Local Health Departments.

- b. a new estimate of third-party income (including fee collections) is over or under the previous estimate of incomes by 5% and/or
- c. the program administration has specified in the funding agreement a condition requiring the submission of a budget modification and that condition occurs.

The Vendor may submit budget modifications up to April 15th for the current fiscal year. It is recommended that the vendor discuss the need for a budget modification with the program administration before submission.

2080.04 Approval - The program administration must approve the budget modification to authorize the contemplated change.

2080.05 Vendor Liability - Budget changes subject to approval (per 2080.03) which have not been submitted to and approved by the program administration may be considered a breach of the agreement. Unauthorized changes become the liability of the vendor. Also, it should be noted that annualized costs of personnel changes made without specific approval of the program administration (i.e. changes not requiring a budget modification) may not necessarily be funded in subsequent years.

2080.05 Third- Party Income - When a modification request is submitted because third-party income is over or under the budget estimate, the vendor may request an increase or decrease of the total program budget to reflect the change.

2080.07 Negotiation and Submittal - A budget modification is typically negotiated by the vendor and the program administration and then formalized by submission of two copies of the appropriate budget modification form to the proper administration.

- 2080.08 Form DHMH 436 - Those vendors which used form DHMH 432 for application use form DHMH 436 (Budget Modification Request - Human Services Program) to request modification of the previously approved budget following instructions attached to the form. Program Administration whose vendors do not use DHMH 4432 may develop a form for budget modifications, with the approval of the Division of Program Cost and Analysis.
- 2080.09 Form DHMH 1209 - Those vendors which use form DHMH 1209 (Budget and Personnel Detail - Local Health Departments) for application (Local Health Departments) may use form DHMH 528, following these instructions:
- a. In Column 3 place current approved line item budget.
 - b. Show approved non-state participation, if any in Column 4.
 - c. In Column 5 place requested revise line item non-state participation in Column 6.
- 2080.10 Addenda - The program administration may require that the budget modification form be accompanied by one or more of the following:
- a. a narrative identification of all changes to the previous budget,
 - b. a narrative describing any changes to programmatic operations, or
 - c. revise expenditure schedules for salary, consultants, equipment or renovation/remodeling.
- 2080.11 DPCA Processing - The program administration will forward all budget modifications to the Division of Program Cost and Analysis for processing. All modifications must be accompanied by a narrative; this may be prepared by the program administration or the vendor at the program administration's discretion. If the activities of the vendor have changed substantially the Division of Program Cost and Analysis will inform the program administration within 30 days that a new grant/contract is necessary.

- 2080.12 Fiscal Operations - Once a budget modification is approved by the Director of the program administration, the Division of Program Cost and Analysis will utilize this for all fiscal operations including reconciliation.
- 2080.13 Notification - The vendor is notified by the program administration in writing whether or not the modification is approved within 30 days of receipt of the vendor's request. If approved a copy of the approved modification is sent to the vendor. In the event the vendor is a Local Health Department, notification is through the Unified Grant Award. A change in Grant Status for Local Health Departments (DHMH Form 4291) will be forwarded to the Division of Program Cost and Analysis along with the approved modification. The Division of Program Cost and Analysis is responsible for the notification of the Local Health Department.

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2090 REDUCTION

- 2090.01 General - The Director of the program administration may reduce an award for cause.
- 2090.02 Reasons - Generally, the reasons an award will be reduced include, but are not limited to:
- a. a delay in developing a new program.
 - b. a failure to fully market the target population.
 - c. a reduction in the scope of services to be delivered,
 - d. a cutback in state appropriations (or revision of estimated incomes),
 - e. a failure on the vendor's part to comply with the terms and conditions of the contract/MOU,
 - f. a realization of third-party incomes beyond that estimated in the budget, or
 - g. an actual or projected underspending from that estimated in the budget.
 - h. for multi-year contracts, insufficient appropriations to cover the cost of inflation.
- 2090.03 Hold Harmless - The program administration must ensure that any valid expenditure, including an encumbrance, made by the vendor prior to the notice of the reduction shall be supported by the Department if the expense would have been supported had there not been a reduction. In the event discussions ensue prior to formal notice, a protocol (optional) should be negotiated to establish treatment of expenses incurred prior to formal notice.
- 2090.04 Preliminary Notice - If appropriate and feasible, before a grant/contract

award is reduced, the vendor should be informed in writing at least thirty (30) days in advance that the program administration is considering reduction of the award. The notice should enumerate the reasons for the program administration's intended action, establish the new conditions by which service (s) will be delivered, and provide the vendor an opportunity to respond.

2090.05 Procurement - Reduction of funding is subject to the State's procurement laws and regulations. All requirements or exemptions which apply to human services funding generally, also apply to reduction of funding. A reduction action is considered a contract modification under the procurement process.

2090.06 Notice - A Notice of Reduction must be prepared by the program administration. The notice should address those same areas as displayed in the original award letter (see Section 2050.04). Additionally, the notice must be accompanied by a replacement budget page. Addressees should be the same as the original award letter. The reduction letter package should be forwarded to the Division of Program Cost and Analysis for processing and sign off prior to release to the vendor. If the vendor is a local Health Department notification is through the Unified Grant Award. A change in Grant Status for Local Health Departments (DHMH Form 4291) will be forwarded to the Division of Program Cost and Analysis along with the approved notification. The Division of Program Cost and Analysis is responsible for the notification of the Local Health Department.

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2100 TERMINATION

2100.01 General - Grants/Contracts may be terminated for cause by the Director of the Program Administration.

2100.02 Reasons - Reasons for termination include but are not limited to:

- (a) the vendor does not comply with their terms and condition of the agreement,
- (b) the services delivered by the vendor are of poor quality,
- (c) the administration/management of the vendor is incompetent, irresponsible and/or non-responsive.
- (d) the vendor's accounting procedures are unprofessional and/or inadequate and/or its fiscal records are inaccurate and/or unreliable,
- (e) the vendor fails to comply with applicable federal or state law,
- (f) the services provided by the vendor are no longer required or otherwise are deemed inappropriate or unnecessary as a matter of public policy,
- (g) the legislature fails to appropriate sufficient funds to continue the program, and/or
- (h) the Department changes the priority status of the program as a matter of public policy.

2100.03 Notice - The program administration, by ninety (90) day written notice, may terminate a grant/contract in whole or in part when it is deemed by the program administration to be in the best interest of the recipients of service, Administration and/or the State of Maryland.

2100.04 Preliminary Notice - If appropriate and feasible, before a grant/contract is terminated by the Department, the vendor will be informed in writing that the program administration is considering termination of the

grant/contract. The notice will enumerate the reasons for the program administration's action to terminate, will establish the conditions by which continuity of client service(s) will be maintained and will provide the vendor with an opportunity to respond. The effective date of the scheduled termination will be specified in the letter.

2100.05 Non-Renewal - When the program administration finds it necessary to not renew a grant/contract at the end of a grant/contract year, the administration will make every effort to notify the vendor in writing at least sixty (60) days in advance that the grant/contract is scheduled to be terminated at the end of the current fiscal year. Copies of this notification are also sent to the Divisions of Program Cost and Analysis and the Division of Contracts and to the appropriate local advisory committee, if any.

2100.06 Termination by the Vendor - Should the vendor wish to terminate the contract or MOU, it must make a written request for termination to the Director of the appropriate program administration at least sixty (60) days before the proposed termination date. Approval must be secured before services to clients are stopped.

2100.07 Departmental Liability - In the event of termination, the administration will be liable only for payment for expenditures/encumbrances for authorized activities to the effective date of termination.

2100.08 Final Report - Upon termination by either the administration or the vendor must submit a final report of receipts and expenditures within fifteen (15) days after the effective date of termination. If money is due the Department, a check in the full amount due should accompany the report.

2100.09 Continuity of Service - In the event of termination, the Director will take such action so as to ensure continuity of service to the third party clients. Measures to effect this provision include but are not limited to:

- a. Emergency procurement under the State Finance and Procurement Article of the Annotated Code of Maryland,
- and/or
- b. Concurrent funding/contracts of two or more vendors.

2100.10 Reclamation of Assets - When state funds are used to purchase assets the State has the right to reclaim these assets. The Department retains the right to claim and dispose of any equipment, buildings or property which has been purchased with funds provided by the Department, within three years of the date of the termination or non-renewal or before the asset may be considered fully depreciated, using IRS Guidelines on useful lives of assets, whichever is earlier. In the case of buildings or real property, if the Department has funded, in whole or in part, the down payments, mortgage or payments which include payment of principal or renovation or remodeling costs, the Department has a vested interest in the building or real property. The Department may record this interest in the property with the local jurisdiction to assure that title will not be transferred without satisfaction of the Department's interest. In case of sale of any such real property or equipment, all income shall be due the State. Therefore, provisions for the reversion of title to the Department should be included as an option in the funding agreement. The Department is to act prudently and fairly to claim accordance with the general public interest.

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2110 ACCOUNTING

- 2110.01 Standards - The vendor must maintain an accounting system and records relating to the grant/contract which conform to both Article 19, Section 28A of the Annotated Code of Maryland and Generally Accepted Accounting Principles.
- 2110.02 Program Specificity - A separate, distinct accounting record must be maintained for each grant/contract program.
- 2110.03 Periodicity - Accounting for each approved budget period must be segregated from every other budget period.
- 2110.04 Income - All income must be recorded, showing both source and amount.
- 2110.05 Expense - Each expense must be recorded and charged against its appropriate line item and must be substantiated by documentation sufficient to identify the transaction.
- 2110.06 Full disclosure - all income, expenses and related party transactions must be disclosed.
- 2110.07 Special Conditions -
- (a) Salary and fringe expenses must be supported by the following:
 - i. Maintenance of a time-reporting system for personnel funded by the grant/contract.
 - ii. Maintenance of adequate records supporting charges for fringe benefits.
 - iii. Maintenance of payroll authorization and vouchers.
 - (b) Consultant costs must be supported by the following:
 - i. Maintenance of a time-reporting system for consultants funded by the agreement.
 - ii. Maintenance of consultants' invoice
 - iii. Maintenance of fee-payment authorizations.

2110.08 Inspection - The vendor's accounting records concerning the grant/contract program must be made available for inspection or audit by the Department at any reasonable time. All accounting records must be maintained until a final audit report has been issued by the DHMH Audit Division or until five years have elapsed since the close of the grant/contract period.

2110.09 Accrual Accounting - In order to properly allocate expenses and receipts to the fiscal period cover by the grant/contract, a vendor or Local Health Department may use the accrual basis of accounting, except for fee collections from private pay clients. The accrual basis of accounting provide the expenses incurred and income earned during the funding period must be accounted for in the funding period. Expenses for goods and services received but not paid and income earned but not received should be reported in the funding period. The only exception is fees collected from clients (i.e. those fees not paid by a third party insurer such as Medicaid Assistance or Medicare.) Income from fee collections from private clients may be recorded only when the income is received (i.e. the basis.) See Section 2160.09 for a more detailed discussion of treating income.

A vendor or Local Health Department may request approval to adopt the accrual basis of accounting by submitting a written request (Local Health Departments should submit a request simultaneously to the Director, Local Health Administration) to the Chief, Division of Program Cost and Analysis by May 15th of the fiscal year preceding the year in which the use of the accrual basis is to begin. After consultation with the Director(s) of the program administration(s), the Chief, Division of Program Cost and Analysis will notify the vendor or Local Health Department of the decision by June 15th.

Generally, a vendor or Local Health Department will not be permitted to change its basis of accounting merely to gain the short term advantages. Rather, a change in the basis of accounting would be made to improve accuracy and would remain in effect until it could be demonstrated that another change would result in greater accuracy.

2110.10 Encumbrance - Obligations for goods and services which are to be furnished wholly in the subsequent year are not recognized as expenditures in the current year. The Department recognizes any of the following conditions as a valid encumbrance of funds:

- a) the vendor has signed a contract for capital equipment, the delivery of which is scheduled during the funding period but said delivery is delayed for reasonable cause.
- b) the vendor has signed a contract for Renovation/Remodeling goods and/or services which contract begins but may not be completed during the funding period.
- c) the vendor has signed a contract for services which contract begins but may not be completed during the funding period.

Note: All of the foregoing encumbrances should be reflected as expenditures in the year-end report.

2111 Guidelines - The following material is not applicable to all DHMH grant/contract vendors. However, where it is applicable it must be used.

2111.01 Imprest Petty Cash Fund - This account should be established with not more than \$500 and used, for example, to make emergency food purchases during the month, to pay for postage, to make any travel advance for local travel. This account should not used to cash any personal checks. At least once a month, this fund should be reimbursed by submitting all bills paid to the person in charge of the checking account. (Bills should be charged to the appropriate budget account.) It is

recommended that a limit, usually \$50-\$100, be established for any single disbursement from petty cash.

Note: an operating account used by a residential program for household expenses, such as groceries, is not necessarily subject to the \$500 limit. The limit for this type of account should be in line with typical monthly expenditures.

2111.02 Checking Account - It is strongly preferred that this account should be established with four signatures with a requirement that any two of the four authorized individuals may sign checks. No personal funds should be deposited into this account and no checks should be drawn for personal expenses. There should be no pre-signed checks. The person who prepares the checks should attach, to the check, copies of the bills being paid so that signers can check the amount. The check number and date paid should be noted on the bill. If possible, the person who signs the checks and the person who prepares the checks should not do the bank reconciliation.

In those cases where it is impossible to have two signatures on the check, the vendor must establish other internal control measures that would compensate for this weakness. There other measures may include stratification, (e.g. one authorized signature required on checks up to \$500, two signatures required on checks over \$500), weekly review and sign off on invoices by a person other than the signer of the check, greater separation of duties with respect to handling cash, etc.

2111.03 Record keeping - The most frequent problem the Department's vendors have in audit is with record keeping. It is crucial that proper records be maintained. These records should be established and maintained in accordance with generally accepted accounting principles and should include the following:

- a. For outpatient, clinics or services given on an "event basis" pre-numbered original source document with two copies should be used. Combination "charge" and "receipt" books or an individual "charge" book and an individual "receipt" book should be used to record all necessary data. They should be bound, fastened or glued with the original of the pre-numbered document (combination "charge" and "receipt" or individual "charge" and individual "receipt") given to the client, one copy is retained by the vendor in the receipt book in numerical order and the second copy is used by the accounting office for posting. The document, at a minimum, should have a preprinted number on it, the date, amount of fee charged, amount of fee paid, name of payer and/or person receiving service and the address, the type of service, signature of client and signature of person receiving fee.
- b. Receipts should be summarized daily in a bound Receipts Journal or computerized equivalent. The minimum entry in the Receipts Journal should show the date, the numbers of the appropriate documents and the total amount of money received.
- c. Disbursements should be recorded daily in a bound Disbursement Journal or computerized equivalent. The minimum entry in the Disbursement Journal should show the date, the date of the check, the number of the check, the payee, the amount of the check and the accounts to be

charged and the amount to be charged to each account.

- d. All Disbursement Journal columns starting from the last Journal Ledger entry should be totaled weekly (or more frequently if needed) so that a summary of cash disbursed between Journal Ledger entries is available.
- e. All expenses should be paid by check, except for small purchases paid from the imprest petty cash fund. Paid bills should be marked with the date, check number and the account to be charged, e.g., supplies, food, security, etc. They should be filed by the account charged or by some system that lends itself to review by an auditor.
- f. Entries in the journals should be posted to general ledger accounts periodically. These general ledger accounts are used as the basis for preparing the required financial statements.

2111.04 Furniture and Equipment - Adequate records must be kept of all existing furniture and equipment and all deleted furniture and equipment. Inventory control numbers should be attached to all furniture and equipment as it is purchased (and any previously purchased that does not have control numbers). Inventory control cards should be prepared for all furniture and equipment containing the following information:

- a. Date purchased
- b. Description of item, including method of disposal

- c. Vendor
- d. Cost
- e. Location
- f. Inventory Control Number
- g. Source of funds

A master file should be prepared for all deleted furniture and equipment stating:

- a. Description of item
- b. Previous location
- c. Original cost and salvage value
- d. Date deleted

In addition, a periodic review of furniture and equipment inventory shall be performed.

For the purposes of recording inventory, any single item having a cost of \$500 or greater and a useful life of at least three years is considered equipment. Items costing less than \$500 or having a useful life or less than three years may be treated as expenses.

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2120 FISCAL REPORTING

2120.01 General - Each vendor receiving human services program funding under

the provisions of this policy must file one or more of the following reports:

DHMH 437 - Report of Receipts and Expenditures/Request for Payment,

DHMH 440 - Annual Report, and DHMH 990 (formerly BM93) - Statement of

Expenditures and Receipts (Local Health Departments only).

2120.02 DHMH 4325 - Semiannual Projection of Expenditures/Income

2120.03 Budget Modification Request - See Section 2080.08

2120.04 Annual Report - A Vendor's Annual Report (DHMH 440) of receipts and

expenditures for the budget period must be submitted to the Division of Program

Cost and Analysis by August 31, covering the preceding fiscal year. Vendors

with multi-year contracts must submit a DHMH 440 for each year of the contract.

(Day Care Programs for the Elderly submit the annual report DHMH 2026 by

September 30.) Failure to submit this report within the specified time will result

in funds being withheld until the reports are filed and reconciliation is complete.

This report need not be an audited document. So-called "preliminary" reports will

be processed as final reports; therefore the vendor must not file a report which is

not to be relied upon, merely to comply with the filing deadline.

2120.04.01 Letter of Justification - A letter of justification must accompany the annual

report if actual expenditures vary from the approved budget for those items listed

under Section 2080.03. Local Health Departments whose expenditures are

included in the 28-409 report (Detail Cost Ledger) and who elect not to file form

DHMH 440, must, nevertheless, file a letter of justification for variances as stated

above.

2120.04.02 Local Health Option - A Local Health Department having its invoices

paid by the DHMH General Accounting Division has the option of submitting a

form DHMH 440 to supercede the 28-409. If exercised, the DHMH 440 must be

filed by August 31.

- 2120.04.03 Multi-year Funding - When a multi-year award has been made, the vendor must file a DHMH 440 by August 31 of each year or DHMH 2026 by September 30 (Again, this provision is not applicable to Local Health Departments having their expenses paid directly by the DHMH General Accounting Division except as the Local Health Department may option to file a DHMH 440 in lieu of reliance on the DHMH 28-409.)
- 2120.05 Projection - A semiannual projection to expenditures and income through October 31, and January 31 must be submitted to the Director of the program administration, on December 1 and March 1 in a format to be specified by the Division of Program Cost and Analysis.
- 2120.05.01 The Director will submit a summary report of all vendors' projections to the Chief, Division of Program Cost and Analysis by December 31 and March 31.
- 2120.06 Local Health Departments - Local Health Departments having expenses paid directly by DHMH General Accounting Division and electing not to file a DHMH 440 must file a DHMH 990 - Statement of Expenditures and Receipts - or other memorandum of accounting with DHMH General Accounting Division within 30-days of the close of the budget period. (This provision is not applicable to Local Health Departments exercising the option to file a form DHMH 440.)
- 2120.07 Computer Facsimile - a facsimile generated by the vendor's own computer application may be acceptable in lieu of the departmental form for forms DHMH 432, 436, 437 and 440. Prior approval of the format by the Division of Program Cost and Analysis is advised. The vendor assumes liability for rejection of the report via facsimile if approval is not obtained.
- 2120.08 Program Option - The program administration may require additional fiscal reports of the Director's discretion.

Day Care for the Elderly - The filing deadline has been established as September 30. In addition, this program has its own forms which are acceptable to Health Systems Financing Administration.

2120.09 Baltimore City Health Department - Annual reports from the Baltimore City Health Department (BCHD) for programs funded by Addictions Services and Mental Hygiene Administration shall be due August 31 after the close of the funding period and that the MOU between the Department and the BCHD shall contain additional particulars regarding reporting and reconciliation.

2121 Other Agency Reports - The following provision are not DHMH policy, they are requirements of various other state and federal agencies. The specifications are for informational purposes only. The list is not exhaustive and the Department assumes no responsibility for omissions. For compliance with relevant laws and procedures, vendors are advised to seek direction from the appropriate agency and to seek the advice of legal counsel.

2121.01 Federal Income Tax - While a non-profit corporation is not usually subject to federal income tax, the corporation is required to submit certain forms to the federal government. First, the corporation must complete an Application for Recognition of Exemption (Federal Form 1023). The document should be completed immediately after incorporation. It is advisable to have the attorney who prepares the Articles of Incorporation complete the Form 1023 at the same item.

The form 1023 is to be submitted to the Internal Revenue Service (IRS). If the IRS determines that the applying corporation is exempt from income tax, a letter of exemption determination will be issued. This letter should be kept in a secure place, such as a bank safe deposit box.

A corporation that has been declared exempt from income tax is required to file an annual information tax return (Federal Form 990). Failure to file these returns

in a timely manner could jeopardize the tax exempt status and result in the assessment of penalties and interest against the corporation.

2121.02 Employees Income Tax Withholding - All employers are responsible for withholding amounts for federal and state income tax and FICA (Social Security) from employee's wages. The following actions are required:

- a. The employer obtains an Employer Identification Number by filing Federal Form SS-4 with the IRS.
 - b. The employer has each employee complete an Employee's Withholding Allowance Certificate (Federal Form W-4). The employer uses this certificate to determine the amount of withholding for the employee.
 - c. The employer pays these withholdings to the government monthly, quarterly or per pay check issuance (check with the the IRS to determine the appropriate frequency for your organization). The employer is also required to match the FICA amount. That is, the employer pays an amount equal to the employee's FICA withholdings. This can be done at most banks, using a special deposit card issued by IRS.
 - d. The employer reports the withholdings to the IRS on a Federal Form 941.
 - e. The employer completes a Wage and Tax Statement (Federal Form W-2) for each employee annually. These forms must be completed by January 31st of the year following the taxable period.
- The importance of complying with these requirements in a timely manner cannot be overemphasized. IRS imposes very serious penalties for failure to complete the proper forms and make all payments due. Moreover, it is a primary responsibility of an employer to properly account for the employee's taxes.

2121.03 Incorporation - A corporation in the state of Maryland must file

Articles of Incorporation with the Maryland Department of Assessments and Taxation (DAT). Different forms are required for stock or non-stock corporations.

A corporation which has been incorporated in another state must register with the State of Maryland as a Foreign corporations in order to transact business in this State. Foreign corporations must file DAT Form AT5-110 and AT5-111 accompanied by a fee of \$50.

2121.04 Reports Required for Corporations - All corporations in Maryland must file a DAT Form 1 or 2 - Schedule of Return of Personal Property of individuals and Firms as of January 1st of each year. This report includes all tangible personal property and is due on or before April 15th of each year. This report must be accompanied by copy of the latest available Balance Sheet & Depreciation Schedule or a copy of Fed. Income Tax Form 1040, 1065, 1040F. All corporations doing business in Maryland must file Maryland Comptroller of the Treasury (COT) Form CRU-1 Combined Registration Application; this form is used to determine whether the corporation is liable for income withholding tax, retail sales tax and unemployment insurance.

- Sections A and I must be completed by all applicants. The remainder of the form depends upon the type of business.
- Section B should be completed only if the corporation will make sales in Maryland, purchases for resale out of state, or seek a non-profit exemption certificate.
- Section D should be completed if the corporation will have employees in the State. If Section D, Parts 1, 2, and 3 are applicable, each employee must complete COT Form MW 507, Employee's Maryland Withholding Exemption Certificate.
- Section H should be completed if the employer has more than one place of business in Maryland.

Other sections of COT Form CRU - 1 should be completed if applicable.

If the corporation is non-profit and has received a 501C3

determination letter from the Internal Revenue Service, the letter should be attached to you Form CRU-1 when it has been completed and then both returned to Central Registration, Comptroller of the Treasury (COT), 301 W. Preston Street, Room 404, Baltimore, Maryland 21201. If the corporation has applied for federal tax exemption but has not yet received the final determination, a letter explaining the status of federal application should be attached to Form CRU-1.

After Form CRU-1 has been completed and returned, it will be reviewed by the Central Registration Office. If Section D, Parts 1, 2 and 3 have been completed, the Comptroller's Office will send Form MW506-Employers Return of Income Tax Withheld-to the corporation. This form is used in making payment of the Maryland income tax which was withheld from employees wages, and is sent to the State of Maryland, Comptroller of the Treasury. The Comptroller will determine the schedule of payments the corporation should follow.

The Department of Human Resources will send Form DHR/ESA 15 and Form DHR/ESA 16 to the corporation. The form DHR/ESA 15 is used in making payments of the Maryland Unemployment Insurance Fund, quarterly. A rate is originally assigned by the DHR; this rate is reviewed annually and is raised or lowered depending on the number of claims paid in the prior year. This rate is then applied to the gross earnings of each employee up to \$7,000 to determine the corporation's contribution for unemployment. Form DHR/ESA 16 is used to report the gross earnings of each employee.

2121.05 Workmen's Compensation - There are three options available to Maryland employer in fulfilling their compensation obligation.

1. The "Self-Insurance Program" is the means whereby it is possible for a Maryland employer after filing an application and meeting the requirements of the Workmen's Compensation Commission to be self-insured for workmen's compensation. The requirements are such that normally only the very largest employers are able to qualify for this type of program. (Note: The Department will generally not support costs for a self-insurance program. Vendors should select either option #2 or #3 to ensure Departmental support.)
2. Employers in Maryland may place the coverage through any number of private insurance companies who write workmen's compensation in the State of Maryland. This is the recommended way of obtaining coverage for workmen's compensation.
3. The Maryland State Accident Fund is a state agency which writes workmen's compensation insurance for Maryland employers. In order to determine what is necessary to place coverage with the State Accident Fund, the employer can contact the State Accident Fund's Underwriting Department at 8722 Loch Raven Boulevard, Towson, Maryland 21204 in writing or by telephone at 321-3993 extensions 18, 20, 21, and 22.

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2130 PAYMENT

- 2130.01 Overview - These are two primary methods of payment: 1) the DHMH General Accounting Division pays invoices on behalf of certain Local Health Departments, or 2) the vendor submits an invoice (and quarterly report) to the Division of Program Cost and Analysis.
- 2130.02 Method #1 (Scope) - Method #1 is employed for all costs by 17 local health departments and for some costs by four other Local Health Departments (Frederick, Anne Arundel, Prince George's and Washington counties).
- 2130.03 Method # 2 (Scope) - Method #2 (Scope) - Method #2 is employed by the three home-rule subdivisions (Baltimore City, Baltimore County, and Montgomery County), all private vendors, by all public entities other than Local Health Departments, and for certain other costs, by those four county health departments mentioned specifically under method #1.
- 2130.04 Payments via Form DHMH 437 Report of Receipts and Expenditures/ Request for Payment - Method 2
- 2130.04.01 Quarterly Payments - Most vendors will request payment via DHMH 437. Payments are generally made four times per year. The first payment request should be submitted before the close of the prior fiscal year or as soon as the contract/MOU is signed. The first amount requested should usually be for an estimated four months' operation of the program. The second, third and fourth invoices (usually for payments for 3 months, 3 months and 2 months, respectively) must be submitted on the same document for reporting first, second, and third quarter operations.
- 2130.04.02 Monthly Payments - The Women, Infants and Children program provides for monthly payments for vendors. In such cases, the

form DHMH 4330 should be used. Fiscal reporting is also done on a monthly basis.

2130.04.03 Signature - The form DHMH 437 must be signed in ink

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2140 ADVANCE PAYMENT

2140.01 Background - Because the application review process can sometimes

delay the completion of formal agreement and notification, and because the delivery of essential human services could be disputed or terminated by the interruption of state funding, advance payment of grant/contract monies is sometimes necessary to prevent profound hardship to recipients of services. This section establishes the means for and the limitations upon making advance payments of the operational human service program funds. Additionally, this section further defines the term "advance payment", explains under what circumstances a vendor is considered eligible, and how the vendor should apply for an advance payment.

2140.02 Vendor Request - A vendor who wishes to apply for an advance payment, shall request same from the Chief, Division of Program Cost and Analysis, using form DHMH 437. See Section 2130.

2140.03 Eligibility - Unless a notice to the contrary is issued by the Director of the program administration to the Chief, Division of Program Cost and Analysis, a vendor shall be considered to be eligible for an advance payment if either one of the following has taken place, subject to the approval requirements stated below:

- (a) The vendor has received a grant/contract in the prior fiscal year.
- (b) The vendor received a grant/contract in the prior fiscal year and has not been issued notice that human service funding will be terminated.
- (c) The Director of the program administration has issued a Letter of Intent to fund for the current/next fiscal year.

2140.04 Authorization - Unless notice modifying the amount of requested advance

payment is issued by the Director to the Chief, Division of Program Cost and Analysis, the Chief shall authorize the advance payment in the amount requested by the vendor via form DHMH 437. However, the Chief, Division of Program Cost and Analysis, shall not authorize an amount in excess of 25 percent of the prior year award or amount stated in a Letter-of-Intent without the express written approval of the Director of the program administration or his designee.

2140.05 Approval Requirements: - Director of the Program Administration - The Director of the program administration must approve each advance payment subsequent to the initial one for every vendor.

2140.06 Board of Public Works Review -

2140.06.01 Identification - The Director of the program administration shall identify all those advance payments which require a review by the Board of Public Works and shall convey that information to the Chief, Division of Program Cost Analysis, in the form and manner as the latter shall request.

2140.06.02 Transmittal - The Chief, Division of Program Cost and Analysis, shall toward to the Board of Public Works a request to authorize advance payments to those vendors who have requested same and which are subject to the Board's review.

2140.06.03 Prohibition of Authorization - The Chief, Division of Program Cost and Analysis, shall not authorize an advance payment that is subject to Board of Public Works review and approval to any prospective vendor until the Board has communicated approval of the advance payment.

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2150 COST PRINCIPLES

2150.01 Background - This section establishes the cost principles for

Department human services funding. The Director of the program administration is afforded broad discretionary authority to target Departmental support of vendor program costs to promote maximum effectiveness in the service delivery system consistent with state objectives. Also, the policy establishes certain guidelines for the consideration of vendor costs to ensure accountability in the distribution of public finds.

2150.02 Program Discretion - The Director of the program administration shall

exercise his/her discretion in determining what aspects of a vendor's program are to be supported by Departmental human services funding.

2150.03 Limitations - The vendor may use grant/contract funds for expenditures

required to carry out an approved project-program limited by:

- a. the budget approved by the Director,
- b. the terms of allowable costs in this policy (unless specifically modified by the Director of the appropriate administration),
- c. the specification of allowable costs in this policy (unless specifically modified by the Director of the appropriate administration)
- e. the total amount of the grant/contract award, as enumerated in the approved budget, and
- f. COMAR Title 21, Subtitle 09 - Contract Cost Principles and Procedures, as applicable.

2150.04 Reasonableness - The Director will subject each projected expenditure

specified in a proposed budget or budget modification to a reasonableness test in accordance with DHMH policy and his/her own judgment regarding the general public interest and that of the clients to be served. Irrespective of its classification as an allowable cost, a cost is allowable only to the

extent it is accepted as reasonable by the Director. In addition, the Chief, Division of Program Cost and Analysis shall review expenditures reported on the annual DHMH 440 for reasonableness and shall request special approval of the Director for all expenditures that are not considered reasonable.

2150.05 Criteria - A cost may be considered unreasonable on the basis of either its nature or amount. In determining the reasonableness of a given cost, consideration shall be given to any and all relevant circumstances including but not necessarily limited to the following:

- a. federal grant/contract regulations.
- b. requirements imposed by the term and conditions of the grant/contract,
- c. whether or not the cost is of a type generally recognized as ordinary and/or necessary to the provision of contracted goods or services.
- d. sound business practice, and/or
- g. the general public interest.

Reasonableness requires that the cost be such an amount as would ordinarily be paid for comparable goods or services by a comparable purchaser, depending on the facts and circumstances in each case. Reasonable cost is usually limited by fair market value.

2150.06 Direct Costs - Any costs which are or can be specifically identified with a particular cost object (budget line item) and which is allocable to the approved project/program for which the grant/contract is awarded is considered project/program for which the grant/contract is awarded is considered a direct cost. The vendor shall attribute all costs directly unless it is specifically authorized by the Department of the program administration to allocate certain costs as indirect costs.

2150.07 Indirect Costs - Indirect costs are defined under this policy as those costs

which have been incurred for multiple or common objectives (shared costs) or as those costs associated with more than one cost object within that part of the vendor's operation which is both funded by the Department and which are not readily identifiable as direct costs without effort disproportionate to the results achievable. Indirect costs are not administrative or overhead costs per se. Such costs should be identified as direct costs unless they meet the foregoing test.

2150.07.01 Authorization - The Director of the program administration may authorize indirect costs to fairly reimburse a vendor for that portion of the program which, while necessary for the performance of the grant or contract, cannot readily be identified and funded as separate line items in the direct cost portion of the vendor's budget.

2150.07.02 Funding Agreement - The Director shall ensure that the grant/contract agreement specifies:

- a. whether the vendor is eligible or ineligible to earn indirect costs.
- b. whether the indirect costs are to be calculated on the aggregate of that part of direct costs supported by Departmental funding or on another basis as specified, and
- c. the mathematical formula, percentage limitation on which the indirect cost is to be earned or the amount of indirect cost approval.

2150.07.03 Prohibition - The Director shall ensure that the approved budget of a vendor or freestanding subsidiary thereof whose operations are exclusively devoted to one program of which the Departmental funding is an income source, identifies all costs as direct costs and, therefore, does not allocate any costs as indirect costs.

2150.07.04 Local Health Departments

Note: The Secretary DHMH shall establish and issue instructions, at the beginning of each FY's budgetary process, the percentage which may be charged against grants and contracts at the discretion of Local Health Departments for indirect costs.

2150.08 Allowable Costs - The Director may allow any costs in whole or in part which are consistent with the scope and purpose of those aspects of a program which are or shall be supported by departmental finding.

2150.08.01 Guidelines - The following expense items, unless specifically rejected or limited by the Director, may be considered allowable costs under the conditions described. Inclusion here does not guarantee acceptability, conversely, omission does not necessarily preclude it. Moreover, specification in this policy as an allowable costs does not absolve the vendor from the responsibility to document these costs in accordance with generally accepted accounting principles.

Generally, allowable costs are:

- a. Those costs relating to items preprinted on form DHMH 432, some of which are discussed further below.
- b. Accounting, Audit, and Legal Services costs are allowable.
- c. Administrative Costs - including, but not limited to, those associated with a Block Grant. However, such amount of administrative costs which include unallowable elements as listed in 2150.09 is not allowable.
- d. Advertising may be allowable cost when it is for the purpose of recruitment or for outreach to actual or potential recipients of grant/contract supported services.

- e. Books, Periodicals, and Professional Journals may be allowable costs providing these materials are for the general use of the vendor staff and/or the recipients of grant/contract services.
- f. Communications costs, including those for printing and copying, are allowable.
- g. Consultant's Fees are allowable when necessary to provide the level of service established in the grant/contract and/or award letter. (See Section 2180.)
- h. Credit Card and Collection Costs
- i. Depreciation may be an allowable cost in certain instances when applied to assets when used for the purpose of creating and maintaining a reserve fund for replacement of capital equipment.

The guidelines for estimating useful life will be issued by the Division of Program Cost and Analysis. Such costs may be allowed at the discretion of the Director, who may require special handling and/or disclosure of the reserve fund at his/her discretion as a quid pro quo for allowing this cost.

(See Section 2150.09g, for Depreciation, not allowed)
- j. Dues and Membership fees to professional organizations and societies may be considered an allowable cost provided these memberships are organizational rather than personal.
- k. Equipment Lease and/or Purchase is an allowable cost. The schedule of equipment prices in the DBFP Budget Instructions for the applicable fiscal year may be used in any reasonableness test. Only assets counting at least \$500 and having a useful life of at least three years are considered equipment. Assets costing less than \$500 or having a useful life of less than three years need not be itemized and may be

reported as "small equipment."

- l. Fringe Benefits are generally limited to Life Insurance.

Health Insurance, Disability Insurance, Social Security, and certain benefits are available to employees with at least three years of service.

The maximum percentage allotted to fringe benefit elements listed in the DBM Budget Instructions for the fiscal year for which grant/contract funds are being requested may serve as a decision-making guide

for the Director.

- m. Fund Raising Costs up to \$1000 or 2% of the DHMH

award whichever is less. Fund raising costs which do

not generate a net benefit over time should be

disapproved in future proposals. A three year trial period

should be sufficient. If fund raising proves successful in

generating excess incomes and does not interfere

with the quality or quantity of services, the Director may

increase the previously stated limits for these costs for the purpose of

increasing the scope of services while reducing the percentage of the

DHMH grant to the total budget or for the purpose of enabling the vendor

to become more self sufficient. Generally, fund raising costs would be

inappropriate for a one-time-only agreement unless the

incomes to be derived would be received and utilized within

the grant period. It should be noted that the Department

will participate in the income generated to the same

extent the Department participates in the cost of the

fund raising. For example, if the Department supports 10%

of the fund raising costs, then 10% of the income generated

will be treated as income to the contract and used to

reduce the Department's expenditures.

Funeral or burial expenses for clients are allowable, subject to the approval of the Director of the program administration, up the limit permitted by State policy for clients in the DHMH institutions.

- n. Insurance is allowable cost. Both organizational liability insurance and malpractice insurance for the vendor's professional employees is an allowable cost; the cost of individual professional malpractice insurance for consultants is not allowable. The cost of vehicle insurance may be an allowable cost.
- o. Interest costs may be allowable:
 - i. when part of a mortgage payment or part of an installment payment for an approval equipment purchase and
 - ii. when borrowing working capital. Note: The Alcohol and Drug Abuse Administration (ADAA) requires that approval be secured to ensure support for this cost.
- p. Maintenance and Repair is an allowable cost.
- q. Payment to Advisory Council or Board of Directors are allowable as reimbursement for meals and travel only.
- r. Relocation costs for moving and organization are allowable; however, reimbursement for relocation of an employee is limited to the maximum rates provided in Department of Budget and Management, Office of Personnel Services and Benefits policy.
- s. Renovation and Remodeling costs allowable to the extent that they are meet the provisions of Section 2170.
- t. Rent or Mortgage costs are allowable to the extent that they are reasonable. A cost which is in excess of normal market rates may

be allowable in full if the location is essential to the vendor's performance of the terms of the grant contract. Generally, the State does not pay rent for space occupied in publicly building; the actual costs of operating these buildings (i.e. utilities, janitorial service, grounds keeping, etc.) may be allowable.

- u. Salaries and Wages are allowable to the extent they are reasonable. A general guideline of reasonableness of salaries/wages is the fair market value of wages paid in the area for comparable positions. Accrued leave may be identified under this item or under Fringe. Bonuses that are paid in accordance with vendor's salary plan, which has been submitted to and approved by the Director are allowable.
- v. Staff Entertainment Costs for holiday parties or employee recognition are allowable up to a limit of \$800 per year if approved by the Director of the program administration.
- w. Travel costs are allowable when related to the grant/contract. Travel costs by automobile, van or truck will be allowed at the State of Maryland mileage reimbursement rate are specified in The DBM Budget instructions for the applicable fiscal year. Other travel costs may be governed by DHMH Policy 3232. See The Appendices, Section 3020.
- x. Vehicle purchase or leasing costs are allowable if the vehicle is for transportation of recipients of grant/contract services to or from service locations or for the transportation of service personnel and/or supplies from on service site to another or to home-bound clients for the purpose of delivering service. Rates published in the DBM Budget Instructions should be used as a reasonableness test.

y. Training costs for staff are allowable to the extent that they are reasonable.

2150.09 Unallowable Costs - The following items are costs generally considered to be unallowable for purposes of Departmental grant/contract support.

The list is not exhaustive; omission does not constitute acceptance as an allowable cost. The Director may allow cost in any of these categories when it is in the public interest to do so; conversely, he/she may elect not to support funding of a cost not listed here, including those generally considered to be allowable under the previous section.

The Unallowable Costs are:

- a. Administrative costs which relate to unallowable elements,
- b. Bonuses, except when awarded in accordance with a vendor's salary plan, approved by the Director
- c. Client Funeral and/or Burial Expenses in excess of \$500
- d. Contingency Funds for Reserves,
- e. Costs in Excess of the Grant/Contract Award,
- f. Cost of Response to RFP except as provided by the RFP,
- g. Depreciation - on all real property and on equipment purchased with DHMH grant funds. (See Section 2150.08.01i, for Depreciation allowed),
- h. Employee/Staff Relocation, in excess of \$500
- i. Entertainment, except for holiday parties for staff, or employee recognition, as approved by the Director of the program administration.
- j. Fines, Claim, Awards, Judgments, or Penalties.
- k. Fund-Raising (beyond the limits specified in 2150.08),
- l. Gifts, Contributions, Donations,
- m. Interest on obligations to local, state or federal

governments or on obligations arising from "j" above.

- n. Lobbying and/or Advocacy Costs (including membership dues in industry associations whose principal activity is lobbying or advocacy)
- o. Malpractice insurance for a consultant.
- p. Sabbatical Leave.
- q. Bad debts incurred by private paying clients or third party payers and bad debts resulting from denied costs by the Department.
- r. Chaplainry training and other religious training programs for staff members
- s. Conferences, conventions, meetings. Usually, the business meetings are allowed subject to the Director's determination that the costs are reasonable. Registration fees and overnight expenses for conference or conventions are allowed only with the program director's approval.
- t. Costs not Adequately documented.
- u. Housing of non-clients unless it is a prerequisite of staff employment.
- v. Income Taxes
- w. Licensure fees for staff members except for class C drivers license where having the license was not a condition of employment at the time of employment.
- x. Losses on other grants and contracts.
- y. Expense of business activities operated by the vendor are allowed only to the extent of income generated.
- z. Expense of renting out a portion of the facility is allowable only to the extent of income generated.

- aa. Expenses resulting from transactions with related parties and/or parent organization which are greater than the expense to the related party.
- bb. costs or expenses incurred for the benefit of or on behalf an individual or organization other than the vendor.

2150.10 Pre-Payment of Expenses - The Department prefers that expenses not be incurred until the actual delivery of goods or services. However, it may recognize the vendor's pre-payment of certain expenses as valid under the following conditions:

- a. The agreement provides for recoupment to the state of unused pre-payment in the event funding is prematurely terminated, and
- b. a budget not documents the pre-payment.

2150.10.01 "Pre-Payment" in this context applies only to payment made in the current funding period where the goods or services will not be delivered until a subsequent funding period. It does not refer to payment prior to delivery when both actions occur in the same funding period or where delivery is timed to meet the test for encumbrance in the current period per Section 2110.09.

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2160 INCOME PRINCIPLES

- 2160.01 Background - The section establishes the principles by which program income is considered. The policy addresses both the DHMH award and all over vendor income and reviews the relationship among income types. The term "Income" is defined in Section 1000.
- 2160.02 Program Director Authority - The Director of the program administration shall have the authority to deviate, on an individual basis, from the principles stated in the following subsections so as to exempt or modify the treatment of certain income. The Director of the Program Administration shall notify the Division of Program Cost Analysis of its decisions to exempt or modify the treatment of income individual cases.
- 2160.03 Full Disclosure - Vendors whose DHMH award (s) plus income allocable to the DHMH supported human service delivery program accounts for at least 50% of the vendors income for that year, shall disclose all income in an addendum to the budget and fiscal reporting documents, in a form prescribed by the Director of the Program Administration.
- 2160.04 Allocation of Income - All income resulting from, earmarked for or allocated to the operation or proposed operation of the DHMH supported human services-delivery program must be identified in all budget and fiscal reporting documents and must be used to offset DHMH-funded expenditures. Generally, income resulting from or associated with the DHMH funded human services program shall be allocated to the human services program.

This allocable income includes:

- a.) the DHMH award
- b.) user of client fee collections
- c.) Medicare/Medicaid collections
- d.) other insurance collections
- e.) federal, state (other than DHMH), county or municipal

- grants/contracts derived from matching agreement in
- which the Department participates
- f.) income from businesses or other ventures operated by the vendor, to the extent that the DHMH award supports the costs of the businesses
- g.) federal, state, county, municipal or private grants/contracts or payments that are used to supplement DHMH funding
- h.) income from fund raising or charitable contributions allocated to the human services program specified by terms of the human services agreement
- i.) county or municipal funding, not part of a matching agreement, allocated to the human services program as specified by terms of the human services agreement.
- j.) interest or dividends earned on DHMH funds or other income allocable to the human services program
- k.) donations, gifts or endowments allocated to the human services program as specified by terms of the human service agreement
- l.) proceeds from the sale of assets to the extent supported, in whole or in part, with DHMH funds or income allocated to the human services program
- m.) awards or judgments derived from civil proceedings, to the extent that any costs associated with the proceedings, or the instant case were supported by DHMH funds or income allocated to the human services program
- n.) rent or royalty income to the extent that any costs associated with the activity that generated income were supported with DHMH funds or income allocated to the human services program.

Other income which shall be disclosed in accordance with Section 2160.03, but which will not be used to offset DHMH- funded expenditures includes:

- a.) income from businesses or other ventures operated by the vendor in excess of the business costs supported by DHMH award
- b.) federal, state, county, municipal or private grants/contracts or payments not associated with the human services programs
- c.) fund raising or charitable contributions in excess of the amount allocated to the human services program as specified by terms of the human services agreement
- d.) donations, gifts or endorsements in excess of the amount allocated to the human services program as specified by terms of the human services agreements
- e.) proceeds from the sale of assets which were purchased with funds that did not include DHMH funds or income allocated to the DHMH funded human services program
- f.) proceeds from the sale of stock or other forms of ownership
- g.) awards or judgments derived from derived from civil proceeding in excess of costs supported by the DHMH award and income allocated to the human services program
- h.) rental or royalty income in excess of costs supported by the DHMH award and income allocated to the human service program
- i.) interest or dividends earned on non-DHMH funds.

2160.05 Order of Utilization - All income other than DHMH awarded funds shall be utilized before DHMH funds are used unless the agreement specifies an alternative protocol.

2160.06 Special Treatment of Federal Funds - Federal funds which are part of the DHMH award are spent before State funds which are part of the same award. However, if there is under spending by the vendor, then the amount unspent shall be allocated to the federal funds first so as to ensure their use in the following period.

2160.07 Recognition - Accounting for the grant/contract may be on an accrual basis. Certain income because of its nature may be recognized on a cash or a modified accrual basis because to do otherwise would distort the relationship between the income and its associated operations. Fee Collections from private pay clients is recorded only when the income is received. (See Section 2110.08.) The matching of income to the appropriate period is reviewed in the final audit.

2160.08 Restricted Funds - When certain vendor income is designated or restricted by the funding source, its treatment is dependent upon its relationship to the human services program supported by DHMH as follows:

- a) if the designated/restricted funds are in support of the program also supported by the DHMH award, then the funding should be identified as income allocated to the human services program and displayed in the budget and fiscal reporting documents in accordance with the designation/restriction. (Documentation of the designation/restriction must accompany the vendor's grant application/contract proposal), or
- b) if the designated/restricted funds are not in support of the program being supported by the DHMH award, then the income is not shared by DHMH. However, the vendor should disclose the nature of the program and amount of the income and provide documentation of the designation/restriction as an addendum to the vendor's grant application/contract proposed and fiscal reporting documents, In accordance with Section 2160.03.

2160.09 Local Matching Funds - Local Matching Funds are governed by this

policy unless statutory provisions provide for alternative treatment.

Exemptions to this policy and the creation of alternative treatments for local matching funds may be agreed upon mutually by the Director and the local health officer. Such agreement must be recorded in the funding agreement.

2160.10 Exclusions - The Director may exclude from allocation any income from any source when he/she deems it to be in the public interest. Exclusions should be documented in the funding agreement. Also, the Director of the program administration shall notify the Division of Program Cost and Analysis.

Generally, income exclusions are granted for, but are not necessarily limited to, the following circumstances:

- a) the program administration wished to bear the full cost of the basic services delivery program, or
- b) the program concludes that a parallel or auxiliary program funded by such income is in the general public interest or so benefits the clients that it should be indirectly supported via an income exclusion, or
- c) the vendor has established an income schedule from sources independent of and for purposes distinct from the human services program to which the department contributes, or
- d) the vendor has established an income schedule which predates its association with the Department, or
- e) the vendor has established an income schedule which both predates its association with the Department, and is targeted for goods or services independent of the health program.

2160.11 Requirement to Generate Interest Income - The vendor must deposit all DHMH funds and those funds allocated to the DHMH supported program in a federally insured interest bearing account when such funds are not required to meet current expenses. Such interest income must be identified in all

budget and fiscal reporting documents and allocated in accordance with

Section 2160.04.

2160.12 Fees or Collections Excess of Budget Estimate - User or client fees, Medicare/Medicaid collections and other insurance collections in excess of the amount budgeted will serve to reduce the amount of DHMH participation unless the Director of the program administration elects to permit the vendor to use such income for program enrichment or to retain the income without prejudice to the Department's support. When this income exceeds or is expected to exceed that which is budgeted, the vendor may request approval to use that excess income in the program by submitting a budget modification request. The program administration will either approve or deny that request, following the procedures for budget modification in Section 2080. When income from fees or collections exceeds the final approved budget (which may include one or more budget modifications), the DHMH funding must revert to the Department in accordance with subsections 2160.06, 2160.07 and 2160.10, absent provision to the contrary in the human services agreement.

2160.13 The vendor shall retain income, derived from sources other than user or clients fees, Medicare/Medicaid collections or other insurance collections, in excess of the amount identified in the human services agreement as an offset of DHMH-funded expenditures. The vendor may use such excess income at any time for program enrichment or any other purpose without prejudice to the Department's support.

2160.14 Exception to Disposition of Excess Income - An exception may be made to Section 2160.12 if the vendor is required to produce matching funds. In such case the program administration may elect to permit the vendor to share excess income, in accordance with provisions of the human services agreement.

2160.15 Income Shortfall - Any shortfall in income becomes the liability of the vendor unless recognized by the Department via an approved budget modification. Such shortfall may be compensated for by either a reduction in expenditures or an increase in other income, or both.

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2170 CONSTRUCTION RENOVATION OR REMODELING

- 2170.01 Background - It is the intent of the Department that human services funds be used for the delivery of health and health-related services to third party clients. This funding should not customarily be utilized to fund construction or renovation/remodeling projects. However, the Department does recognize that circumstances may exist when, without the expenditure of human services funds on construction or renovation/remodeling, delivery of services would be substantially prevented, impaired or delayed. The Department, in order to ensure that human services funds are used primarily for the delivery of services to third party clients, has developed a policy which establishes parameters within which such funds may be used for renovation/remodeling projects. The purpose of the policy is to ensure accountability for Departmental expenditures and to ensure that human services funds will be used only for construction or renovation/remodeling projects that facilitate program operations.
- 2170.02 Definitions - See Section 1000 for "New Construction" "Renovation/Remodeling, and Repair and Maintenance."
- 2170.03 Prohibition on Transferring Costs -Grant/Contract funds approved for construction or renovation/remodeling may not be used for any other costs and visa versa except via an approval budget modification per Section 2080.03.
- 2170.04 Repair and Maintenance - Renovation/Remodeling costs are to be differentiated from Repair and Maintenance costs in all proposals, budgets, budget modification, etc.
- 2170.05 Limitations - Grant/Contract funds may be used for the construction or

renovation/remodeling of a vendor's or subvendor's owned physical plant or when, except for the expenditure of grant/ contract funds on construction or renovation/remodeling, the delivery of services would be substantially prevented, impaired or delayed. However, limitations imposed by federal block grant statute or other categorical language may preclude the use of certain human services funds, in whole or in part, for construction or renovation/remodeling projects.

2170.06 Conditions – Grant/Contract funds for construction or renovation/remodeling projects shall be subject to the same requirements and restraints as are other line items in an RFP, grant/contract application and/or budget. Funds requested for construction or renovation/remodeling shall be identified in a budget as a separate line item or shall be requested via a separate application. The proposed budget or modification shall be appended by such schedules, notes, estimates, architectural drawings and quotations as to afford the Director a full and accurate understanding of the nature and scope of the proposed project.

2170.07 Prohibited Projects – A request for an architectural study or design project Which does not include a construction or renovation/remodeling component or which is associated with a project to be funded by Community Bond or ADC Bond monies shall not be funded with operational grant/contract funds. Renovation/remodeling will not be allowed on leased property, unless the term of the lease is fifteen years or longer, per Section 2170.11.

2170.08 Exemption – The Director may, at his discretion, exempt from any or all Provisions of this policy, (except provisions in Section 2171) a construction, remodeling or renovation project costing less than \$20,000 during the period of the contract. A project costing \$20,000 or may or not be divided for the purpose

of exempting one or more aspects of the project.

2170.09 Indemnification - The vendor and program administration shall negotiate the terms for indemnification to the State of Maryland if, because of early termination of the grant/contract, failure of the project to conform to local regulations, or for any other reason, the grant/contract funds awarded for renovation/remodeling were not fully amortized. The terms agreed upon shall become part of the agreement and shall include, at a minimum, the following:

- a. an agreement of indemnity,
- b. an amortization schedule,
- c. a repayment schedule, and
- d. a performance bond (optional).

2170.10 Renovation/Remodeling Projects in Leased Facilities - If the vendor is a lessee, renovation/remodeling to the lease physical plant should be made by the owner (lessor) of the property. If the remaining term of the lease is 10 years or greater, however, the Director may give written approval for specific renovation/remodeling project subject to funding limits, with the approval of the Chief, Division of Engineering and Maintenance. In the case of fire safety or projects required for licensure, the Director and the Chief, Division of Engineering and Maintenance may approve the projects for a leased facility with a remaining term of less than 10 years subject to funding limits.

2170.10.01 Reasonableness Test - The Chief, Division of the Program Cost and Analysis shall subject every site cost, either rental or mortgage, including cost resulting in part from or in contemplation of a capital improvement, to a reasonableness test, and may disallow (or not support) site costs in whole or in part which exceed local market rates. If the vendor establishes a reasonable and sufficient basis for

otherwise excessive site costs, the Chief, Division of Program Cost and Analysis may allow (or support) such costs to the extent he deems reasonable.

2170.11 Review for Technical Merit and Cost Reasonableness - The Director, prior to approving a project, shall forward the proposal to the Chief, Division of Engineering and Maintenance, DHMH, for review. The Chief, Division of Engineering and Maintenance, shall review the project for technical merit (meeting all applicable codes, etc.) and cost reasonableness and notify the Director and the Chief, Division of Program Cost and Analysis of his/her findings.

2170.11.01 Deficiencies - The Chief, Division of Engineering and Maintenance, prior to notifying the Director, may advise the vendor of deficiencies in its proposal and require that modifications be made or additional documentation be submitted before approving the project on technical grounds.

2170.11.02 Applicability - The Director shall be bound by the Chief's disapproval on technical grounds and be advised by the Chief's comment regarding cost reasonableness.

2170.11.03 Documentation Required - The Chief, Division of Engineering and Maintenance, shall provide to each Director governed by this policy and the Chief, Division of Program Cost and Analysis a schedule of items, categorized by type of project if appropriate, which a vendor may be required to submit with a proposed construction or renovation/remodeling project. The Chief, Division of Engineering and Maintenance, may require more or less documentation as the circumstances warrant.

2170.12 Impact on Licensed Program - The vendor must submit a written certification which states whether the construction or renovation/remodeling project will impact a licensed program. If the program will impact upon a licensed program, the vendor must certify that the project does or will

conform to the applicable review standard and/or licensed requirements as specified by state law and regulations and must submit such documentation from the licensing/regulatory authority as will verify conformance.

2170.13 Conditions for Approval - The Director shall approve or disapprove, in writing, all requests to use grant/contract funds for renovation/remodeling projects. The director may not approve a project unless:

- a. the Chief, Division of Engineering and Maintenance, approves of a project respecting its technical merits.
- b. the documentation specified in 2170.11 is submitted, and
- c. the project conforms to all other provisions of this policy as applicable.

2171 Grant/Contract Funding of a Project in a State Facility

2171.01 Approval - A renovation/remodeling project in a state facility leased by a vendor may be funded directly by operational human services funds only with the approval of the Deputy Secretary for Public Health Services, subject to the review and approval of the Chief, Division of Engineering and Maintenance and the Director, Office of Planning and Policy Management.

2171.02 Responsibility For Project - The administrative unit having jurisdiction over the state facility shall be responsible for ensuring that the project conforms with state objectives for utilization of the facility and that the project is processed in accordance with standard departmental and state procedures for construction contracts.

2171.03 DHMH Review - The Directors of the General Services Administration and of the office of Planning shall review all projects proposed to be completed in a DHMH facility on behalf of a vendor.

2171.04 Non-DHMH State Facilities - For a project in a non-DHMH state facility, the Director shall ensure that the project conforms with the requirements of the agency having jurisdiction over the facility, of the Department of General Services and of the Department of State Planning as appropriate.

2171.05 Optional Criteria - The Director may, at his discretion, require that a project in a state facility on behalf of the vendor meet any or all of the specifications contained in sections 2170 et seq.

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2180 CONSULTANTS

- 2180.01 Background - The use of consultants is recognized as being both necessary and appropriate. However, certain considerations are essential; these are outlined below.
- 2180.02 Consultant Versus Employee - The bonafide contractor-consultant relationship exists only in absence of an employer-employee relationship.
- 2180.03 Vendor Responsibility - Determination of the appropriate status of individual is the sole responsibility of the vendor. Claims and penalties resulting from improper designation of an employee as an independent contractor or consultant are the responsibility of the vendor.
- 2180.04 Fees - Fees paid to a consultant are subject to review by the Department. The Director of the program administration may elect to limit support for consultant costs when fees paid or proposed to be paid are deemed excessive. The Director may be guided by the State Salary Plan when judging cost reasonableness. Note: DHMH Policy 3.1 on Consultant Costs no longer applies.
- 2180.05 Prohibition of Dual Status - Generally officers, employees, and members of the Board of Directors of vendor organizations should not also be paid consultants to that organization. Exceptions may be granted by the Director if the circumstances are disclosed in the budget application, if the compensation does not exceed reasonable cost and if it is demonstrated that no conflict of interest exists.
- 2181 Guidelines To Determine Appropriate Status - The following subsections offer guidelines to assist in the determination of the appropriate status of an individual as a consultant or employee. The guidelines are for informational purposes only. For compliance with relevant

laws, vendors are advised to seek the advice of legal counsel.

2181.01 Employee Defined - "Employee" is defined in Section 4401 (C-1) of the Federal Employee Tax Regulations to include every individual performing services under the terms of an employee-employer relationship. In general, this relationship exists if the person for whom services are performed has control or direction of the individual performing the services. This applies not only to the result of the service but may extend to the means by which that result is attained.

2181.02 Consultant Reviewed - Examples of persons customarily accepted as independent consultants or contractors are: physicians, psychologists, lawyers and dentists providing these persons are engaged in the presentation of independent work, business or trade in which they offer services to the public. If an employer-employee relationship exists, the person, regardless of title used, or existence of a written agreement, may not be considered as a independent contractor or consultant. Where no employer-employee relationship exists, and the person renders bonafide contractual services, he/she will submit an invoice specifying the service rendered and the amount due him/her. The consultant is paid on the basis of that invoice and no withholding or social security deductions are made.

2181.03 Factors to Consider - Guidelines which may be used to distinguish between an employer-employee relationship versus a contractor-consultant one

are:

- a. If the vendor have a right to control and direct the performance of services not only as to the results, but also as to the details and means,
- b. If the vendor have the right to discharge,
- c. If the vendor furnishes the tools and a place for work,
- d. If the persons involved render their services exclusively to one vendor,
- e. If the degree to which the individual has become integrated into

the vendor's operation for which services are performed is

significant

- f. If authority is vested in or reserved by such persons to require compliance with vendor's general policy, or
- g. If the degree to which the individual been accorded rights and privileges which the vendor has created or established for its employees generally is significant, then the relationship is usually employer-employee.

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2190 RECONCILIATION

2190.01 Background - Reconciliation is a fiscal resolution of the grant/contract pending audit and settlement, usually conducted at the termination of the grant/contract period or at the end of each fiscal year in the case of a multi-year agreement. The reconciliation operation is an arithmetic check of expenditures and incomes, a determination of net balances and disposition of those balances. Reconciliation is based upon reported expenditures and incomes, subject to correction by the Division of Program Cost and Analysis.

2190.02 Local Health Departments - With some exceptions, (See Section 2130.02 and 03) Local Health Departments are usually reconciled on the basis of figures provided by the General Accounting Division via the DHMH 28-409 printout. Any Local Health Department has the option to file an Annual Report on a DHMH 440. If exercised, this latter provision takes precedence. (See 2120.06)

2190.03 All Other Vendors - all other vendors shall use form DHMH 440 as the means of reporting their annual totals of incomes and expenditures.

2190.04 Filing Deadline - Form DHMH 440 must be delivered to the Division of Program Cost and Analysis by August 31 or by 60 days after the close of the funding period, (See 2120.04.) Exceptions are listed in 2120.07. This report need not be an audited document. So-called "preliminary" reports will be processed as final reports; therefore, the vendor must not file a report which is not to be relied upon merely to comply with the filing deadline. Subsequent reports purported to be final or corrected will not be honored.

2190.05 Failure to File A Year-End Report - If the Annual Report is not received in accordance with the provisions of Section 2120.04 or if a technically

insufficient report is received, payment may be suspended until compliance with the reporting requirement is achieved. If an organization is no longer a human services vendor, the grant/contract will be reconciled using the last available fiscal report and account receivable will be established accordingly.

2190.06 Correction of the Year-End Reports - The grant/contract will be reconciled using the figures supplied on the year-end report (DHMH 28-409 or 440). In the case of an error or omission in the report, corrections will be made (if possible, practical and desirable) by the Division of Program Cost and Analysis. A report may be rejected and returned to the vendor for a technical insufficiency which cannot or should not be corrected by the Division of Program Cost and Analysis.

2190.07 Reliance on the Funding Agreement - Reconciliation will be conducted in accordance with the terms of the funding agreement.

2190.08 Unbudgeted Expenditures and Overexpenditures - Unbudgeted expenditures and overexpenditures in controlled line items (see 2080.03) which have not been previously approved by the program administration are subject to non-recognition. The vendor may petition for recognition by submitting a "Letter of Justification" which states the nature of and a rationale for the expenditure(s). If submitting form DHMH 440, the letter should accompany it. The Director of the program administration may disapprove any unauthorized expenditure.

2190.09 Delegation of Recognition Authority - The program administration may delegate authority to the Division of Program Cost and Analysis to recognize unbudgeted line items and/or overexpenditures of controlled line items in accordance with conditions and limitations which have been agreed upon mutually.

2109.10 Recognition of Expenditures Subject to Audit and Settlement - All

expenditures recognized for purposes of reconciliation, whether incurred in accordance with an approved budget or not, are subject to audit (See Section 2210). Subsequent to identification as a audit exception, an expenditure may or may not be allowed in whole or in part by the program administration as part of final settlement. (See Section 2220).

2190.11 Findings - The results of reconciliation can be effectuated in several ways. The process discussed below relates net recognized expenditures to the total of the Department's payments to date.

2190.11.01 Expenditures Exceed Payments - When the vendor's expenditures exceed the Department's payments, the appropriate result is dependent on the relationship of the total of payments to the award total as follows:

- a. When payments are less than the award, the difference between the expenditures and payments, limited by the award, is due the vendor,
- b. when payments are equal to the award, no money is due either party,
- c. when payments are greater than the award, the difference between the payments and the award is due the Department.

2190.11.02 Expenditures Are Less Than Payments - When the vendor's expenditures are less than the Department's payments, the appropriate result is dependent on the relationship of the expenditures to the award as follows:

- a. when expenditures are less than or equal to the award, the difference between the total payments and the expenditures is due the Department,
- b. when expenditures are greater than the award, the difference between total payments and the award is due the Department.

2190.11.03 Expenditures Equal Payments - when expenditures equal payments, the

appropriate result is dependent on the relationship of the payments of

the award as follows:

- a. when payments are less than or equal to the award, no money is due either party,
- b. when payments exceed the award, the difference between the total of payments and the award is due the Department.

2190.12 Disposition - Net balances due the parties will be disposed of as follows:

2190.12.01 No Balance Due - No action required beyond notice per 2190.13.

Division of Program Cost and Analysis which will instruct the General Accounting Division to issue payment. If there is no outstanding receivable for the vendor, a check will be issued.

2190.12.02 Balance Due the Department - A balance due the Department will

be acted upon in one or more of the following ways:

- a. Account Receivable - If the organization has ceased to be a vendor for the program which generated the balance, an account receivable will be established and the organization billed,
- b. Carryover - if the vendor continues to deliver services under the program which generated the balance, the amount due will be considered a cash advance (payment) on the following year's award. This operation is referred to as carryover,
- c. Carry-Forward - For federal funding only, the program administration may elect to permit the vendor to utilize the balance due from one year in the following year's operations. This is accomplished by re-awarding the balance due and is referred to as carry-forward. The program administration must

invoke carry-forward concurrent with the reconciliation operation.

- i. The amount carried-forward is re-encumbered on the Division of Program Cost and Analysis ledger but not re-encumbered on the General Accounting Division's ledger.
- ii. Carry-forward is not available to Local Health-Departments reporting on the 28-409 system.

2190.13 Notice - Reconciliation findings will be communicated by the Division of Program Cost and Analysis. A copy of the reporting document (28-409 or DHMH 440) showing the details of the reconciliation will accompany the notice. Distribution of Notice is as follows:

- a. Vendor,
- b. Program Administration,
- c. Grant/Contract file for FY being reconciled,
- d. General Accounting Division (when appropriate),
- e. Grant/Contract file for FY affected by carryover (when appropriate) and
- f. as requested.

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2200 FEE COLLECTIONS

2200.01 Background - In 1975, the state legislature instructed the Secretary of Health and Mental Hygiene to set charges for state funded inpatient, community residential, and outpatient services. Local Health Departments and other vendors are to set charges, subject to approval and modification by the Secretary, for services funded in whole or in part by state or federal funds administered by the Department of Health and Mental Hygiene. The Secretary may designate services for which no charge is to be set.

2200.02 Context - User fee collections are an income to the human services program being funded in whole or in part by the Department. As such, they are governed by section 2160, Income Principles and by such other provisions of this policy as may be applicable in the circumstance.

2200.03 Authorities Governing Fee Collections - The Health General Article, Title 16 (and especially Sections 16-201 through 16-205) establishes the requirement for fee collections. COMAR 10.02.01 was promulgated pursuant to the statute. DHMH Policy 3416 addresses the internal administration of this subject.

2200.04 Scope - The provisions cited above require the collection of fees for services rendered by organizations funded in whole or in part by the DHMH. The intent of this requirement is that charges for health services shall reflect the full costs of rendering those services, that there be a single charge for each service rendered in each unit and that the methods for determining full costs be uniform for all units. The regulation provides for:

- (a) a sliding fee schedule which indicates the fee a client should pay based on the client's income, and family size with special consideration for financial condition,
- (b) the establishment of procedures for billing and collection of charges and fees,

- (c) the distribution and application of amounts collected, and
- (d) the maintenance of required reports and records.

2200.05 Administration - The administration of the fee collection operation to include the application of COMAR 10.02.01, DHMH Policy 3416 (see Section 3010 and 3011), and those procedures and forms noted below rests with the Division of Program Cost and Analysis.

2200.06 Procedures for Fee Setting and Cost Reporting - The procedures for fee setting and cost reporting are governed by cost instructions issued annually by the Division of Program Cost and Analysis.

Vendors are bound by its Provisions.

2200.07 Collection in Excess of Budget Estimate - All collected fees must be used for carrying out the purpose of the program up to the amount stated in the most recently approved budget. When fee collections exceed or are expected to exceed that which is budgeted, the vendor may request to use those excess fees in the program by submitting a budget modification request. The Director of the appropriate program administration will either approve or deny that request. When fee collections exceed the final approved budget (which may include one or more budget modifications), they must revert to the Department.

2200.07.01 Exception to Disposition of Excess Fee Collections - An exception may be made to the requirement to revert fee collections if a vendor is required to produce matching funds. In such case the program administration may elect to permit the vendor to share excess fees as an unallocated income, or use them to pay a greater share of the full cost of the program. If this option is employed, it should have the following features:

- a. apportionment will be available only to the vendor: no other income sources may share in the excess fees, and
- b. the apportionment of excess fees should be in the same ratio as the respective funding of the sharing parties,
- c. the option should be specified in the funding agreement.

2200.08 Client Funds - Vendors who act as custodians of client funds or representatives payees for clients must appropriate records to account for these monies. The account shall include the client specific detail of source and amount received and of nature and amount of disbursement. Vendors have a fiduciary responsibility to the clients in the handling of client monies. Vendors are to establish the controls necessary to safeguard these monies, such as the procedures described in Section 2111. DHMH will not support or fund the replacement of client funds that are lost or stolen.

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2210 AUDIT

2210.01 Background - The DHMH Audit Division will periodically audit all human services grants and contracts issued by DHMH. The books, records, and all other pertinent data of the vendor are examined by the DHMH auditor on site. This material must be made available to the auditor upon request during usual business hours. Additional documentation may be requested of the vendor. The audit will address the fiscal aspects of the grant and may also focus on the management/administration aspects of the program. A draft audit report is completed and (usually) discussed at an audit exit conference; additional documentation may be taken into account at this time. A final audit report is then issued.

2210.02 Responsibility - The Chief, Audit Division, is responsible for auditing all DHMH human services agreements. He may, at this discretion, waive the requirement that a grant/contract be audited. The Chief reserves the right to audit a sub-contractor, when it is the best interest of the state to do so. The Chief, Audit Division shall audit the financial records of a vendor in accordance with the grant/contract agreements and generally accepted auditing standards.

2210.03 Availability of Records - The vendor shall provide full disclosure of all financial statements, books, and records as needed and/or requested to the Chief, Audit Division or his designee.

2210.04 Sub-contracts - Each primary vendor, or vendor of record, shall audit each secondary vendor in accordance with those provisions and the directives of the Chief, Audit Division. The Chief, Audit Division may audit a secondary vendor, notwithstanding the responsibility of the primary vendor to audit the secondary vendor, when it is in the best interest of the State to do so. The Chief, Audit Division, if he elects

to audit a secondary vendor shall inform the primary vendor, in writing that the primary vendor is absolved of the responsibility to audit the secondary vendor.

2210.05 Methods - The purpose of the grant/contract audit is to give the State assurance that funds were spent in accordance with the grant/contract agreement. The audit review expenditures and revenues to determine if they are consistent with the approved budget and supported by adequate documentation, in accordance with generally accepted accounting principles, and/or the grant/contract agreement. Other objectives of the audit are to ascertain whether there has been compliance with regulations, to identify the causes of significant errors and suggest improvements, and to follow up on areas of concern from prior audits. The auditor establishes amounts due either to or from the vendor by comparing funds received with authorized expenditures less allocable revenues. The audit findings are the basis for making a final settlement of the grant.

2210.06 Exit Conference - The Chief, Audit Division shall conduct an audit exit conference. Prior to the exit conference, he shall distribute a copy of the draft audit report to:

- a. The vendor,
- b. The Chief, Division of Program Cost and Analysis,
- c. The Director of the program administration, and
- d. Other persons as appropriate.

2210.07 Vendor Right of Rebuttal - The vendor has the right to explain his/her position on any audit issue and to present further evidence to the Chief, Audit Division.

2210.08 Final Report - The Chief, Audit Division after examining or evaluating any evidence presented by the vendor subsequent to the issuance of the draft audit report, shall issue a final audit report or confirmation of the draft audit report based on the information that is in the possession of the Audit Division. Distribution will be to the same parties who received the draft report.

The Chief, Audit Division in the draft and final audit report shall:

- a. address and explain each audit exception,
- b. specify amounts due and when they are due and,
- c. comment upon any other issue that warrants attention.

2210.09 Timing of Audit - The Chief, Audit Division performs an audit of each grant/contract as soon as practicable after its termination. If the grant/contract is a multi-year agreement, the audit may address a distinct period which is less than the full term of the agreement.

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2220 POST AUDIT SETTLEMENT

2220.01 Background - The settlement of a grant/contract is a process of resolving post-audit issues, both fiscal and programmatic, and of closing the settlement file. The settlement process starts when the audit process terminates. The resolution of the audit is based on the Final Audit Report and may include consideration of additional factors. The Division of Program Cost and Analysis coordinates the settlement process.

2220.02 Vendor Responsibility - It is the vendor's responsibility to appraise the Chief, Division of Program Cost and Analysis, of any disagreement with the intended to refute or mitigate those findings within thirty (30) days of receipt of the final audit report.

2220.03 Guidelines - The Chief, Division of Program Cost and Analysis may be guided by the following sources to resolve settlement issues:

- a. recommendation of the Director of the program administration
- b. the grant/contract agreement and the approved budget (with approved modifications),
- c. the findings of the Audit Division as specified in the final audit report,
- d. the operation/programmatic performance of the vendor as established by ongoing monitoring of the program by the Director of the program administration and/or his designee,
- e. the replies of the vendor to the audit findings,
- f. the information transmitted from the Division of Program Cost and Analysis and
- g. the financial condition of the vendor (as verified by the Audit Division's review of the vendor's financial statement).

2220.04 Division of Program Cost and Analysis - The Chief, Division of Program

Cost and Analysis, or his designee shall:

- a. make a determination of the amount due to or from the vendor
after considering the above information
- b. develop procedures to ensure the orderly resolution of
settlement issues,
- c. advise the Director of the decision permissible under law,
regulation, and policy, and allow the Director 60 days to
provide input,
- d. act as the liaison between the units of the Department and the
vendor,
- e. be responsible for communicating to the vendor the Department's
official grant settlement decision, and
- f. be the custodian of the files that pertain to the Department's
settlement decision.

2220.05 Primary Decision-Making Authority - The Chief, Division of Program

Cost and Analysis, is the primary decision-making authority on post audit settlement.

However, the input and recommendations of the Director of the program are to be given fair consideration.

2220.06 Operational/Programmatic Issues - The Director of the appropriate

program administration shall make such decisions as he deems necessary to require that the vendor performs certain operational/programmatic actions to fulfill the terms and/or intent of the grant/contract funding. He/she shall be responsible for monitoring the actions of the vendor and taking such steps as are necessary to ensure compliance by the vendor with the terms of the settlement decision.

2220.07 Fiscal Issues - The Division of Program Cost and Analysis shall make one of the three following decisions regarding the fiscal part of the grant agreement:

- a. no money is due to either party,
- b. the Department owes the vendor a specific amount of money, but that amount shall not exceed the Department's grant/contract award for the period being audited, less any payments made to date, or
- c. the vendor owes the Department a specific amount of money.

2220.08 Administrative Allowance - The Chief, Division of Program Cost and Analysis may make an administrative decision that allows an increase or a decrease in the amount of money which is represented by the audit exceptions. The administrative allowance must be for cause, be based on good and bona fide reasons and be in the general public interest. The decision to make the administrative allowance may be based on evidence available to the Chief, Division of Program Cost and Analysis or on recommendation of the Director of the program administration.

2220.09 Determination to Collect a Lesser amount for the Purposes of Ensuring Continuity of Service - The Chief, Division of Program Cost and Analysis may authorize the collection of a lesser amount of money than that which has been established to be due to the Department after the Chief's initial review of the auditor's report, other reports and opinions and the pertinent papers and after all Administrative Allowances have been made. The Decision to collect a lesser amount of money may only be made if the Chief has documentation or is supplied with documentation which demonstrates that "collection of the full amount would seriously impair the financial condition of the vendor and a written statement containing the basis for finding is filed by the Department," i.e., Department of Health and Mental Hygiene (see Article 15A, Section 28 of the Annotated Code of Maryland). Further, this provision may

be utilized only upon a determination that continuity of client services would be jeopardized were the claim against the vendor to be pressed in full.

2220.10 Recording the Settlement Decisions - The Chief, Division of Program

Cost and Analysis shall put his settlement decision in writing and send the decision with full explanation and documentation to the Director of the Program Administration within 30 days of the receipt of the audit report. The Director of the program administration may, within 60 days of the date of the notice from the Division of Program Cost Analysis,

- accept the decision (no further action required by the Director of the program administration)
- submit comments and recommendations on the matter to the Division of Program Cost and Analysis.

After due consideration to the comments and recommendations of the Director of the program administration, the Division of Program Cost and Analysis will take action and notify the Director of the Program Administration.

2220.11 Money Due the Vendor - The Chief, Division of Program Cost and

Analysis, shall inform the vendor, in writing, that the Department owes the vendor a specific amount of money and shall authorize payment and forward instructions to the Chief, General Accounting Division, to issue a check.

2220.12 Money Due the Department - The Chief, Division of Program Cost and

Analysis, shall inform the vendor, in writing, that the vendor owes the Department a specific amount of money and shall request that the Chief, General Accounting Division, issue an invoice to the vendor for the amount of money owed to the Department specifying either one lump sum repayment or a repayment schedule (see "Installment Payment" Section 2220.16).

The Chief, General Accounting Division, shall carry out the collection request of the Chief, Division of Program Cost and Analysis less "Offset Of Accounts Resulting From Settlement and Reconciliation Operations" if feasible (see 2220.15).

2220.13 Offset of Accounts Resulting From Settlement and Reconciliation Operations (COMAR 17.01.01.04) (to be differentiated from "Offset of A Delinquent Account Receivable Against a Current Grant/Contract" -see 2220.18") - Collection by Offset of an account receivable against an account payable shall be undertaken when the offset operation conforms to both of the following provisions:

- a. the vendor has both an account payable and account receivable which were generated as a result of settlement or reconciliation operations, and
- b. the operation shall cause an amount due the vendor to be used to reduce an amount due the Department emanating from a prior or concurrent settlement or reconciliation decision.

2220.13.01 Scope - The operation shall be applied irrespective of the nature of the original funding source of the subject grants/contracts (except for federal, categorical funds which may only be offset against like funding).

2220.13.02 Notice - The Chief, General Accounting Division, shall issue notice of the offset operation and shall specify all grants/contract affected thereby and the net result to the settlement or reconciliation decision of each grant/contract and to each account. The notice shall be issued to:

- a. the vendor
- b. each Director of the program administration as warranted, and
- c. the Chief, Division of Program Cost and Analysis.

- 2220.14 Installment Payment - The Chief, Division of Program Cost and Analysis may establish an installment payment schedule in lieu of a lump sum repayment.
- 2220.14.01 Regulatory Limitation - The installment payment schedule shall not exceed thirty-six months duration (see COMAR TITLE 17.01.01). Also, this provision (installment payment) does not apply to any government agency. A vendor which is a government or government agency is required to pay in full, in a lump sum, that amount of money owed to the Department per COMAR 17.01.01.
- 2220.14.02 Vendor's Financial Condition - The Division of Program Cost and Analysis may require that the vendor make a formal request in writing, stating that collection of the full amount in one lump sum repayment would seriously impair the financial condition of the vendor and providing an explanation of the nature and scope of the potential impairment. The Chief may also require that the vendor submit its most recent audited financial statements (balance sheet and income statement) and any other statements, documents or financial papers which he deems appropriate for review.
- 2220.15 Delinquent Accounts - The Chief, General Accounting Division, shall monitor the accounts receivable of all vendors.
- 2220.15.01 Status Report - The Chief, General Accounting Division, shall notify the Chief, Division of Program Cost and Analysis, of the status of accounts receivable of vendors on a monthly basis, identifying those accounts to which offset of accounts resulting from settlement and reconciliation operations has been applied.
- 2220.15.02 Resolution - The Chief, Division of Program Cost and Analysis, shall identify those delinquent accounts receivable which cannot be collected

by offset against monies owed to the vendor because such money was not generated from the result of a grant/contract settlement or reconciliation and shall coordinate the decision to collect those delinquent accounts receivable either by applying offset against a current grant/contract (COMAR 17.01.01) or by referring those delinquent accounts receivable to the Central Collection Unit. Department of Budget and Management, or shall initiate other administrative action as appropriate. The Chief, General Accounting Division, upon notice from the Chief, Division of Program Cost and Analysis, shall be responsible for carrying out the decision.

2220.16 Offset of Delinquent Account Receivable Against A Current

Grant/Contract- Collection of a delinquent account receivable by offset against a current grant/contract shall be taken administratively to the extent permitted by law when:

- a. offset would not weaken the financial condition of the vendor to an extent that services to clients would be impaired,
- b. the programmatic Deputy Secretary approved of the collection by offset when the amount to be offset exceeds \$100,000.

2220.16.01 Notice - Chief, General Accounting Division, shall issue notice of the

offset operation to:

- a. the vendor,
- b. the Director of the program administration, and
- c. the Chief, Division of Program Cost and Analysis.

2220.16 Referral of Delinquent Accounts to the Central Collection Unit,

Department of Budget and Management - Referral to the Central Collection Unit shall be done in accordance with COMAR 17.01.01.

2220.17 Abatement - Upon petition by the vendor for a whole or partial abatement

of a debt owed to the Department, the Chief, Division of Program Cost and Analysis of the appropriate administration may recommend to the Central Collection Unit, that the vendor's indebtedness be fully or partially abated.

2220.18.01 Criteria - A recommendation to partially or wholly abate a vendor's

indebtedness may be sent to the Central collection Unit when the

following minimum criteria are met:

- a. the vendor petitions the Department, in writing, to abate all or part of debt resulting from settlement. The petition must be accompanied by the vendor's most recent audited financial statements, if available, (to include balance sheet and income statement) and any other statements, financial papers or documents that the Chief, Division of Program Cost and Analysis may require,
- b. the Chief, Audit division, has reviewed the financial statements and other documents as required and expressed an opinion, in writing, to the Chief, Division of Program Cost and Analysis respecting the vendor's financial condition,
- c. the Deputy Secretary has certified in writing that he approves of the recommendation for abatement for all amounts of \$100,000 and over.

2220.18.02 Less Than \$10 - The Chief, Division of Program Cost and Analysis, pursuant to COMAR 17.01.01.05C, may unilaterally determine that an applicable account (less than \$10) shall be abated.

2220.18.03 Coordinating by General Accounting Division - The Chief, Division, of Program Cost and Analysis, shall forward all abatement recommendations to the Chief, General Accounting Division, for referral to the Central Collections Unit, Department of Budget Management.

2220.19 Settlement Without Audit - If the Chief, Audit Division, informs the Chief, Division of Program Cost and Analysis, that a contract is not scheduled for audit due to the employment of certain sampling techniques, lack of resources or other reason, the Chief, Division of Program Cost and Analysis

will coordinate the settlement of such file in lieu of an audit.

2220.19.01 Method - Coordination of settlement in lieu of audit will contain the following elements:

- a. confirmation to the program administration that the grant is subject to closure in the absence of being selected for audit.
- b. feedback from the Director of the program administration if:
 - i. an audit is desired (stating the reason for that course), or
 - ii. a settlement process in lieu of audit should be conducted because of one or more outstanding issues.
- c. If no additional action is required, the Chief, Division of Program Cost and Analysis, will close the file, and
- d. if additional action is required per instructions from "b" above, the Chief will take appropriate action to implement the Director's instructions.

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2230 UNIFIED GRANT AWARDS BACKGROUND - In order to simplify the award process for the Local Health Departments the Unified Grant Award was begun in FY1988 to combine all grant awards, supplements, reductions, and payments into a single documents for each health department. The Division of Program Cost and Analysis is responsible for coordination and dissemination of the Unified Grant Award.

2230.01 Responsibility of Program Administration - The Director of each program administration must provide the Division of Program Cost and Analysis with the following information annually by June 15th:

- a. Amount of each award to the Local Health Departments
- b. Grant number
- c. Funding
- d. Conditions
- e. Contact person
- f. Copy of all grant award documents

As a change occurs in each Local Health Department's grant such as a supplement, reduction or budget modification, a Change in Grant Status for Local Health Departments (DHMH Form 4291) must be completed and sent along with appropriate documentation/attachments to the Division of Program Cost and Analysis.

2230.02 Responsibility of Program Cost and Analysis - The Division of Program Cost and Analysis will be responsible for coordinating the information from the program administrations and providing the Unified Grant Award and the supporting material to each Local Health Department on or before July 1. As additional material and Change in Grant Status for Local Health Departments

forms are received from the program administrations, the Unified Grant Awards will be updated. Monthly, the Unified Grant Award documents will be issued along the appropriate supporting documentation if there were changes from the previous month. That is, each Local Health Department will receive a monthly update only in those months in which there is change in the grant status.

2230.03 Responsibility of Local Health Departments - The Unified Grant Award

does not in any way alter the manner in which the Local Health Departments administer grants in accordance with Department policy. There are some special procedures applicable to Local Health Departments only, for the Unified Grant Award. These are:

Letters of Intent - Whenever possible, the Department will issue letters of intent to signify anticipated funding levels for grant programs operated by home rule counties. The purpose of these letters is to assist the Local Health Department in documenting its requests for appropriations from the local authorities.

Budget Instructions - The Department will issue consolidated instructions to Local Health Departments that require the submission of the same forms used for the General Local Health Services budgets. These budget instructions may include other detail as required by the program administrations such as detail of site costs for certain rehabilitation programs, training costs, etc.

The Division of Program Cost and Analysis, after appropriate consultation with the program administrations, shall issue these budget instructions by October 31st for the coming fiscal year.

The Local Health Departments shall submit their budgets

in accordance with these instructions by January 31st.

It should be noted that the program administrations may have to

request the Local Health Departments to submit revisions to

the budget detail to reflect changes made by the legislative

in the Department's appropriations.

2240 PROCUREMENT - All DHMH Human Services Funding Agreements not otherwise exempt, are subject to procurement regulations, rules, guidelines, and status as delineated in COMAR XXI, the Health General Article, this document (including appendices) and all future related publications and memoranda regarding human services procurement which may be forthcoming. The Office of Contract Policy, Management and Procurement may issue instructions or guidelines relating to the processing of human services procurements. The Division of Program Cost and Analysis is responsible for reviewing all human services procurements, especially RFP's and contracts, for compliance with the policies and requirements, set forth in this manual. Local Health Department procurement actions are governed by the individual Local Health Department procurement policy. This Local Health Department procurement action authority may either be to:

1. Conduct procurement actions through the local jurisdiction procurement process or
2. Conduct procurement in house via specific written delegated purchasing authority from appropriate county government or
3. Conduct all procurement following the State of Maryland procurement rules as delineated in COMAR XXI.

- 2240.01 General - The intent of Procurement Legislation which brought human services funding agreements under the provisions of COMAR21 was to promote competition in the human services market place and to encourage sound fiscal management, theoretically assuring the State of optimal services for given funding level.
- 2240.02 Types of Procurement - Competitive Sealed Proposals is the preferred method of procurement for human services. However, other types of procurement may sometimes be used as warranted by certain anomalous circumstances. These include, but are not necessarily limited to: Emergency Procurement, Sole Source Procurement, Small Procurement, and Contract Modification. Final decision as to appropriateness of a given type of procurement rests with DBM; program administrations are advised to secure approval of the Office of Contract Policy, Management & Procurement before selecting a procurement method.
- 2240.03 Data Processing Procurement – All procurements having to do with electronic data processing in excess of \$7,500 are to be routed through the Information Resources Management Administration, with the exception of purchases controlled by local jurisdictions.
- 2240.03 Contractual Agreements - All human service procurements will be finalized by a contract. The primary contractual document is the DHMH 4133. This form has been approved for both form and legal sufficiency. The program administrations may substitute other contractual documents but, when this option is exercised, the document in question must contain (at a minimum) all mandatory provisions and clauses of the DHMH 4133, all necessary identifying information, and sufficient specificity to afford no ambiguity as to the terms of the contract, including but not necessarily limited to: start/end date, units of measure,

deliverables, method and amount of payment (s), restrictions prohibitions, penalties and provisions for continuity of care. Additionally, any contract must incorporate both the RFP and the Human Service Procedures Manual with the contract.

2240.05 Exemptions - There are various exemptions to the procurement process.

Before an exempt human service funding agreement can be finalized and awarded to the vendor, sign-off must be secured from the Director, Office of Contract Policy, Management & Procurement (or designee) that the agreement is exempt.

2240.06 Procedure -

1. Prior to its submission to the budget office for approval, the funding agreement must be submitted, along with a statement signed by the Director of Program Administration and summarizing the case for exemption to the Director, Office of Contract Policy, Management & Procurement.
2. If the Director, Office of Contract Policy, Management & Procurement is in agreement as to the exempt status, the funding agreement will be signed-off and returned to the originating administration for processing.
3. If the Director, Office of Contract Policy, Management & Procurement is in disagreement as to the exempt status, the funding agreement will be so noted and returned to the originating administration for processing as a agreement subject to procurement.
4. If the case for exemption is insufficient, ambiguous, or otherwise not compelling, the Director, Office of Contract Policy, Management & Procurement may, at his discretion, return the finding agreement to the originating program administration for clarification and/or referral to the Assistant Attorney General for legal opinion.

Exemptions for the following reasons are further exempted from the procedures listed directly above:

- 1.) Exempted by virtue of having funding specified in the administration's annual budget bill.
- 2.) Exempted by virtue of having funding controlled by an approved alternate DHMH funding system, such as the Prospective Payment System for the services funded by the Developmental Disabilities Administration.
- 3.) Exempted by virtue of being a State or Local Government.

- a. Local Health Departments, which are exempt from the requirement to procure under COMAR XXI are still required to use some approved system of procurement.

- b. A Local Health Department must follow any one of three procurement options. These options are as follows:

1. County Government Option

The Local Health Department follows the county procurement policy and virtually all procurements are accomplished within the county procurement regulations. Exceptions might include small petty cash purchases and the purchase of biologicals through the master State contract. Pass through monies from DHMH which are predicted upon and intended for award to a specific entity or group of entities which, in turn, will provide direct, hands-on human services to the public are excluded from any local procurement restrictions. In such instances, both the Local Health Department

and the recipient(s) of the award must agree that the Local Health Department becomes the vendor of record and will administer the award and ensure compliance, adhering to all terms and conditions imposed by DHMH. The State Attorney General's Office will represent the Local Health Department regarding DHMH pass through grant matters.

2. Compliance with Article 21

The second option available to a Local Health Department is to accomplish all procurements in accordance with Article 21.

Following this option the Local Health Department would conduct procurement in much the same manner as a state facility. The capacity of a local health department to accept pass through grants may be impacted if this option is selected.

3. Specific Written County Government Delegated Purchasing Authority

The third option is that the Local Health Department prepare a detailed Specific written purchasing policy and that the local governing authority delegate in writing specific authority to the Local Health Department and health officer to conduct procurement in accordance with this written delegation of authority.

This is the commitment on the part of local government to support the Local Health Department procurements by providing legal support should the Local Health Department or health officer be sued by a vendor. The following is a procurement outline may be followed for this option. This option may be most appropriate for medium to small size counties where there is little formal county purchasing policy or procedure. At a minimum, such policy would include the following notices and provisions.

- a. Any request to proposal or other solicitation for bids or offers must bear the legend, "Minority business enterprises are encouraged to respond to this solicitation notice." No other language may be substituted.
- b. Human Service contracts will be let, whenever possible by means of competitive sealed proposals.
- c. Standard contracts are let, whenever possible, by means of competitive sealed bidding.
- d. Exceptions to "b" and "c", above, may be made, when necessary, by means of: 1) Sole Source Procurement and 2) Emergency Procurement.
- e. Solicitation of Bids, Proposals, offers must be posted prominently in a public place, during normal

working hours for a minimum of three working days, additional notice(s) may be placed in other areas and in publications. Notice may also be sent directly to known vendors.

- f. The local health officer (or his designee) and the Local Health Department's procurement Coordinator will be signatories for the Local Health Department in such procurements.

2241 RFP's

Each program administration will develop human services RFP's and contracts with technical assistance from the Office of Contract Policy, Management & Procurement and submit them to the Division of Program Cost and Analysis for review for conformance to the policies and requirements set forth in this manual. After its review, the Division of Program Cost and Analysis forwards them to the Office of Contract Policy, Management & Procurement for processing.

- a.) If the RFP and/or the contract is for less than \$7,500.00 the Office of Contract Policy, Management & Procurement will approve/disapprove the submission.
- b.) If the solicitation is for more than \$7,500.00, a formal set of specifications must be submitted to the Office of Contract Policy, Management & Procurement which will obtain DBFP approval prior to solicitation.
- c.) The Office of Contract Policy, Management & Procurement will be responsible for all other stages of procurement processing including, but not necessarily limited to: securing appropriate sign-off (s) for emergency or sole source procurements, forwarding to DBFP, notification (s) for Maryland Register, quarterly affirmative action reports, and arranging for the attendance of appropriate

administrative and/or fiscal personnel from the Administration at BPW meetings and notifications on final action on contracts.

Pre-bid/Pre-proposal Conference - Pre-bid/Pre-proposal Conferences are encouraged and will be held at the discretion of the Director, Office of Contract Policy, Management & Procurement. The Director, Office of Contract Policy, Management & Procurement, or his designee, will lead the Pre-bid/Pre-proposal conference.

Debriefing - unsuccessful offerors are entitled to a debriefing at their request.

- a.) this debriefing must be requested in writing to the Director, Office of Contract Policy, Management & Procurement within 30 calendar days of the offeror's having been informed of the unsuccessful offer.
- b.) the debriefing will be conducted by the Director, Office of Contract Policy, Management & Procurement within (or his designee) within 30 working days of receipt of written request for debriefing.
- c.) the Director, Office of Contract Policy, Management & Procurement will assemble appropriate staff, as needed, for the debriefing, including, but not necessarily limited to, the program administration representative and/or member (s) of the selection committee.
- d.) debriefing will be limited to an examination of the requestor's offer from the perspective of the goals of the awarding administration and the Department.
- e.) debriefings may be group debriefings or individual debriefings, or individual debriefings, at the discretion of the Director, Office of Contract Policy, Management & Procurement.

Public Information - interested parties may see copies of any proposal which is accepted by the department.

- a.) Requests must be in writing to the Director, Office of Contract Policy, Management & Procurement.
- b.) The Director, Office of Contract Policy, Management & Procurement will make pertinent materials available for examination within 60 working days of receipt of written request.
- c.) Examination will take place during normal DHMH working hours and will take place in the DHMH Headquarters building, 201 West Preston Street, Baltimore, Maryland 21201.
- d.) Offerors who believe parts of their offers to be confidential or proprietary, must clearly designate them as such at the time the offer is submitted and provide an explanation of each instances which is satisfactory to the Director, Office of Contract Policy, Management & Procurement.
 - 1.) If the explanation is sufficiently compelling the Director, Office of Contract Policy, Management & Procurement will withhold the designated sections from materials to be examined.
 - 2.) If not, the Director, Office of Contract Policy, Management & Procurement will so inform the offeror who will have 10 working days to either provide compelling documentation or revise his position.
 - 3.) If #2 above is still not sufficient to warrant withholding, the Director, Office of Contract Policy, Management & Procurement will make a decision on an as-needed basis, as to the confidential or propriety nature of a given proposal.

2250 MISCELLANEOUS PROVISIONS

2251 GRANT/CONTRACT AGREEMENTS - BLOCK GRANT STANDARDS -

2251.01 Defined - For purposes of Department funding, a Block Grant/Contract is one in which the vendor-of-record's (or "pass-through" agency's) grant/contract

specifically names subvendors as deliverers of human services to third party clients.

Under this concept, the vendor need not necessarily be the recipient of any Federal Block Grant monies.

2251.02 Approval of Subvendors - Any grant/contract or award of funds will be contingent upon the Director's approval of each subvendor and each subvendor contract.

2251.03 Responsibility - The vendor-of-record is responsible to the Division of Program Administration for compliance with the full terms and conditions specified in the grant/contract and the award letter. The vendor-of-record is responsible for the accuracy and timeliness of all reports as well as for the performance of any and all subvendors.

2251.05 Administrative Costs - Administrative costs are allowable to the vendor-of-record subject to the discretion of the Director. In so far as feasible, all such costs should be identified as direct costs although indirect costs may be available. (See Section 2150).

2252 State Travel Policy - All vendors are bound by State Travel Policy, specifically DHMH Policy 02.02.10 entitled "Policy on Travel and Reimbursement of Travel Expenses" as amended from time to time. See Section 3020.

2253 PURCHASE OF SERVICE -

2253.01 Defined - 1) For the purposes of this policy "Purchase of Service" denotes a type of funding agreement where the award is not related to a budget, where line item control of and detail on the vendor's expenditure management plan is absent.

A Purchase of Service agreement should specify and quantify deliverables but does not generally govern the vendor's financial management. 2) The term "Purchase of Service" may also be employed with respect to a vendor's subcontract for services related to the delivery of third-party health care. In this secondary context, it is a controlled line item. See Section 2080.03.

2253.02 Use - A Purchase of Service agreement may be used at any time, for any type of service or vendor at the Director's discretion. It is often employed in association with a Block Grant (Section 2251).

2253.03 Applicability of DHMH Policy – The Chief, Division of Program Cost and Analysis may exempt a Purchase of Service agreement from the provisions of these policies to the extent that such exemption would not contravene any state law, regulation or other DHMH policy.

2253.04 Review of Purchase of Service Subcontracts (Secondary Definition) - Review of Purchase of Service subcontracts of the type which are for services related to the delivery of third-party health care are subject to review by the Director of Program Administration and Office of Contract Policy, Management & Procurement. (OCPMP)

2254 GRANT-IN-AID - A Grant-in Aid is similar to a Purchase of Service in that the agreement does not govern the financial management of the grantee. In addition, a Grant-in-Aid does not specify programmatic deliverable in anything but the most general terms. Also, only the most modest reporting requirements are employed. A Grant-In-Aid generally does not require an audit. The Director may employ the Grant-in-Aid with the approval of the Chief, Division of Program Cost and Analysis. Note: If feasible, Grant-in-Aid funding should be budgeted in Object 12.

However, Object 8 funds may be used if the Grant-in-Aid mechanism is appropriate in the circumstances. A Grant-in-Aid awarded to a Local Health Department must be included the Unified Grant Award.

2255 CONFLICT OF INTEREST FOR DHMH EMPLOYEES – This governed by Administrative Memorandum #3 date August 30, 1977 and by Secretary's memorandum on that subject of the same date.

2256 APPEAL - The vendor has the right to appeal any action, procedure or policy emanating from this manual of the funding agreement.

2256.01 Process - An appeal should be initiated at the same level where a dispute arises or where a policy decision originated. The appeal must be in writing, within thirty days. The hierarchy of the appeal process is as follows:

- a. Chief, Division of Program Cost and Analysis,
- b. Director of the program administration,
- c. Deputy Secretary overseeing the program administration,
- d. Secretary or designee,
- e. Maryland State Board of Contract Appeals,
- f. Judicial review.

2256.02 Local Health Department - The Local Health Department appeal process terminates with the decision by the Secretary of designee.

2256.03 Agreements Exempt From Procurement - Agreements exempt from the State Finance and Procurement Article are not subject to review by the Maryland State Board of Contract Appeals. A vendor wishing to sustain an appeal beyond the Department's review process should seek judicial review.

2256.04 Appeals Before the Secretary - Appeals before the secretary shall

be governed by the Administrative Procedure Act, Article 41, Subsection 244-256A.

2256.05 Maryland State Board of Contract Appeals - Appeals before the Maryland State Board of Contract Appeals are governed by the State Finance and Procurement Sections 17-202 and 203 Article, of the Annotated Code of Maryland and by COMAR Title 21, Subtitle 10, Administrative and Civil Remedies.

2256.06 Judicial Review - The right of judicial review is provided by Article 41, Subsection 255 of the Annotated Code of Maryland.

2257 RECORDS, TITLE AND RETENTION –

2257.01 Title - The vendor may hold title to all organizational records including patient/client records. However, the Department is considered to have a lien on patient/client records which may be exercised in the event of reduction or termination when quality or continuity of services may be jeopardized.

2257.02 Retention - All Records must be maintained for five years or until an audit per Section 2210 is completed. The Department grants to the vendor the right to dispose of patient/client records at such time unless another retention standard of an appropriate oversight organization applies or unless other instructions are issued by the Director for their continued retention or physical delivery to the Department.

2257.03 Other Retention Schedules - Local Health Departments and other government agencies should adhere to state, local or municipal directives concerning record retention as directed.

2257.01 License to Use -The Department reserves full rights as a licensee of the vendor to use such reports, studies and data as the vendor may compile or

have compiled whether or not such material is copyrighted and shall retain such rights without cost or fee.

2258 AFFIRMATIVE ACTION PLAN -

2258.01 Development - The vendor must develop and Affirmative Action Plan to ensure compliance with equal opportunity laws.

2258.02 Submittal - An organization which is a new human services vendor must submit its Affirmative Action Plan to the department within ninety (90) days of signing the agreement or date of award letter whichever is earlier. An existing vendor should submit its current plan within ninety (90) days of receipt of this manual. Plans should be sent to:

Director
Equal Access Compliance Office
O'Conor Building
201 West Preston Street
Baltimore, Maryland 21201

A schedule for future plan submittals for vendors who maintain a long-term status as a human services vendor will be determine by the Equal Access Compliance Office.

2258.03 Compliance Review - The office named in 2258.02 above will review the plan in accordance with relevant state and federal laws and will approve or disapprove the plan and issue notice of its decision. Requests for assistance in developing a plan or for clarification of the vendor's obligations under the relevant statues should be directed to the Director.