

INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR  
31 HOPKINS PLAZA  
BALTIMORE, MD 21201

DEPARTMENT OF THE TREASURY

Date: 9-29-92

Employer Identification Number:  
52-1784596

Contact Person:  
MRS. S. PRATT

Contact Telephone Number:  
(410) 962-9431

NATIONAL ASSOCIATION OF VETERANS  
RESEARCH AND EDUCATION FOUNDATIONS  
311 MASSACHUSETTS AVE NE  
WASHINGTON, DC 20002

Response Due Date:  
10-21-92

Dear Applicant:

Before we can determine whether your organization is exempt from Federal income tax, we must have enough information to show that you have met all legal requirements. You did not include the information needed to make that determination on your Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

To help us determine whether your organization is exempt from Federal income tax, please send us the requested information by the above date. We can then complete our review of your application.

If we do not hear from you within that time, we will assume you do not want us to consider the matter further and will close your case. In that event, as required by Code section 6104(c), we will notify the appropriate state officials that, based on the information we have, we cannot recognize you as an organization of the kind described in Code section 501(c)(3). As a result, the Internal Revenue Service will treat your organization as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new Form 1023.

In addition, if you do not provide the requested information in a timely manner, we will consider that you have not taken all reasonable steps to secure the determination you requested. Under Code section 7428(b)(2), your not taking all reasonable steps in a timely manner to secure the determination may be considered as failure to exhaust administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428.

NATIONAL ASSOCIATION OF VETERANS

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "J. Ratt".

Exempt Organizations Specialist



# National Association of Veterans' Research and Education Foundations

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311 Massachusetts Avenue, NE, Washington, DC 20002 Phone: 202-543-7273 FAX: 202-543-5327

Ronald Flink  
Chairman

Barbara F. West  
Executive Director

Richard Fuller  
Washington Representative

December 15, 1992

Internal Revenue Service  
District Director  
Attn: Ms. Pratt  
31 Hopkins Plaza  
Baltimore, MD 21201

Reference: National Association of  
Veterans' Research and Education Foundations  
Application for 501 (c) (3) status  
Employer ID Number 52-1784596

Dear Ms. Pratt:

Enclosed is the response of the National Association of Veterans' Research and Education Foundations (NAVREF) to your request for additional information about past, present and planned activities. All of these activities support the Association's primary purpose: to promote Department of Veterans Affairs medical research and development.

NAVREF's response to your request groups activities under four headings: Administration; Public Education and Communication; Development of Standards and Information Exchange; and Advocacy. This information is provided as a supplement to the Association's "Application for Recognition of Exemption Under Section 501 (c) (3)" sent to you on August 6, 1992.

Because the foundations that are the majority of NAVREF's members are unique, I would like to draw your attention to Attachment A which is a brief description of the purpose and nature of the Department of Veterans Affairs nonprofit foundations.

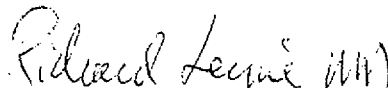
Sincerely,



Ron Flink  
Chairman



Dallas Cross  
Vice-Chairman



Richard Levine, MD  
Treasurer



Barbara F. West  
Executive Director

### **Department of Veterans Affairs Nonprofit Foundations**

Department of Veterans Affairs (DVA) nonprofit foundations were authorized by Congress in 1988 to support and enhance the Department of Veterans Affairs' (DVA) research mission. These foundations provide a flexible funding and administrative mechanism for non-VA organizations to support research conducted by the DVA.

In 1991, sixty-two veterans research foundations received and administered over \$25 million in private funds on behalf of their medical centers -- a major boost to shrinking federal appropriations for veterans' medical care and research budgets. The foundations act as independent entities under the laws governing nonprofits in each state; however, by act of Congress, each foundation is fully accountable to the oversight of the DVA Chief Medical Director and the Secretary of Veterans Affairs.

In addition to supporting a broad variety of research projects, funds given to VA foundations are also used to purchase new medical and office equipment to be used within the DVA facility; to provide additional medical research supplies; and to support salaries for nurses, technicians and others -- all for the benefit of the country's veterans. The research opportunities offered by the foundations give DVA an important tool to help recruit and retain quality health care professionals who in turn improve the quality of health care services to the veteran population.

## Administration

### 1. NAVREF National Office

A. **Purpose and nature:** The purposes of the NAVREF national office include:

- carrying out all the administrative functions of the Association, including administrative and financial management
- administering all aspects of membership, including solicitation of new members, processing of membership applications, maintaining computerized and hard copy membership information, etc.
- coordinating all activities of the Association, which may involve identifying and contracting outside services such as printing, accounting, legal advice, etc.
- conducting outreach to appropriate public and federal organizations
- acting as the conduit for exchanges of information and advice between the VA nonprofit foundations, appropriate persons in the Department of Veterans Affairs, DVA facilities and VA Central Office, Congressional staff, and interested members of the general public
- identifying and contacting other organizations with related interests, including other federal nonprofit foundations
- coordinating the activities of the Board of Directors
- providing staff and office equipment in support of all the Association's activities
- ensuring that the Association is in compliance with all local, state and federal requirements
- coordinating membership and board of directors meetings
- gathering resources to fulfill the Association's mission

The nature of the Association's national office is to provide permanent, full-time coverage during normal business hours although individual staff members are on a part-time basis. The Executive Director works "half-time" for NAVREF and the Washington Representative devotes about 10% of his time to NAVREF affairs. Receptionist and office manager services are shared with other organizations located in the same office. The Association's accountant and development/management consultant are available on an as needed basis and are compensated on an hourly or "per-project" basis.

B. **Frequency and duration:** The Association has a contract with the Office of Lynn Morrison for office space, equipment and services through February 28, 1993. At that time, the contract will be reviewed by the Board of Directors and renewed, or other arrangements for a permanent office will be made.

C. **How, when, where and by whom this activity is conducted:** After investigating several firms interested in management of the Association, the Board of

Directors determined that the Office of Lynn Morrison best suited the requirements of the Association. The Executive Director and Washington Representative are permanent members of Ms. Morrison's staff and were appointed to their positions after discussion with representatives of the Board of Directors.

- D. **Requirements for participation or benefit:** The resources of the Association's office are available to any member foundation and other organizations, agencies or persons with common interests. The Association promotes an open exchange of information.
- E. **Charges or fees:** The resources of the Association's office are freely available to members and non-member VA foundations and to other organizations, agencies or persons with common interests.
- F. **What this activity has accomplished or will accomplish:** To date, specific accomplishments of the Association's office include:
  - development and distribution of membership solicitation materials
  - enrollment of 25 DVA nonprofit foundations as members
  - publication of two newsletters (a third newsletter in is progress)
  - coordination of one membership meeting (Attachment 1)
  - coordination of two Board of Directors' meetings (Attachment 2)
  - coordination of one educational seminar open to members and non-members (Attachment 3)
  - establishment of a working relationship with appropriate VA Central Office personnel and Congressional staff
- G. **Percentage of time and effort devoted to this activity:** Approximately 28% of the Association's activities are related to administration of the Association. This is expected to decrease significantly after the Association has been in existence for one or two years.

## 2. **Board of Directors**

- A. **Purpose and nature:** The purposes and responsibilities of the Board of Directors include:
  - developing policies and plans for the Association
  - providing guidance and oversight of the Association staff
  - authorizing contracts and other expenditures
  - representing the Association in relations with other organizations
  - budget development and approval

- B. **Frequency and duration:** The Association's by-laws state that the Board of Directors will meet four times per year, two times in person and two additional times that may be held by conference call. The first Board meeting was held on September 15, 1992. A second Board meeting is scheduled for December 15, 1992.
- C. **How, when, where and by whom this activity is conducted:** The Association's national office coordinates the Board meetings. An agenda for each meeting is developed after consultation with the Association's officers and directors based on input from the officers and directors, members, nonmembers, and other interested parties. Notice of each Board meeting is given in the Newsletter and any interested parties are welcome to submit items/reports for the agenda.
- D. **Requirements for participation or benefit:** The structure of the Board of Directors is detailed in the Association's by-laws (Section 5.2.1):

There shall be five different Class A Member organizations represented on the Board, such that no two Directors are from the same Departmental facility. In addition, there shall be two Directors not affiliated with any Departmental nonprofit corporation and representing the interested public, such as persons affiliated with veterans' service organizations, medical or public health organizations, etc. At least one shall be a Class B member of the Corporation.

Section 5.2.2 Directors' Backgrounds. There shall be one Board Member who is a Medical Center Director at a Department facility, one Director who is either a Chief of Staff or an Associate Chief of Staff at a Department facility, and three (3) Board Members who are Executive Directors (but not also a Medical Center Director, Chief of Staff or Associate Chief of Staff) of Member organizations.

Election of a new Board of Directors will take place at the Annual Conference, tentatively scheduled for June 1993.

- E. **Charges or fees:** Members of the Board serve on a volunteer basis and receive no remuneration for their services. To save travel expenses for meetings held in person, when possible, Board meetings are held in conjunction with other meetings the Directors are likely to attend, or by conference call.
- F. **What this activity has accomplished or will accomplish:** To date, individually or collectively, the accomplishments of the Board of Directors include:



- signing of a contract for establishment of a national office
- supervising the national office staff
- coordinating the Association's application for 501 (c) (3) status
- coordinating incorporation of the Association under the District of Columbia requirements
- meeting with representatives of the VA Central Office on issues of mutual interest
- initiating investigation of activities that have a potential benefit for member and non-member foundations (such as use of E-mail for communicating information to member and non-member foundations)
- representation of the Association in relations with other organizations

G. **Percentage of time and effort devoted to this activity:** Approximately 10% of the Association's activities are devoted to Board of Directors' functions, but Board members are involved in all aspects of the Association.

## Public Education and Communication

1. **NAVREF Newsletter** (Copies of the two newsletters that have been printed to date are provided as Attachment 4)
  - A. **Purpose and nature:** The purpose of the NAVREF newsletter is to inform member and non-member foundations, veterans service organizations, federal agencies (including interested parties in DVA and its medical centers), biomedical research professionals and the general public of NAVREF's activities and plans, issues of interest, educational opportunities and to convey information promoting the highest standards of federal foundation management.
  - B. **Frequency and duration:** At this time, the NAVREF newsletter is distributed on a bimonthly basis. As the Association grows, it is anticipated that the newsletter will be distributed monthly.
  - C. **How, when, where and by whom this activity is conducted:** The NAVREF newsletter is compiled by the Association's office at 311 Massachusetts Avenue, NE, Washington, DC 20002. Articles are written primarily by the Association's Executive Director and Washington Representative, but contributions have been and/or will be solicited from the Board of Directors, the Department of Veterans Affairs (DVA), and other interested persons cognizant of information that is of benefit to the members, nonmember foundations and general public.
  - D. **Requirements for participation or benefit:** The NAVREF newsletter is distributed to NAVREF members and other organizations and persons deemed likely to be interested in the content. The newsletter is also available to any other interested persons or groups on request. In the past, issues have been mailed to member and nonmember foundations (who generally make photocopies for distribution to their own directors), Veterans Affairs Administration personnel, Congressional committees, veterans service organizations (VSOs), and Directors of VA medical centers.
  - E. **Charges or fees:** The NAVREF newsletter is sent to members, all of the above and the general public free of charge.
  - F. **What this activity has accomplished or will accomplish:** The NAVREF newsletter assists in accomplishing the Association's mission (see statement of the Association's mission in Attachment 5) by providing information about activities of the Association, issues of interest, educational opportunities that promote high standards of federal foundation management, and foundation

management information that enhances the DVA foundations' efficiency and public image.

- G. **Percentage of time and effort devoted to this activity:** Approximately 10% of the total time and effort of the Association is devoted to production of the NAVREF newsletter.

## 2. **Public Education**

- A. **Purpose and nature:** The purpose of the Association's public education effort is to promote 1) a positive image for the DVA and DVA research, 2) good relations with the general public, the nation's veterans and veterans service organizations, medical academia, DVA and other federal agencies and the Congress and 3) to apprise the general public of the benefits of VA research, including discoveries made by VA- and foundation-supported research.

The nature of these public education efforts will include written articles in the NAVREF newsletter and other publications, news releases, presentations at activities where NAVREF members might come in contact with the media, and informal contacts with the media, Members of Congress, DVA personnel, veterans service organizations and the general public.

- B. **Frequency and duration:** The frequency of public education efforts cannot be predicted at this time. These are likely to be ongoing efforts dependant on the activities of NAVREF members, staff and Board.
- C. **How, when, where and by whom this activity is conducted:** Public education activities will be ongoing as determined by NAVREF staff and Board of Directors. While such opportunities are likely to be identified by NAVREF members, staff and/or Board members, the exact purpose and mechanism for specific contacts will be guided by NAVREF staff and the Board of Directors. Articles for publication will be prepared by NAVREF staff, the Board and/or persons with expertise on a given topic. Informal contacts will largely be carried out by NAVREF staff, but members of the Board, representatives from member and nonmember foundations and other interested persons may be asked to participate. Informal and formal presentations may be set up by invitation or at NAVREF's request.
- D. **Requirements for participation or benefit:** Any person, publication or organization with a (current or potential) general or specific interest in the DVA foundations may provide an opportunity for these public education activities.

- E. **Charges or fees:** No fees will be charged or honorariums accepted in conjunction with any public education efforts.
- F. **What this activity has accomplished or will accomplish:** NAVREF public education activities are intended to inform a broad spectrum of persons and organizations (as discussed in paragraph A above) about the research mission and accomplishments of DVA.
- G. **Percentage of time and effort devoted to this activity:** Initially, about 10% of the Association's activities will be related to public education. After one or two years, it is expected that this may increase to as much as 30%.

## Development of Standards and Information Exchange

### 1. Annual Conference

A. **Purpose and nature:** The purpose of the Association's Annual Conference is to bring together representatives of member and non-member VA foundations, other federal foundations and the interested public, using this opportunity to:

- provide educational seminars, workshops and lectures in support of efficient administrative and financial management of the foundations
- explore and resolve the administrative quandaries presented by federal foundation management
- review relations with the Department of Veterans Affairs Central Office
- review the Association's policies and activities of the previous year
- conduct the biennial election of the Board of Directors and other Association business
- meet with DVA and VACO personnel and with Members of Congress and their staffs
- provide updates on issues of common interest

The meeting is expected to take place in a downtown Washington, DC hotel.

B. **Frequency and duration:** NAVREF's Annual Conference will take place once each year. At least one day will be devoted to informational seminars, workshops and lectures on subjects related to efficient administrative and financial management of member and nonmember foundations. A second day will be available for attendees to meet with Members of Congress and their staffs on issues of common interest regarding the DVA foundations.

C. **How, when, where and by whom this activity is conducted:** The subjects and speakers at the Annual Conference will be identified by the Board of Directors and the NAVREF office staff in consultation with member foundations. Coordination of the logistics of the conference will be handled by staff in the Washington office. The 1993 conference will be held in June in Washington, DC. Speakers may include members of the Board of Directors, DVA officials, Congressional staff, lawyers, accountants, scientists, representatives of veterans service organizations and representatives from other research or government agencies.

D. **Requirements for participation or benefit:** The Annual Conference is open to any interested persons or representatives from any interested organizations.

- E. **Charges or fees:** Fees for the conference have not yet been determined. It is expected that representatives from member foundations will be able to attend for a reduced fee. To keep expenses reasonable, the majority of the speakers will be from the Washington, DC area and/or persons already involved with NAVREF.
- F. **What this activity has accomplished or will accomplish:** In support of NAVREF's mission of promoting the highest standards of fiscal and administrative management of the DVA foundations, the focus of the conference will be on issues unique to the hybrid, quasi-federal nature of these foundations. The specifics of managing these foundations require special knowledge of appropriate managerial, ethical, legal, accounting and other information not readily available or directly transferable from the private sector.
- G. **Percentage of time and effort devoted to this activity:** Approximately 10% of the total time and effort of the organization will be devoted to running of the Annual Conference.

## 2. **Development of Common Standards for Management Practices**

- A. **Purpose and nature:** The purpose of developing a set of common foundation management standards and practices is to provide member and nonmember foundations with a consolidated source of experience on appropriate and/or necessary information and strategies for operating federal nonprofit foundations. A copy of a first draft of such guidelines is provided as Attachment 6.

In nature, the guidelines will be a comprehensive manual. NAVREF also expects to identify a cadre of experienced DVA foundation managers who will be available for consultations by telephone.

- B. **Frequency and duration:** The guidelines will be under continuous review to synthesize, develop, critique and improve the concepts and practical information it contains. It is expected that there will be a formal review once each year.
- C. **How, when, where and by whom this activity is conducted:** Initial editing of the draft guidelines will be done by NAVREF's executive director with major input by the Board of Directors. Subsequently, a "policy committee" composed of representatives from member foundations may be formed to review and update the guidelines. Input would be welcome from members and other interested parties.

- D. **Requirements for participation or benefit:** Copies of the guidelines will be provided to any interested persons or organizations. These may include member and nonmember DVA foundations, comparable nonmember organizations affiliated with other governmental agencies, federal officials, and veteran service organizations.
- E. **Charges or fees:** No fees will be charged for development or distribution of the guidelines.
- F. **What this activity has accomplished or will accomplish:** The guidelines would accomplish the following:
- teach new or prospective nonprofit foundations how to become established and how to operate in compliance with the various regulations that apply to the DVA nonprofit foundations
  - promote the efficiency of member and nonmember DVA foundations
  - assure DVA facility directors and member and nonmember foundation Boards, DVA, IRS and state governments that the foundations are aware of necessary knowledge and appropriate practices that meet DVA expectations
  - provide samples of appropriate documentation of these practices
  - provide continuously updated guidance and support for managers and scientists having both federal and private roles
- G. **Percentage of time and effort devoted to this activity:** Approximately 15% of the Association's time and effort would be devoted to the guidelines.

### 3. **Electronic Bulletin Board**

- A. **Purpose and nature:** NAVREF is implementing an electronic bulletin board service that would be accessible by member and nonmember VA foundations. The purpose of such a service would be:
- rapid dissemination of new and/or timely information pertinent to the DVA nonprofit foundations, particularly when publication of such information should not be delayed until the next bimonthly newsletter
  - to disseminate information that is not the "general interest" type of information that is typically included in the newsletter
  - to provide advance notice of information that will appear in more detail in the next newsletter or, conversely, to expand upon information already given in the newsletter

- to accumulate a database of information about managing a nonprofit VA foundation that could be "searched" by a member or other interested party for items of interest
- to provide a means for easily revising the guidelines manual discussed above (rather than distributing hard copies of the manual, it could be maintained on the electronic bulletin board so members could access new information as it is updated)
- to provide a means for a VA nonprofit foundation to broadcast a question to all other foundations and to exchange information among several foundations

In nature, the NAVREF electronic bulletin board would be a component of an electronic communications system already used by all DVA research and development facilities.

- B. **Frequency and duration:** It is expected that all foundations will be asked to access the NAVREF bulletin board once each week to check for information updates and/or notices of upcoming activities. Once the database is in place, member and nonmember foundations will be able to access the information on an as needed basis.
- C. **How, when, where and by whom this activity is conducted:** The Executive Director of NAVREF will be the primary coordinator of the nonprofit foundation component of the electronic bulletin board, with responsibility for writing, editing or otherwise preparing information to be put on the bulletin board. VA personnel responsible for management of the DVA system will input the information provided by the Executive Director.
- D. **Requirements for participation or benefit:** All VA nonprofit foundations will have access to the electronic bulletin board regardless of whether they are NAVREF members.
- E. **Charges or fees:** No fees will be charged for access to the NAVREF bulletin board system.
- F. **What this activity has accomplished or will accomplish:** It is expected that the electronic bulletin board will be a cost-effective way to enhance NAVREF communications with member and nonmember foundations. In addition to all the purposes listed in "A" above, the NAVREF electronic bulletin board would be a positive demonstration of the collaboration between DVA and the VA nonprofit foundations in support of VA research.



- G. **Percentage of time and effort devoted to this activity:** It is anticipated that approximately 10% of the total time and effort of NAVREF will be devoted to the NAVREF electronic bulletin.

## Advocacy

### 1. Advocacy for DVA Research Funding and Legislative Affairs

- A. **Purpose and nature:** Although NAVREF is an association of foundations that are not dependent on federal funds, the DVA foundations have a sincere interest in a well-funded VA research program. Research conducted by the foundations complements, but in no way replaces federally funded research. The purpose of NAVREF's advocacy efforts is to support the DVA's goal of a strong, well-funded research program.

It has been shown that a strong research program at a DVA facility improves the care given to VA patients by attracting physicians conversant with the latest in medical care techniques, treatments and drugs. Improved funding for DVA research allows DVA medical facilities to conduct more research which ultimately directly benefits DVA patients and indirectly all persons.

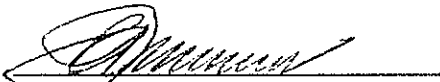
It is anticipated that the nature of NAVREF's advocacy activities will take the form of endorsing funding recommendations made by various coalitions, rather than undertaking a major campaign on its own. Also, NAVREF may organize meetings between Members of Congress and representatives from member foundations, particularly in conjunction with NAVREF's annual meeting, to provide an opportunity for NAVREF members to educate Members of Congress about VA research. Such activities will be undertaken to support the research mission of DVA.


- B. **Frequency and duration:** Advocacy activities conducted by NAVREF will occur at appropriate times during the legislative year.
- C. **How, when, where and by whom this activity is conducted:** NAVREF's advocacy activities will be conducted by NAVREF's Washington Representative, in consultation with the Executive Director and Board of Directors. Representatives from NAVREF member foundations may also be invited to join such activities, particularly in conjunction with the Annual Conference.
- D. **Requirements for participation or benefit:** NAVREF's advocacy activities will be conducted by NAVREF's Washington Representative, in consultation with the Executive Director and Board of Directors. Through NAVREF, all member and nonmember DVA foundations will be represented and may be invited to participate.


The primary beneficiaries of this activity will be DVA patients. It has been shown that a strong research program at a DVA facility improves the care

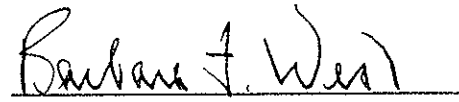
given to VA patients by attracting physicians conversant with the latest in medical care techniques, treatments and drugs. Improved funding for DVA research allows DVA medical facilities to conduct more research which ultimately directly benefits DVA patients and indirectly all persons.

- E. **Charges or fees:** No fees will be charged to provide this service.
- F. **What this activity has accomplished or will accomplish:** This activity will support the DVA and its patients. NAVREF and its member foundations feel that VA research deserves the foundations' support. It is hoped that NAVREF's advocacy activities will help to accomplish the DVA's goal of a strong, well-funded research program.
- G. **Percentage of time and effort devoted to this activity:** It is estimated that 2-3% of the total time and effort of the Association will be devoted to advocacy activities.

  
Ron Flink  
Chairman

  
Dallas Cross  
Vice-Chairman

  
Richard Levine, MD  
Treasurer

  
Barbara F. West  
Executive Director

National Association of  
Veterans' Research and Education Foundations

**Membership Meeting**

Tuesday, September 15, 1992

5:00 p.m.

Salon 7, Disney World Hilton Hotel

**Agenda**

- |    |  |  |
|----|--|--|
| 1. | Welcome  | Ron Flink<br>Chairman of the Board<br>Admin Officer for Research<br>Hines VA Hospital, Chicago |
| 2. | Secretary's Report   | Jeanette Hamilton<br>Secretary<br>R&D Admin Officer<br>Kansas City VAMC                        |
| 3. | Treasurer's Report   | Richard Levine, MD<br>Treasurer<br>ACOS for R&D<br>Washington, DC VAMC                         |
| 4. | Executive Director's Report  | Barbara West<br>NAVREF Washington Office   |
| 5. | Legislative Report   | Richard Fuller<br>NAVREF Washington Office   |
| 6. | Tips on Potential Problem Areas<br>in Form 990s                                      | Nancy Parks<br>Admin Officer for Research<br>Augusta VAMC                                      |
| 7. | "At Will Contracts" and<br>Foundation Employees                                      | Melvin Buck<br>Admin Officer for Research<br>Atlanta VAMC                                      |
| 8. | Liability Insurance<br>for Foundations and & Overtime<br>for VA/Foundation Employees | Richard Levine, MD<br>Treasurer<br>ACOS for R&D<br>Washington, DC VAMC                         |
| 9. | Closing  | Ron Flink<br>Chairman of the Board<br>Admin Officer for Research<br>VA Hospital, Chicago       |

NATIONAL ASSOCIATION OF VETERANS' RESEARCH AND EDUCATION FOUNDATIONS

Minutes  
Meeting of the Members

September 15, 1992

The regular meeting of the members of the National Association of Veterans' Research and Education Foundations was called to order by the Chairman of the Board at the Disney World Hilton Hotel at 3:30 p.m.

Representatives of the following member foundations were present: Jedd Nelson, Tucson; Melvin Buck, Atlanta; Shirley Shetula and Darleen Whorley, San Diego; Ken Valk, San Francisco; Barbara Gleason, Palo Alto; Richard Straight, Ph.D., Salt Lake City; Francis Achee, Brockton; Clyde Cosaro, Stephen Landaw, M.D. and Liz Applebee, Syracuse; Dallas Cross, Seattle; Jeanette Evans-Hamilton, Kansas City; Ron Flink, Hines; Richard Levine, M.D. and Gudrun Swassing, Washington, D.C., Carol Huff, Memphis; and Nancy Parks, Augusta. Also present were Barbara West, Executive Director and Richard Fuller, Washington Representative from NAVREF Office, Dennis Smith, M.D. from VA Central Office, and the following guests: Gus Godoy, Miami; John Kozyra, East Orange; Bernard Soloff, Ph.D., Little Rock; Jeannette Landis, Lexington; Gary Soule, Nashville; Mike Huck, Indianapolis; and Blanca Lebron, San Juan.

Ron Flink, Chairman of the Board, presided over the meeting. Members and guests introduced themselves and gave an example of one positive benefit resulting from the non-profit foundation affiliated with their local medical center.

Dr. Dennis Smith recognized the contribution of the foundations in supporting research activities at local VA medical centers and encouraged all foundations to join the Association.

The Secretary reported on the activities to date, including the selection of The Office of Lynn Morrison as the management firm. The Executive Director had solicited input from a development consultant for nonprofit organizations which resulted in modifications to the drafted Bylaws that were reviewed in detail by the Secretary prior to review and consideration by the members. Following a discussion of the modifications, it was moved, seconded and passed unanimously to accept the Bylaws.

The Treasurer reported the income from dues and expenditures to date, discussed the contract extension with Lynn Morrison, and provided a detailed explanation of the management contractual expenses.

Mr. Flink noted that efforts will soon be underway to begin fundraising activities for the Association in order to accrue adequate funds to support activities such as obtaining legal opinions on various issues important to the membership. Another

venture being explored is a national data bank of VA-clinical investigators from member foundations which could serve as a referral center for national pharmaceutical firms.

A legal opinion on the new rules regarding the amount of resources that can be spent on lobbying and still maintain 501(c)(3) status was distributed and discussed.


Ms. Barbara West, Executive Director, gave a report on administrative activities to date, reviewed the Newsletter and its importance in distributing changing requirements and information, and noted it was distributed to congress and interested parties who may lend support to the Association. She solicited participants to the Membership Committee and the Nominating Committee which will establish procedures for nominations to the Board of Directors and develop a slate of candidates.

Ms. West solicited input from the Members on the time and place for the annual members meeting in 1993. The annual meeting will include educational workshops by experts in the field. It may be held in Washington, D.C. in the spring so that Congressional staff would be available for interactive sessions. She also reported on the hiring of a CPA and the organizational activities to date.

Ideas for fund raising for the Association were discussed. The possibilities of joining the national CFC and initiating a registry for clinical trials for all members will be passed on to the Fundraising Committee for consideration.

Dr. Levine discussed the issue of paying overtime when full-time VA employees work after hours for the local Foundation. He has obtained a legal opinion from an established labor attorney which will be disseminated to all Association members who may want to discuss this issue at the local level. Based on this expert opinion, the Board of Directors of local foundations should decide the risks involved with this pay issue.

There being no further business, the meeting was adjourned at 4:30 p.m.

  
Jeanette Evans-Hamilton  
Secretary

National Association of Veterans' Research and Education

**Board of Director's Meeting**

Tuesday, September 15, 1992

6:30 p.m.

Jasmine Room, Disney World Hilton Hotel

**Agenda**

Secretary's Report

Treasurer's Report

Old Business

Advisory Committees

Membership Committee

Nominating Committee

New Business

Sharing of NAVREF Information with Nonmembers

Fundraising for NAVREF

Annual Members' Meeting

Renewal of Lynn Morrison's Contract

Prioritizing Issues

NATIONAL ASSOCIATION OF VETERANS' RESEARCH AND EDUCATION FOUNDATIONS

Minutes  
Meeting of the Board of Directors

September 15, 1992

The regular meeting of the Board of Directors of the National Association of Veterans' Research and Education Foundations was called to order by the Chairman at the Disney World Hilton Hotel at 6:30 p.m.

The following directors were present: Clyde Cosaro, Dallas Cross, Jeanette Evans-Hamilton, Ron Flink, Nancy Parks, Richard Levine, M.D., Shirley Shetula and Dennis Smith, M.D. George McAdams was absent. Also present were Barbara West, Executive Director and Richard Fuller, Washington representative.

The minutes of the Board meeting of May 27, 1992 were reviewed and unanimously approved. The Secretary reported on meetings with a development consultant for nonprofit organizations resulting in modifications to the drafted Bylaws prior to review and acceptance by the members, and the outcome of the mail ballot resulting in the selection of The Office of Lynn Morrison as the management firm. The Treasurer reported the income and expenses to date. It was moved, seconded and unanimously passed to accept the reports from the Secretary and Treasurer.

Based on the recommendation of the development consultant, it was agreed to reconstitute the Nominating Committee to exclude current Board Members and Association members who plan to seek nomination for membership on the Board. The following Association members were recommended to serve on the Nominating Committee: Richard Straight, Ph.D., Salt Lake City (Chairman); Melvin Buck, Decatur; James Donoho, Oklahoma City; and Anthony Schifano, Syracuse.

Considering the developing needs of the Association, it was agreed to cancel the previous assignments to the Advisory Committees and form them with members interested in their functions at the time a need becomes evident. The following members were recommended to serve on the Membership and Fundraising Committee: George McAdams, San Francisco; Jeanette Evans-Hamilton, Kansas City; Daniel Porte, Jr., M.D., Seattle; Richard Wedeen, M.D., East Orange; and Stephen Landaw, M.D., Syracuse. George McAdams and Jeanette Evans-Hamilton will be calling all potential Association members to encourage membership for the current year. It was agreed that public policy will be coordinated by and through the Chairman, precluding the need for a Public Policy Committee.

The question of the sharing of information with non-members of the Association was discussed at length. There was concern that the free flow of information to all foundations might hinder the recruitment of members while limiting the distribution of



certain information could jeopardize non-members in terms of meeting legal requirements or certain management practices. It was moved, seconded and passed unanimously to continue to share all requested information about foundation management practices with everyone until the next Board meeting when further clarification will be addressed. Information which will not be distributed to non-members includes the data bank, proposals on collective insurance, fringe benefits or any collective ventures.


Ideas for fund raising for the Association were discussed. The possibilities of joining the national CFC and initiating a registry for clinical trials for all members will be passed on to the Fundraising Committee for consideration.

Plans for the annual members meeting were discussed. It was agreed it might be best to have a meeting separate from SRA next year, possibly in late June. It was the consensus that the meeting be held in Washington, D.C. in order to bring in attorneys and accountants knowledgeable of Association issues, as well as congressional representatives to interact with members. The Chairman will coordinate the time and place and begin the planning phase for the annual meeting.

Following the departure of Barbara West and Richard Fuller, the Board discussed renewal of the contract with The Office of Lynn Morrison as the management firm. There was unanimous support for renewing the contract through February, 1993.

The next regular meeting of the Board Of Directors will be in December by conference call. The following meeting will be held during the week of May 2, 1992 in Monterey, CA.

There being no further business, the meeting was adjourned at 9:30 p.m.

  
Jeanette Evans-Hamilton  
Secretary

National Association of  
Veterans' Research and Education Foundations

Board of Directors Meeting  
Tuesday, December 15  
Chicago, Illinois  
Hyatt O'Hare  
10:00 a.m. - 4:00 p.m.

**Agenda**

1. Approval of Minutes from  
September 15 Board Meeting ..... Page 1
2. Read into the Minutes:  
NAVREF endorsement of  
the Independent Budget ..... Page 3
3. Treasurer's Report:  
Financial Statement ..... Dr. Levine ... Page 5
4. Committees
  - Nominating Committee Report ..... Page 8
  - Membership/Fundraising Committee Report ..... Page 9
  - Formation of Public Policy Committee ..... Page 10
5. Updates on "Other" Projects
  - Development of National  
Investment Strategy ..... Mr. Cross ... Page 11
  - Development of Pooled Insurance ..... Separate handout
  - Implementation of Bulletin Board ..... Ms. Parks ... Page 13
  - Guidelines Manual Critique ..... Page 14
  - Development of National  
Data Bank ..... Page 62
6. First Annual Conference
  - Determine Theme ..... Page 64
  - Discuss Schedule ..... Page 65
  - Identify Topics and Speakers ..... Page 69
  - Budget ..... Separate handout

7. Public Policy

- Legislative Update ..... Mr. Fuller (by phone)
- Public Policy Updates and Discussion ..... Page 71
  - Pending Legislation
  - IG Visits
  - R&D Manual Chapter and Directors Checklist
- Discussion of "Information Release" ..... Page 72

8. Information Item: Summary of Government

Employees Ethics Regulations ..... Page 75

A large, stylized number '25' in a bold, sans-serif font. The '2' is composed of two thick, curved strokes, and the '5' is a single, thick, curved stroke. The number is positioned on the left side of the page, with the '2' being significantly larger than the '5'.

25

ATTACHMENT 3

SOCIETY OF RESEARCH ADMINISTRATORS

A Quarter Century of Service in Research Management

**SRA ANNUAL MEETING**

**25th ANNIVERSARY CELEBRATION**

**"BIGGER, BETTER, BRIGHTER"**

**SEPTEMBER 13-16, 1992**

**ORLANDO, FLORIDA**

Dear Colleague

O

*n* behalf of the 30 members of this

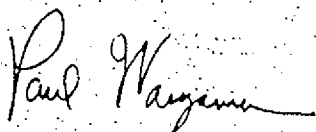
year's Annual Meeting Planning Committee, we extend a warm invitation to the very special 26th Annual Meeting of the Society of Research Administrators.

We've tapped the rich resources of our profession to bring you a varied and comprehensive program to meet the same varied and comprehensive needs of a challenging profession dealing with some very challenging times.

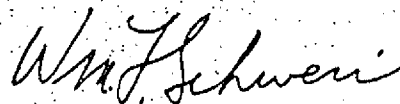
To add to this extensive program is the location of the 1992 meeting...Orlando. It's the ideal meeting location for you to bring your family. Not only is Orlando rich in tourist attractions, but it's also a rapidly growing center of research and technology.

And the real "icing on the cake" is the celebration of SRA's 25th anniversary. We've planned some very special ways to make sure we include the newest research administrator and the SRA veteran. Anniversaries are not just trips down memory lane...they're also a way to look forward to what the next 25 years will bring.

It all adds up to a very special occasion. So don't miss it. Use the enclosed information and the registration form to sign up for the 1992 Annual Meeting in Orlando and join us for a bigger, better, brighter SRA Annual Meeting.



Paul G. Waugaman  
Co-Chair



William F. Schweri  
Co-Chair

**AFTERNOON SEMINARS**

continued

**S5 Nonprofit Corporations  
Affiliated with the Department of  
Veterans' Affairs and Academic  
Institutions: A Workshop  
Concerning Important Issues  
of Corporation Establishment  
and Successful Operation**

The seminar will consider advantages, mechanisms and relationships that nonprofit corporations have with affiliated universities and governments. In particular, the consequences of a legal spinoff from a parent organization and the continuing nature of these relationships will be explored. Ways to enhance the competitive stature of a free-standing nonprofit corporation vis-a-vis other tax-exempt organizations will be addressed.

**Speakers**

Richard F. Levine, Associate Chief of Staff for Research and Development, Veterans' Administration Medical Center, Washington, D.C.

JoAnn Treat, President, Texas A&M Research Foundation

structure of agreement  
consequences  
perceptions

2? coord - policy procedures

**S6 Personnel Management in a  
Research Environment**

Human resource management is an often-overlooked component of research administration. This workshop focuses on providing skills to resolve personnel problems, how to handle the marginal employee, negotiation resolution between conflicting parties, conflict of interest and general strategies to help maximize human resources.

**Speaker**

Kathrine M. Reed, Associate Provost for Management, University of Virginia

**S7 Disney's Innovation in Action**

See the Walt Disney World Resort as you've never seen it before! This behind-the-scenes seminar showcases the innovative systems and technologies in use across their 43-square-mile property. You'll visit locations that most guests never get to see for a firsthand look at the role these innovations play in the delivery of the Disney "show." The seminar begins with a presentation highlighting the major events in Walt Disney's career which culminated in the development of EPCOT. Participants visit a variety of locations to see these innovative systems and technologies in use: the Tunnel System/"Utilidor" beneath the Magic Kingdom Park, Magic Kingdom Wardrobe, Production Center—show rehearsal and parade float storage facility, Walt Disney World Nursery and Tree Farm, Community Wastewater Treatment Facility, North Service Area—manufacturing, laundry, food processing and energy services facilities. All participants will receive a complimentary copy of a booklet titled *Innovation in Action* at the conclusion of the seminar.

This workshop will leave the Hilton Hotel at 1:30 pm and return to the Hilton by 6:00 pm. It will be repeated on Sunday afternoon.

**HOSPITALITY GATHERING**

6:00-8:00 pm

## INTERACTIVE SESSIONS

3:30-4:45 pm

### ◆ C10 *Current Issues in Career Development: The SRA Task Force*

The SRA Task Force on Career Development is presently working to enhance research administration as a profession and career. This work is critical to all SRA members and to our institutions and employers. This session, led by the task force co-chairs, will share views of the task force and consider strategies and activities that will strengthen one's professional standing and capabilities.

#### *Speakers*

Regina A. Smith, Assistant to the Director, Office of Sponsored Programs, University of Alabama

David L. Entin, Assistant Dean for Research, University of Massachusetts Medical School

### ■ C11 *Animal and Human*

#### *Subject Issues*

This session will explore current use of animals and humans in biomedical research. A case study format will be used; one case study concerning animals and one dealing with human subjects will be presented. Dr. McCarthy will give an analysis of each case.

#### *Speaker*

Charles McCarthy, Director, Office for Protection from Research Risks, National Institutes of Health

### X11 *Ethics: How Does It Apply to Research Administration?*

An interactive discussion will address various topics in the area of ethics and research administration. Participants are encouraged to bring sample cases for discussion.

#### *Discussion Leaders*

Judy A. Emery, Director, Sponsored Programs, Dartmouth Medical Center

John R. Ward, Bursar and Director of Student Financial Aid, University of Colorado Health Sciences Center

### X12 *How Do You Handle a Difficult Employee?*

The group will discuss the problems encountered from both the administrator's and the personnel services professional's perspective.

#### *Discussion Leaders*

Everett Emino, Assistant Dean for Research, Institute of Food and Agricultural Sciences, University of Florida

Lu Ann Sweeley, Assistant Director, University Personnel Services, University of Florida

### X13 *Contract Negotiation*

This session will focus on current issues in contract negotiations. Participants are requested to bring questions/issues to the session.

#### *Discussion Leaders*

Jerry G. Fife, Director, Contracts and Grants, University of North Carolina at Chapel Hill

Frederick B. Mesler, Manager, Contracts and Grants, Texas A&M Research Foundation

### X14 *Potential for Growth: Industry-University Relationships*

Participants will examine the role of the research administrator as a catalyst not only in establishing, but also in maintaining and improving upon successful collaborations with universities and industry.

#### *Discussion Leader*

Lucy C. Henry, Director, Academic Grants and Contracts, University of North Carolina

### X15 *National Association of VA Nonprofit Corporations*

Dr. Levine will lead a discussion on the topic of the National Association of VA Nonprofit Corporations. This session will serve to inform VA administrators of the merits of such an organization and will apprise them of the process and support to date for the establishment of such an organization.

#### *Discussion Leader*

Richard F. Levine, Associate Chief of Staff for Research and Development, Veterans' Affairs Medical Center, Washington, D.C.

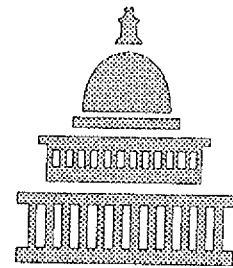
### X16 *Evaluating the Research Support Office*

How is your research support office evaluated? Why do you need to evaluate? Who should evaluate? The current environment for accountability, downsizing and competing priorities makes formal evaluation of research support offices a critical area for attention. Participants will interactively examine this topic from a variety of perspectives.

#### *Discussion Leader*

Peggy S. Lowry, Director, Assistant Vice Chancellor, Office of Research Services, University of Illinois at Urbana-Champaign

# National Association of Veterans' Research and Education Foundations



Newsletter August 1992

## NAVREF Board of Directors

### Ron Flink, Chairman

Chicago Association for Research  
and Education in Science

### Dallas G. Cross, Vice-Chairman

Seattle Institute for Biomedical and  
Clinical Research

### Richard F. Levine, MD, Treasurer

Institute for Clinical Research,  
Washington, DC

### Jeanette Evans-Hamilton, Secretary

Midwest Biomedical Research  
Foundation, Kansas City, MO

### Clyde H. Corsaro

Central New York Research  
Corporation, Syracuse, NY

### George McAdams

Northern California Institute  
for Research & Education, Inc.

### Nancy M. Parks

Augusta Biomedical Research  
Corporation, GA

### Shirley A. Shetula

Veterans Medical Research  
Foundation of San Diego, CA

## FY 93 VA Medical Care & Research Appropriations Comparison Chart

	Bush Admin		
	FY 1992	Request	House Senate
Med Care	\$13.513 billion	\$14.632 billion	\$14.632 billion \$14.661 billion
Res- earch	\$227 million	\$242 million	\$242 million \$232 million

## Washington Office Established

Effective July 15, 1992, the Association opened offices at 311 Massachusetts Avenue, NE, Washington, DC 20002 within The Office of **Lynn Morrison**. Ms. Morrison maintains a well-respected firm that provides lobbying and other services to health-oriented organizations. Her office is known for its particular focus on VA research funding and policy.

**Barbara West** has been appointed executive director of the Association. Mrs. West has two years management and administration experience in working with nonprofit organizations and will guide the Association through its earliest stages of development. Priorities include membership and program development, fund raising, and IRS recognition of the association as a tax exempt nonprofit organization with 501 (c) (3) status.

**Richard Fuller** directs the public policy activities of the Association. Past experience serving on the professional staff of several Congressional VA Committees, including the Subcommittee on Hospitals and Health Care, and as legislative director of a national veterans service organization, have given Mr. Fuller a strong background in VA health policy and research. He also has extensive contacts with Members of Congress, Congressional Staff, VA Central Office and veterans service organizations.

Please feel free to contact the Washington office at the address above, by phone (202-543-7273) or by fax (202-543-5327). The office is conveniently located on Capitol Hill, three blocks east of Union Station and two blocks from the US Capitol.

## Senate Committee Cuts VA Research Funding

On August 3, the Senate Appropriations Committee approved its version of the Fiscal Year 1993 appropriation for VA.

The Committee approved research funding at \$232 million; \$10 million below the House-approved level and the Administration's request (see chart at left). The House and Senate VA Appropriations Subcommittees will appoint Members to serve on a conference Committee after the August Congressional Recess to reconcile the differences between the two versions of the legislation. The Senate funding level, if allowed to prevail in the final conference report, would set FY 1993 funding at only \$5 million above the '92 level, further aggravating an already intolerable funding crisis caused by the Career Development snafu. The NAVREF Washington office is working with the House VA Appropriations Committee to urge rejection of the lower Senate research recommendation in conference.

## Career Development

The Senate FY 93 VA appropriations bill contains language similar to the version passed by the House in July that would require VA to return the obligation for Career Development salaries to the "Research Appropriation Account."

( continued on page 4)



## Dear Colleague:

It is with a sense of honor and responsibility that I address you in the first issue of the NAVREF Newsletter. I am delighted to have been elected Chairman of the Board, but there are many others, especially Richard Levine, who have worked diligently to make NAVREF a reality.

In just over a year, the National Association of Veterans' Research and Education Foundations has progressed from a vague idea to an operational organization. NAVREF has established an office, employed an outstanding staff, and most importantly, developed a very exciting agenda for the future.

The next and most pressing order of business is membership recruitment. About half of all the foundations have either already joined or plan to do so in the very near future. The current membership of 17 foundations represents more than 50% of the total \$25 million received by all the foundations last year.

One of NAVREF's primary objectives is to educate its members. The talent, expertise and experience found among our membership will be of inestimable value to all our foundations.

There is a genuine concern that the deluge of regulations facing the foundations will threaten the flexibility and efficiency that encourages productive and meaningful research. By voluntarily joining together to constructively and cooperatively develop non-mandatory guidelines for ourselves, we can hope that the level of outside intervention and regulation will diminish.

NAVREF intends to represent the interests and concerns of all the foundations. To do that we need 100% participation. Each of us has a great deal to offer to NAVREF and all of us will benefit.

This is not the time to sit on the sidelines. Thanks to all of you who have already joined NAVREF. To our valued colleagues who have not yet joined, we look forward to receiving your membership form soon.

**Ron Flink, Chairman of the Board**

## Membership Form

- ☐ Enclosed are my annual dues  
☐ Please send more information

Name of Foundation \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

\_\_\_\_\_ Fax \_\_\_\_\_

Association Rep. (Name & Title) \_\_\_\_\_

Year Incorporated \_\_\_\_\_ Gross Receipts for Last Fiscal Year \_\_\_\_\_

1992 Dues (0.5% of gross receipts to a maximum of \$5,000 ) \_\_\_\_\_  
 (minimum: \$50.00)

**Please include the following documents with your application for membership:**

1. A resolution from your Board of Directors supporting membership in NAVREF
2. A copy of IRS Form 990 for 1991
3. Annual dues for 1992 (All memberships are based on NAVREF's fiscal year, June 1 - May 31.)

## NAVREF

### Members to Date

- Tucson, Arizona  
 Biomedical Research Foundation of Southern Arizona
- Palo Alto, California  
 Palo Alto Institute for Research and Education, Inc.
- San Francisco, California  
 Northern California Institute for Research & Education, Inc.
- San Diego, California  
 Veterans Medical Research Foundation of San Diego
- Atlanta, Georgia  
 Atlanta Research and Education Foundation, Inc.
- Augusta, Georgia  
 Augusta Biomedical Research Corporation
- Chicago, Illinois  
 Chicago Association for Research and Education in Science
- Knoxville, Iowa  
 Knoxville Association for Research and Education in Science
- Boston, Massachusetts  
 Boston VA Research Institute, Inc.
- Brockton/West Roxbury, Massachusetts  
 Brockton/West Roxbury VA Research Corporation
- Kansas City, Missouri  
 Midwest Biomedical Research Foundation
- Manchester, New Hampshire  
 Friends of VA Research
- Syracuse, New York  
 Central New York Research Corporation
- Oklahoma City, Oklahoma  
 Veterans Research Foundation
- Seattle, Washington  
 Seattle Institute for Biomedical and Clinical Research
- Tacoma, Washington  
 American Lake Research Association
- Washington, DC  
 Institute for Clinical Research, Inc.

## September Membership Meeting

There will be a NAVREF membership meeting on Tuesday, September 15 at 5:00 p.m. This meeting will be held in conjunction with the Society of Research Administrators' (SRA) annual meeting in Orlando, Florida. The tentative schedule is:

**Tuesday, September 15 - Salon 7, Disney World Hilton Hotel**

**3:30 - 4:45 Interactive Session X15**

Title: Developing an Agenda for NAVREF

Panelists:

Ron Flink, AO Chicago VAMC

Executive Director, Chicago Association for

Research and Education in Science

Chairman of the Board, NAVREF

Richard Levine, MD, ACOS for R&D, Washington, DC VAMC

Chairman of the Board, Institute for Clinical Research, Inc.

Treasurer, NAVREF

Tentative Topics:

"State of the Union" & Plans for 1992-93

Current status of NAVREF issues in VACO

Future educational seminars

Outlining governance of NAVREF

Open discussion

**5:00 - 6:00 NAVREF Membership Meeting**

**8:00 NAVREF Board of Directors Meeting**

Only those registering for the SRA meeting may attend SRA Interactive Session X15. NAVREF members not attending the SRA meeting are welcome to come to the membership meeting that will follow the Interactive Session. Please use the form below to indicate that a representative from your foundation will be coming to the NAVREF membership meeting. Call Barbara West at 202-543-7273 if you have any questions or need additional information.

### September Membership Meeting Attendance Form

Name \_\_\_\_\_

Foundation Name \_\_\_\_\_

☐ I am registered for the SRA meeting and will attend Interactive Session X15.

☐ I will attend the NAVREF Membership Meeting

☐ A representative from my foundation will not attend the NAVREF Membership Meeting. Please send me all handouts.

Please return form to NAVREF, 311 Massachusetts Ave., NE, Washington, DC 20002.

### Can you answer this question?

A full-time VA nurse wants to work part-time for your foundation. Is this permissible and if so, on what basis should she be paid?

Foundations that have not yet joined NAVREF were recently sent a "quiz" testing their knowledge of the ins and outs of operating, managing and funding a foundation.

Learning the correct answers is just one of many reasons to join NAVREF -- today!

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## Career Development (continued from front page)

The Senate Subcommittee's report on the bill contained very strong language condemning VA for "reprogramming" the Career Development funds without seeking the approval of the Appropriations Committees. The Senate bill also contains no specific additional dollars to help the research account re-absorb the impact of the Career Development Program. However, unlike the House bill, the Senate version would allow VA to (Senate Conference Report 102-356, page 26):

transfer \$25 million from the Medical Administration and Miscellaneous Operating Expenses (MAMOE) account to the research account for the Career Development program should the Chief Medical Director determine it to be a priority.

A choice between funding MAMOE or Career Development would present an interesting political quandary to any Chief Medical Director. Career Development would consume more than half of the \$44 million for MAMOE contained in the Senate bill.

## House Increases DoD/Va Cooperative Research Funds Eyes Set on Senate to Match \$30 Million Level

With the backing of House Committee on Veterans' Affairs Chairman G.V (Sonny) Montgomery, the House has approved \$30 million for DoD/VA cooperative research in its FY 1993 appropriation for the Department of Defense. The \$20 million increase over FY 1992 levels could be one of the only means to help offset, if only in part, the impact of the Career Development switch contained in the VA appropriations bills.

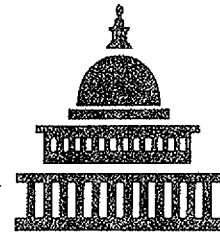
Senate appropriators must also make a commitment to the \$30 million level if the increase is going to survive in the final FY 1993 bill. On August 5, 1992 NAVREF joined 16 national medical associations and health advocacy groups in a letter to the members of the Senate Appropriations Subcommittee on Defense urging that the Subcommittee meet the same higher funding level as the House in their recommendations. According to current best estimates, the Senate Subcommittee will not meet to make its recommendations until September.

For further information on the status of the DoD appropriation or other legislative matters, contact Richard Fuller at the NAVREF Washington office (202-543-7273).

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**National Association of  
Veterans' Research and Education Foundations  
311 Massachusetts Avenue, NE  
Washington, DC 20002**

# National Association of Veterans' Research and Education Foundations



Newsletter October 1992

## IG to Survey NPCs

NAVREF's Washington office has been informed that the Office of the Inspector General has been asked to review the operations of a substantial number of representative foundations. The reviews are to be routine in nature, attempting to assess how the foundations are operating and progressing, not in response to any particular perceived problem. NAVREF will be in contact with the IG as plans and schedules develop, and will keep the membership informed.

## NAVREF Board of Directors

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Chicago Association for Research  
and Education in Science

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Seattle Institute for Biomedical and  
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### Jeanette Evans-Hamilton, Secretary

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Augusta Biomedical Research  
Corporation, GA

### Shirley A. Shetula

Veterans Medical Research  
Foundation of San Diego, CA

### Dennis Smith, MD, ex officio

Assoc. Chief Medical Dir. for R&D  
Department of Veterans Affairs

## Memorandum

**To:** VA Nonprofit Foundations  
**From:** Dennis Smith, MD  
Associate Chief Medical Director for R&D, DVA  
**Subject:** NAVREF

As I know occurs with many of you, the timing of the NAVREF meeting in Orlando was in direct conflict with two other obligations. I feel fortunate that I chose to attend the NAVREF meeting.

When I first became aware that 501 (c) (3) foundations were being set up within the VA, I applauded even though at the time I was not associated with the VA. When I accepted this position, my applause and enthusiasm grew as I learned that legislation had legitimized the foundations, yet kept them independent of the burdensome and restrictive bureaucracy that plagues the post funds. My enthusiasm was soon tempered by the ominous warnings of our General Counsel about the liabilities that these independent foundations threatened, and by the expressed paranoia of some directors and regional directors. It became clear to me rather quickly that the foundations were the best thing that had happened to VA research in some time, but that many people in positions of considerable influence and power were leery of them and considered them to be a highly vulnerable activity and a visible target of the IG.

Others were aware of the storm clouds gathering and took an appropriate and, I think, brilliant protective measure: they formed NAVREF. NAVREF has flourished, becoming the single most important factor in protecting the corporations from bureaucratic strangulation. NAVREF enjoys a board of directors that is concerned, informed and active, supported by an impressive management team that has proven to be one of the most effective advocates for the VA on the Hill.

NAVREF is critical to the success of the VA foundations. NAVREF is not only a resource for legislative and organizational information for the foundations, but is also a powerful and effective voice in representing the corporations in relations with our General Counsel and the VA Administration. I feel strongly that all foundations should support NAVREF. There are sufficient forces adverse to the concept of the foundations that we need a strong and united front to counter them. NAVREF is such a force, but to be maximally effective, it needs the support of all of us.

## NAVREF Looks Ahead to FY 1994 VA Funding

Shortly before the final FY 1993 VA medical care and research budgets were passed, NAVREF met with the Friends of VA Medical and Research to plan strategies for FY 1994. Each year this coalition of over seventy national medical and health advocacy organizations develops and promotes a briefing document designed to convey to Members of Congress the urgent need for increased VA medical care and research funding.

NAVREF Washington Representative Richard Fuller said, "Last year the Friends of VA worked closely with key Members of Congress and their staffs in the earliest stages of the development of the FY 93 budget. This year we will start even earlier in the budget process by presenting the Office of Management and Budget (OMB) with a strong case for higher FY 94 VA medical care and research funding. (See next page for FY 92/93 funding levels.)

## NAVREF Members Meet in Orlando

NAVREF's first membership meeting was held in Orlando, Florida, on September 15. Approximately 50 people representing 26 foundations attended the meeting. Chairman of the Board Ron Flink welcomed representatives from current member foundations as well as those planning to join in the near future.

Mr. Flink opened the meeting by asking a representative from each foundation to introduce him/herself and to describe one way in which their foundation has directly benefitted their VA medical center or hospital. The purchase of numerous computers, specialized clinical research equipment, and the extraordinarily positive effect of these on morale highlighted the importance of the foundations.

Dennis Smith, MD, Associate Chief Medical Director for Research and Development, Department of Veterans Affairs, expressed the Department's appreciation for the contributions the foundations are making to VA research, and emphasized the DVA's support for and interest in the success of NAVREF.

During the membership meeting, changes in the NAVREF's bylaws were approved. Treasurer Richard Levine reported on NAVREF's financial standing, Exec. Director Barbara West reported on the status of the 501 (c) (3) application and various projects, and Washington Representative Richard Fuller reported on legislative activities.

Nancy Parks, administrative officer for research at the Augusta, GA, VAMC, presented statistics about the foundations and highlighted items required in IRS and DVA reports.

The meeting concluded with discussion of the goals of NAVREF, the role it can play and the need for increased membership and participation of members. Thank you to all who attended and/or contributed to the meeting.

## Nominating Committee for Board Elections

A nominating Committee has been formed to prepare the slate for board of directors elections that will take place at the NAVREF Annual Meeting, tentatively scheduled for June 1993. The members of the Nominating Committee are:

Chairman	Richard Straight, PhD	Salt Lake City, UT
	Tony Schifano	Syracuse, NY
	Jim Donoho	Oklahoma City, OK
	Melvin Buck	Decatur, GA

In accordance with NAVREF's by laws, the board of directors will consist of representatives from five different Class A members (foundations), two persons not affiliated with any foundation, representing the interested public, one representative from a Class B member, and the Associate Chief Medical Director for R&D of DVA, or his or her designee, as ex officio member without vote.

Of these directors, one will be a Medical Center Director at a DVA facility, one will be either COS or ACOS for research of a DVA facility, and three will be executive directors (but not also MCD, COS or ACOS) of member foundations.

NAVREF members' boards may nominate individuals for the NAVREF board of directors. Such nominations must 1) be in writing, 2) include a biography (one half page or less) of the nominee, and 3) be signed by the nominee authorizing that his/her name be submitted for election. Send all nominations to NAVREF, 311 Massachusetts Ave., NE, Washington, DC 20002, **no later than April 1, 1993**. A slate of no more than twelve nominees will be prepared by the Nominating Com.

VA FUNDING	FY 1992	FY 1993
Medical Care	\$13.5 billion	\$14.6 billion
Research	\$227 million	\$232 million
DoD/VA Research Transfer	\$20 million	\$30 million

## NAVREF Members to Date

### Augusta, Georgia

Augusta Biomedical Research Corporation

### Boston, Massachusetts

Boston VA Research Institute, Inc.

### Brockton/West Roxbury, Massachusetts

Brockton/West Roxbury VA Research Corporation

### Decatur, Georgia

Atlanta Research and Education Foundation, Inc.

### Hines, Illinois

Chicago Association for Research and Education in Science

### Kansas City, Missouri

Midwest Biomedical Research Foundation

### Knoxville, Iowa

Knoxville Association for Research and Education in Science

### \*Little Rock, Arkansas

Biomedical Research Foundation

### Manchester, New Hampshire

Friends of VA Research

### \*Memphis, Tennessee

Research Incorporated

### \*Miami, Florida

South Florida Veterans Affairs Foundation for Research and Education, Inc.

### Oklahoma City, Oklahoma

Veterans Research Foundation

### Palo Alto, California

Palo Alto Institute for Research and Education, Inc.

### \*Salt Lake City, Utah

Western Institute for Biomedical Research

### San Diego, California

Veterans Medical Research Foundation of San Diego

### San Francisco, California

Northern California Institute for Research & Education, Inc.

### Seattle, Washington

Seattle Institute for Biomedical and Clinical Research

### Syracuse, New York

Central New York Research Corporation

### Tacoma, Washington

American Lake Research Association

### Tucson, Arizona

Biomedical Research Foundation of Southern Arizona

### Washington, DC

Institute for Clinical Research, Inc.

\*New member

Part of NAVREF's mission is to provide information of importance to the operation of all foundations. The opinion below answers the question of whether it is appropriate to pay VA/foundation employees at their regular rate or time and one half when work performed for the VA and foundation exceeds forty hours in one week.

## Legal Opinion Regarding Overtime Payment for VA/Foundation Employees

### **The following opinion was provided in response to a request from a NAVREF member, and paid for by NAVREF:**

You have asked my opinion whether Veterans Administration laboratory research employees who are not exempt for the federal overtime payment statute (1), are required to be paid time and one half overtime for similar work they perform for nonprofit corporations in VA laboratories when combined hours from both jobs exceed forty in a week. My opinion is that overtime is required to be paid in these circumstances.

### **Factual Background**

The Veterans Administration employs laboratory technicians to work in its medical research laboratories. These persons are employees of the federal government.

Nonprofit research corporations have been established by VA professional staff to receive private grants to perform research on specified projects which are different from, but related to VA research work. This research is performed by the same laboratory technicians and nurses in the same VA labs and clinics in which they regularly work. However, when performing such work they are employees of and are paid by the nonprofit corporation. These research projects are at all times considered to be VA projects and are conducted for the benefit of the VA.

### **Discussion**

Under the FLSA (Fair Labor Standards Act), all hours of work of a non-exempt employee over forty in a week are required to be paid at time and one half the employee's regular rate of pay.

Obviously, when a person has two different jobs with two entirely different employers, working, for instance, 40 hours for one and 20 hours for the other in the same week, neither employer owes overtime.

Where however, the two employers have some degree of interrelationship, they may be deemed by the U.S. Department of Labor (USDOL) as "joint employers" for FLSA purposes. The effect of such a finding is to treat both separate employers as one, such that the forty hour trigger for overtime purposes is tripped by the cumulative number of hours worked for both employers in the work week. The USDOL's joint employer regulations, 29 CFR 791, state that joint employership will be found concerning an employee's

work for two separate employers unless both employers are "completely disassociated" and, conversely, will be found where the work "simultaneously benefits" both employers.

The courts have applied this regulation to find joint employership where the employee worked for employers who were formally separate. See, for instance, Secy of Labor v. Radio-TV Corp., 16 WH 372 (D.Hi. 1964), where an employee worked a forty hour work week for a TV distributor and held a second different job with a separate but commonly owned manufacturing company which made parts sold to the distributor. The court found joint employership, and consequently overtime liability, noting that "there was a direct and mutually beneficial connection or relationship between the businesses of both corporations ... (R) regardless of the innocent intent of the defendants (the evidence) establishes a situation intended to be covered by the statute." (id at 375, 376); Secy of Labor v. Office Commun. Co., 17 WH 84 (MD NC 1965) -- joint employership created overtime liability where clerk of corporation also did work for job site; Karr v. Strong Detective Agency, 26 WH 1670 (ED Wi. 1984) -- employee of detective agency assigned to work as employee of warehouse to perform undercover surveillance. Joint employership was found because the two employers were not acting "entirely independent of each other" nor were "completely disassociated" with respect to the employment.

Here, the arrangement is decidedly for the mutual benefit of the VA and the nonprofit corporation since the VA uses the corporation as an indirect vehicle for obtaining private funding of VA research projects performed in the same VA labs and clinics, using VA staff and equipment, under supervision of VA investigators who also are members of the nonprofit corporation. At bottom, what we have here is a mechanism of private funding of VA research projects performed in VA facilities by VA staff for the benefit of the VA and the nonprofit corporation.

For these reasons, it is believed overtime payment would be required under DOL regulations to any nonexempt VA employee who worked over 40 combined hours in a week for both the VA and the nonprofit corporation. Employees have a statutory private right of action and can collect double damages for a willful violation, and attorney's fees. The Secretary of Labor independently has enforcement authority as well.

Steven R. Semler  
Semler & Pritzker

### **Attention All NAVREF Members**

All NAVREF members are asked to submit to the NAVREF office a description of the ways in which their foundation has benefitted their VA facility and veteran patients. This list may include equipment purchased for the facility, new drugs made available for the care of patients, additional staff hired, research performed, staff and patient morale boosters, etc. Please include the name and location of the foundation, the cost of project, and the benefit accrued by the VA facility, veteran patients or the general public.

The NAVREF Washington office will incorporate these lists in handouts to be used in fundraising activities and in laying the groundwork for expansion of the NPC authorizing legislation to include management of funds for educational activities.

Please send your list to the NAVREF office no later than October 31. Call 202-543-7273 if you have any questions.

### **Please Note:**

**Board of Director's Meeting:** Wednesday, December 16, 1992. This meeting will be conducted by conference call. Members are welcome to submit items for the agenda. Send all submissions in writing to Barbara West at the NAVREF office no later than November 15, 1992.

**NAVREF Annual Meeting:** NAVREF's first Annual Meeting is tentatively scheduled to take place in Washington, DC in June 1993. Current plans include informational seminars and "a day on the Hill." Representatives from NAVREF member foundations may attend for a reduced fee. Representatives from nonmember foundations will be welcome at the nonmember rate.

**National Association of  
Veterans' Research and Education Foundations**  
311 Massachusetts Avenue, NE  
Washington, DC 20002

**Important Member Information  
and Legal Opinion Inside**

## **What is NAVREF?**

Established in 1992, NAVREF is the national association of Department of Veterans Affairs (DVA) nonprofit research foundations. NAVREF's mission includes:

- o Promoting the goals of VA research foundations
- o Conducting educational seminars for members and other interested persons
- o Promoting the highest standards of foundation organizational and financial management
- o Advocating legislative changes on behalf of the foundations
- o Representing the interests of the foundations to the DVA Central Office and Congress
- o Developing and distributing organizational materials to the foundations
- o Informing the public of the benefits of VA research

NAVREF maintains an office in Washington, DC a few blocks from the US Capitol and the Department of Veterans Affairs Central Office. Professional staff handle administrative and financial matters, coordinate activities among the foundations and provide liaison with Congress and the DVA.

The NAVREF Board of Directors consists of the Associate Chief Medical Director for Research & Development of the DVA, representatives from five different member foundations, two persons not affiliated with any foundations who represent the general public, and one representative from a membership organization not affiliated with a foundation.

The NAVREF Board, NAVREF members and the DVA share a common interest in ensuring that all DVA foundations are managed in accordance with the highest professional standards, while maximizing the excellence of the foundations' research.

## **What are the Veterans Nonprofit Foundations?**

Veterans nonprofit foundations were authorized by Congress in 1989 to support and enhance the Department of Veterans Affairs' research mission. These foundations provide a flexible funding and administrative mechanism for private organizations, including for-profit corporations, to support research conducted by the DVA.

In 1991, sixty-two veterans research foundations received and administered over \$25 million in private funds on behalf of their medical centers -- a major boost to shrinking federal appropriations for veterans' medical care and research budgets. The foundations act as independent entities under the laws governing nonprofits in each state; however, by act of Congress, each foundation is fully accountable to the oversight of the DVA Chief Medical Director and the Secretary of Veterans Affairs.

In addition to supporting a broad variety of research projects, funds given to VA foundations are also used to purchase new medical and office equipment; to provide additional medical and office supplies; and to support salaries for nurses and technicians -- all for the benefit of the country's veterans. The research opportunities offered by the foundations give DVA an important tool to recruit and retain quality health care professionals who in turn improve the quality of health care services to the veteran population.

**For additional information, or to become a member of NAVREF, call Executive Director Barbara West at 202-543-7273.**

## **What are the benefits of joining NAVREF?**

When your foundation joins NAVREF, you and your colleagues will belong to the only national association concerned about the welfare of the DVA research foundations. Through opportunities to serve as a member of the Board of Directors or as a member of Board advisory committees, you are assured that the interests and concerns of your foundation are represented and addressed.

Other special benefits include a bi-monthly newsletter offering the latest policy developments, financial, organizational and management advice, and reduced registration fees for the Annual Meeting.

## **What is planned for the future?**

- o NAVREF Annual Meeting -- tentatively scheduled for June, 1993 in Washington, DC
  - Educational Seminars on Foundation Management
  - "A Day on Capitol Hill"
- o Exploring Pooled Liability, Life and Disability Insurance for foundation directors and employees
- o Investigating Investment Strategies for foundation funds
- o Holding Educational Seminars in conjunction with other meetings attended by NAVREF members
- o Developing a Bank of Legal Opinions on Foundation management
- o Developing a Foundation Management Handbook
- o Exchanging Fundraising Advice among Foundations



## NAVREF Members

### Augusta, Georgia

Augusta Biomedical Research Corporation

### Boston, Massachusetts

Boston VA Research Institute, Inc.

### Brockton/West Roxbury, Massachusetts

Brockton/West Roxbury VA Research Corporation

### Decatur, Georgia

Atlanta Research and Education Foundation, Inc.

### Hines, Illinois

Chicago Association for Research and Education in Science

### Kansas City, Missouri

Midwest Biomedical Research Foundation

### Knoxville, Iowa

Knoxville Association for Research and Education in Science

### Little Rock, Arkansas

Biomedical Research Foundation

### Louisville, Kentucky

Clinical Research Foundation, Inc.

### Manchester, New Hampshire

Friends of VA Research

### Memphis, Tennessee

Research Incorporated

### Miami, Florida

South Florida Veterans Affairs Foundation for Research and Education, Inc.

### Oklahoma City, Oklahoma

Veterans Research Foundation

### Palo Alto, California

Palo Alto Institute for Research and Education, Inc.

### Salt Lake City, Utah

Western Institute for Biomedical Research

### San Diego, California

Veterans Medical Research Foundation of San Diego

### San Francisco, California

Northern California Institute for Research & Education, Inc.

### Seattle, Washington

Seattle Institute for Biomedical and Clinical Research

### Syracuse, New York

Central New York Research Corporation

### Tacoma, Washington

American Lake Research Association

### Tucson, Arizona

Biomedical Research Foundation of Southern Arizona

### Washington, DC

Institute for Clinical Research, Inc.

## NAVREF Board of Directors

### Ron Flink, Chairman

Chicago Association for Research and Education in Science, Hines, IL

### Dallas G. Cross, Vice-Chairman

Seattle Institute for Biomedical and Clinical Research, WA

### Jeanette Evans-Hamilton, Secretary

Midwest Biomedical Research Foundation, Kansas City, MO

### Richard F. Levine, MD, Treasurer

Institute for Clinical Research, Washington, DC

### Clyde H. Corsaro

Central New York Research Corporation, Syracuse, NY

### George McAdams

Northern California Institute for Research & Education, Inc. San Francisco, CA

### Nancy M. Parks

Augusta Biomedical Research Corporation, GA

### Shirley A. Shetula

Veterans Medical Research Foundation of San Diego, CA

### Dennis Smith, MD, ex officio

Assoc. Chief Medical Dir. for R&D Department of Veterans Affairs

## Professional Staff

### Barbara West

Executive Director

### Richard Fuller

Washington Representative

### Lynn Morrison

Policy Director

# NAVREF

## National Association of

## Veterans' Research

## and Education

## Foundations

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Draft

# VA Nonprofit Corporations Guidelines

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## SETTING UP A NONPROFIT CORPORATION

Public Law 100-322, Section 204, authorizes and describes a mechanism whereby funds not appropriated to the Department of Veterans Affairs may be received and administered by a nonprofit corporation at any VA medical center where a nonprofit corporation has been established. The sources of these funds may be grants, contracts or gifts from for-profit companies, charitable foundations, the Public Health Service or other Federal agencies, professional societies or other nonprofit entities, and individuals. Because the only statutory purpose of the corporation is to facilitate VA research, all funds received or administered must be related to VA research activities.

The Medical Center Director or designee (Chief of Staff or ACOS,R&D or AO/ACOS, R&D) consults with the R&D Committee for the approval to set up a corporation. Legal assistance in preparing the articles of incorporation and registering the corporation with the state is requested from Regional Counsel. The mandated directors for the board of directors are the Medical Center Director, the Chief of Staff and the Associate Chief of Staff for R&D.

The board of directors, appoints a president and/or Executive Director and/or Secretary/Treasurer for the general operations of the corporation and determines the specific duties and responsibilities of the office.

The Medical Center Director or designee notifies ACMD's for R&D (15C) and Clinical Affairs (110) that a nonprofit research corporation has been established.

The officer(s) applies to the U.S. Internal Revenue Service for recognition of nonprofit status of the corporation.

When the corporation is approved, notification should be made to both the Clinical Executive Board and the Administrative Executive Board.

Each corporation should seek recognition from the U.S. IRS as a tax-exempt corporation under section 501(c)(3) of the Internal Revenue Code. Regional Counsel will usually assist with this application.

## Regional Counsel

Prior to taking any action to establish a corporation, the Medical Center Director should consult with, and may seek the assistance of, Regional Counsel. The board or Executive Director may consult Regional Counsel or retain private counsel on any legal issues confronting the corporation, including those relating to employees, such as conflict of interest, labor relations, and employee rights and benefits, prior to taking any employment action. Because the corporation is specifically authorized as a means of carrying out VA's research mission, Regional Counsel may, on request, act as its legal counsel and provide legal services to the Medical Center Director or designee in establishing and carrying out functions of the corporation to the same extent as providing any other legal assistance to the medical center. As part of official VA duties, Regional Counsel may serve as agent for service of process and an incorporator, but should not be asked to assume any other operational role. Your Regional Counsel representative should not be on the Board or serve as an officer, but can be an invited guest at your board meetings for guidance.

In general, your Regional Counsel will assist you in the following:

- File corporation (fee)
- Assist in preparation of the Bylaws
- Assist in preparation of the Articles of Incorporation  
(Remember to state who is allowed to be a "member.")
- Apply for nonprofit corporation status with the Internal Revenue Service (Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code)

## Nonprofit Corporation Status with the IRS

After Regional Counsel assists in applying for nonprofit corporation status with the IRS, you will receive a notice that the corporation has been assigned a case number. After reviewing the application, you will next receive a request by the IRS for additional information by return mail before they can determine that the corporation meets all legal requirements. The additional information requested will include:

A detailed list of currently funded research projects administered by the corporation.

An explanation of the research, etc.

A list of the Board of Directors

Ownership or control of patents, copyrights, etc.

(See Appendix A for copy of such an IRS response.)

The IRS will probably give an Provisional Ruling rather than a Final Determination because the corporation is new. Within 90 days after the end of the Provisional Ruling Period, information must be submitted to determine that the corporation has met the requirements of "the applicable support test during the advance ruling period." This provisional ruling will become Final and the following year will become the Provisional ruling period. You must establish that has been a publicly supported organization. If so, the corporation will be classified as a section 509(a)(1) or 509(a)(2) organization as long as the corporation continues to meet the requirements of the applicable support test.

### **VA Assistance Available**

In order to assist the nonprofit corporations, the VA will usually give assistance in the form of space, utilities, computers, desk, phone and some supplies. The VA telephone lines may be used as long as no additional costs are involved. The use of the copier in the Research Administration Office is also available. Basically, any assistance the VA will give is dependent upon no additional costs being incurred. An example, the use of the copier may be compensated by purchasing either copier paper (for the replacement of that portion used by the corporation) or like supplies. (For example: The "White Out" purchased by the GSA contract for the office is an inferior product that smears. The corporation could purchase a better quality "White Out" to be used by the entire research office.)

### **Purpose of the Corporation**

The purpose of a nonprofit research corporation shall be to advance medical knowledge through the support of research-related activities at the VA medical centers where they are established, as will be specified in detail in the by-laws of each corporation. These corporations provide a

flexible mechanism for the receipt and administration of research funds other than VA appropriations.

### **Source of Funds**

Source of funds may be grants, contracts or gifts from for-profit companies, charitable foundation, the Public Health Service or other Federal or state agencies, professional societies or other nonprofit entities, and individuals.

The general purposes and powers of this corporation are to have and to exercise all rights and powers conferred on nonprofit public benefit corporations under the laws of the State, including the power to contract and to rent, buy and sell personal or real property. No policy of the corporation shall be knowingly carried out at variance to Federal, State, or Local authority, or to the common ethical principles of academic medicine.

These are private corporations, but subject to certain forms of federal oversight.

### **Mandated Directors**

The board of directors must include the Medical Center Director, the Chief of Staff, the Associate Chief of Staff for R&D.

### **Other VA Directors**

Additional VA Directors may be appointed, if desired. It is suggested that their terms of office be staggered in order to facilitate their replacement. If your corporation includes Research Educational projects, the ACOS for Education would normally be one of these additional VA Directors.

### **Non-VA Directors**

At least two individuals who are not employees or officers of the Federal government must be appointed as non-VA Directors. Additional non-VA Directors may be appointed, if desired. It is a requirement that these non-VA Directors be familiar with biomedical research.

Make sure no Director works for a donor (drug company) or is involved in any other conflict of interest.

### **Compensation for services rendered by a Board member**

Compensation for corporate directors who are also employed by the VA shall be limited to \$100 for each full meeting of the board of directors, held outside regular duty tours. If the Bylaws so state, directors and officers attending the meetings shall be compensated for travel expenses.

None of the directors may be employed by, affiliated with, or have a financial interest in a source of research funding for the VA unless it is a governmental entity or an entity the income of which is exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1986.

### **Changes to the Board of Directors**

The Medical Center Director has authority to approve the members of the board of directors or the corporation and all changes to the membership of the board.

### **Who Appoints the Officers**

The Board shall appoint a president and/or an Executive Director for the general operations of the corporation and shall determine specific duties and responsibilities of each officer. These duties and responsibilities will be outlined in the bylaws.

The duties of the officer(s) shall include:

1. Enters into contracts, agreements or collaborations with individuals, and public and private entities to support VA research.
2. Secures approval of R&D committee and the appropriate subcommittees, as defined in M-3, Part I, before receiving funds or committing material support for any specific research project; reviews appropriateness of project budgets.

3. With professional accounting oversight, meticulously maintains fiscal and personnel records of the corporation and makes these documents available, upon reasonable notification, to Federal officials (staff from the office of the Administrator of the VA, the Inspector General of the VA and the Comptroller General of the U.S.)

4. Submits an annual report to the Chief Medical Director, through the ACMD's for R&D (15C) and Clinical Affairs (110). This report, to be submitted by June 1 each year, which

(a) describes the activities and accomplishments;

(b) includes a list of its officers, directors and employees during the report period;

(c) reports on the basis of a report prepared by an independent CPA) the annual receipts and expenditures, and its IRS Form 990 (tax-exempt corporate return), when applicable; and

(d) includes copies of the signed and dated annual acknowledgements of "Standards of Ethical Conduct and Related Responsibilities of Employees" (38 CFR, Chap.1, subpart B) from each employee, officer and director of the corporation, whether not also employed by the VA, that employee is aware of and has ensured compliance with the Federal laws and regulations pertaining to performance of official functions.

Since the Board oversees the officers of the corporation, a director cannot also be an officer. Thus, the officer(s) of the corporation cannot be a Medical Center Director, a Chief of Staff or an Associate Chief of Staff or R&D as these are mandated directors. However, this ruling is expected to be reversed since those individuals holding these positions work for the corporation on a WOC basis.

### **First Board of Directors Meeting**

The first BOD meeting should include on the agenda the following:

- Approve the Bylaws
- Approve Directors (other than mandated directors)
- Appoint Officers
- List the duties and responsibilities of the Officers
- Decide whether to use a fiscal year (ending Sept. 30th) or a calendar year (Make sure the decision is in your Bylaws)
- Set overhead/indirect costs or charges for administering projects
- Determine Principal Investigator eligibility guidelines
- Determine travel cost limitations guidelines
- Obtain signatures on the "STANDARDS OF ETHICAL CONDUCT AND RELATED RESPONSIBILITIES OF EMPLOYEES" form

### **Obtaining Outside Counsel**

There are times you will need a non-government perspective. Usually there are "grey areas" between the VA and the nonprofit corporation; thus, Regional Counsel would lean towards agreeing with the VA. In differences of opinion, General Council opinion prevails.

### **Reasons for Hiring a CPA**

Hiring a CPA is a must. Aside from having someone to give guidance on the legality of some types of questionable expenditures, there are numerous reports that need to be prepared annually. A CPA will:

1. Prepare the Exemption Application for State Taxes.
2. Prepare the Exemption Organization Annual Information Statement or Return for State
3. Prepare the IRS end of year report (Form 990)
4. Prepare the Periodic Report to Attorney General of California. This report is for the Department of Charitable Trusts Registry in California. This report may not be required in your state, but most states require an equivalent report.
5. Prepare the Industrial Classification Statement for State



6. Prepare year end financial statements and audits, when necessary. While audits are only required biannually, an annual report is actually more efficient for the following reasons:

- a. For donor relations. Most donors will ask for the last financial audit.
- b. For office efficiency reasons.
- c. For Board relations. Outside Board members will feel a level of security and satisfaction knowing someone is auditing the books annually.

Each of these application requirements are complex. As an example, the application for Exemption Application for State Taxes includes: the completed application form; an application fee; financial statements; copy of the Articles of Incorporation; and copy of the Bylaws.

## Projects

All research projects must receive a formal review and be approved by the appropriate committees and subcommittees that normally approved VA projects, i.e. the Internal Review Board for human subjects, the Subcommittee on Animal Activities, the R&D Committee.

All research related educational projects must be approved by the appropriate Service Chief, the Chairman of the Education Committee, the ACOS for Education and President of the corporation. (See Appendix B for sample approval memo.)

The responsibility of the science for all research projects are the same as VA projects.

Your affiliated university may impose other restrictions. In Palo Alto, California, Stanford University will not allow the corporation to administer any federal grants whose principal investigators or university affiliated. Additionally, they will not allow any projects to be funded by such affiliated investigators unless the entire work is done on VA property, using VA personnel and VA space. Your university will have its own set of rules and regulations.

## More Than One Medical Center's Projects?

If your medical center is affiliated with another VA medical center, you may administer their projects. If there are divisions in a medical center, separate research corporations may be established to serve each division. A corporation may serve more than one medical center. If the medical centers are located in adjoining states, the corporation must file as a foreign corporation in the adjoining state. When more than one medical center are served, the Director, Chief of Staff and ACOS, R&D for each medical center served by the corporation must be members of the board of directors of the corporation. To reduce costs and promote efficiency, a corporation at a medical center may be wholly owned by a similar corporation based at another medical center or university in the same or adjoining State, as long as the purposes of all subsidiary corporations are to facilitate VA Research. (M-3, Part I, Chapter 00).

## Conflict of Interest

Each member of the board of directors of the corporation and each VA employee who is involved in the corporation's functions shall be subject to Federal laws and regulations applicable to Federal employees on conflicts of interest in the performance of official functions. Each board member and each VA employee so involved with the corporation shall submit to the Administrator an annual statement, "STANDARDS OF ETHICAL CONDUCT AND RELATED RESPONSIBILITIES OF EMPLOYEES," signed by the board member or employee certifying awareness and compliance with these laws and regulations. (See Appendix C.) A good time to do this is at the same time as the annual meeting of the Board of Directors. It will be necessary to cross out parts of the statement that does not apply to non-VA Directors. Signing of this form is mandatory.

## Benefits of the Nonprofit Corporation vs. the VA Funding

The nonprofit corporations have made doing research easier by improving the quality of assistance for its investigators. Some of these advantages are:

- a. An Investigator is able to set the salaries of his/her employees at the scale that is commensurate **to the duties performed**, without the hassle of writing and rewriting position descriptions that never seem to meet the quality of skill necessary to attain the grade **equal to** the salary such duties the supervisor feels the employee should earn.
- b. Employees may receive a pay raise when the investigator feels that an increase is due, without waiting for the VA one-year rule.
- c. Additionally, if an employee is not performing well enough to receive a raise, the investigator does not have to hassle with the forms necessary to prevent an automatic raise, such with the VA "step" process. An employee may not have increased enough in performance or experience to receive the equivalent of a step increase, but could certainly fall into a less negative evaluation as is needed to prevent a step increase in the VA.
- d. Investigators are allowed to purchase used equipment, as long as the warrantee is the same as for new equipment, thus saving thousands of dollars in purchasing power.
- e. There is no delay in payment for goods or services. The nonprofit's bills are paid either in advance or in a timely manner. In some corporations pay when the equipment or supplies are delivered. (The vendor brings the signed receipt to the nonprofit office and receive payment immediately.) Other corporations pay the bills when they are received from the P.I. or vendor (after confirming goods have been received.) This creates a positive relationship between the corporation and the vendors.
- f. Investigators are allowed to find the "best deal" and are not locked into GSA contracts or manufacturers. GSA contracts for the government are good when a price can be reached at is below the average cost; however, some products can be purchased at even lower costs from local vendors (who are aware of being paid promptly) than those set by GSA contracts.

## **Corporate Seal**

A corporate seal for the Corporation should be purchased. This seal will be impressed or affixed over signatures on such documents as contracts and the Minutes to the Board of Directors Meetings.

## **Statement by Domestic Nonprofit Corporation**

Most states require an annual filing with the Secretary of State of a **Statement by Domestic Nonprofit Corporation**. All nonprofit corporations must file within 90 days after filing the articles of incorporation. Thereafter, corporations must file annually by the end of the calendar month of the anniversary date of its incorporation. There is a small fee.

## **Directors and Officers Insurance & Liability Insurance**

Because work on an approved VA research project is in furtherance of a government mission, actions of VA employees, including those on WOC (without compensation) appointments, who are working on a full time or part-time basis on a VA-approved project carried out under the auspices of the corporation, will normally be protected from personal liability under the Federal Tort Claims Act. This coverage is subject to certification by the Attorney General that the individual was performing services within the scope of Government employment. Because some corporation employees and activities unrelated to VA-approved projects will likely not be protected by the Federal Tort Claims Act, the board or Executive Director should purchase sufficient liability insurance for employees, directors and officers.

This insurance may be obtained by contacting an insurance broker who will send for bids for the coverage you desire. The directors and officers insurance is referred to as "errors and omissions" insurance.

## **General Liability Insurance**

The General Liability Insurance is a separate policy. Consideration should be given to purchasing commercial general liability protection and business contents insurance. Some insurers will not offer Director and

Officers Insurance unless a General Liability Insurance is already in effect or has been applied for in advance.

The corporation's liability for injuries to research subjects involving grants administered by the corporation depends on the employment status of the researcher. If the research investigator is performing the research as part of his/her duties as a VA employee, then the provisions of Title 28 USC, sections 1346 and 2675, the Federal Tort Claims Act, would apply. In such a case, any negligence action would be solely against the United States and not the individual researcher.

An individual holding a WOC appointment with the VA is a VA employee and would therefore, be eligible to use the services of the corporation, whether such use should be allowed is a question of policy, not a legal one. The only real requirement is that the research furthers the mission of the agency.

### **Business Personal Property Insurance**

An additional policy may be obtained for coverage of damage to corporate property/equipment. This is usually a very inexpensive coverage.

### **Commercial Package Policy**

A Commercial Package Policy can be obtained that will include all of the above with the exception of the D&O Insurance.

### **Nonprofit Corporation Annual Report (for VACO)**

An annual report is to be prepared providing a detailed statement of its operations, activities and accomplishments during the year. The documents must include:

- a. Activities and accomplishments for the period covered
- b. List of officers, directors and employees

c. Independent financial report from a CPA (A full audit is encouraged, but not legally required.) The financial report must include:

1. revenues
2. expenditures
3. equipment additions
4. changes in fund balance

d. IRS Tax Form 990 for the previous year

e. Current signed copies of the agreement to comply with the conflict of interest guidelines (to be signed annually by all employees, directors and officers)

### **When Principal Investigator Leaves**

The nonprofit corporation owns all the corporate property. Corporate property can only be transferred to another tax-exempt entity. If the principal investigator leaves the VA, the equipment and funds remain with the corporation, unless another nonprofit corporation is willing to administer the project. If the principal investigator leaves the area and wishes to move the corporation equipment and funds to another nonprofit tax-exempt entity, a letter must be received from the new corporation advising that they will accept the research project, the funds and the equipment. In such case, the principal investigator is responsible for the shipment of any equipment to the new corporation.

### **Federal Technology Transfer Act and Ownership of Patents, Copyrights, Royalties, etc.**

When a corporation receives recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3), it is based on a statement to the IRS that:

"Ownership or control of any patents, copyrights, processes, or formulas resulting from the research being generated by research funded through the (nonprofit corporation name) will remain with the United States as to any inventions that are created on government time, using

government resources. (Pursuant to Executive Orders 10096 and 10930, and 38CFR 1.652-.666.)"

In the event a previously unpatented invention or new use develops in the course of said research, the VA General Counsel is vested with the authority to determine the respective rights of the agency and private parties. The determination of rights to said invention as between the Government and the employee should be made by the VA General Counsel in accordance with 37 CFR 501 et seq.

The following paragraphs respond to the subject as to whether the VA Medical Center may enter into a **"Disclosure, Evaluation and Commercialization of Inventions"** agreement, and corresponding individual licensing agreements.

The Federal Technology Transfer Act (FTTA) permits federal departments to enter into licensing agreements in order to promote the patenting and marketing of inventions arising from federally supported research. The law authorizes directors of Government-operated laboratories to execute such agreements. 15 U.S.C. 3710a (a) (1). Through regulation, the Secretary has delegated this authority to individual VA Medical Center Directors. 38 C.F.R. 2.83.

VA nonprofit corporations may enter into commercialization and licensing agreements; however, **all** proposed agreements must first be submitted to the Office of General Counsel, Attn. Neal Lawson (024), Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, D. C., 20420, for approval. **You must submit your proposals to General Counsel before executing them.**

In all cases, a patent right determination must be made by VA General Counsel before VA may offer an invention for commercialization and licensing. License agreements may be exclusive or partially exclusive. 37 C.F.R. 404.7. VA patent rights to an invention may be waived in favor of a private licensee pursuant to an agreement; however, the FTFA requires that the Government retain a nonexclusive license to practice the invention for governmental purposes. 37 C.F.R. 404.7(a) (2) (i).

**The FTFA was created specifically to legitimize the direct sharing of invention profits with inventors.** VA applies the provisions of 15 U.S.C. 3710c in considering distribution of royalties, permitting payment by the Government of at least 15% of Government royalties to the inventor. Informally, General Counsel advises us that

arrangements permitting up to 50% of Government royalties to be paid to an inventor have been approved.

Government royalties which result from a license agreement may not be transferred to, or administered by, a VA nonprofit research corporation. General Counsel Advisory Opinion 27-90, dated 04-24-90, holds that **royalties and other income from licensing or assignment of inventions may not be transferred to or administered by a VA nonprofit research corporation.** O.G.C. Adv. 27-90.

### **Wording of your Letters of Agreement**

A nonprofit organization whose majority of research is composed of testing drugs for pharmaceuticals as required by FDA or research done to test drugs prior to marketing does not meet tax exempt ruling. Therefore, the wording should be **"...a search for new and approved methods of treating human affliction."** Any research that is labeled as such is considered "scientific research." In other words, it is not what you do, but about what you say you are doing. The nonprofit organization will not lose its IRS tax exempt status for doing some drug studies, only if it is a substantial part of the studies. Proposals for clinical studies or trial agreements should contain a contract that includes the following "generic" paragraphs that are acceptable to the VA and the corporation:

### **INVENTIONS AND PATENTS**

In the event a previously unpatented invention or new use develops in the course of said research, the VA General Counsel is vested with the authority to determine the respective rights of the agency and private parties. The determination of rights to said invention as between the Government and the employee should be made by the VA General Counsel in accordance with 37 CFR 501 et seq.

### **CONFIDENTIALITY**

All reasonable effort will be given to insure the confidentiality of data generated during the course of the study except as to those elements within the Department of Veterans Affairs' with a need to know. In addition, this Contract cannot abrogate the legal responsibility of the



Department of Veterans Affairs' for handling information under Federal Law. The Department of Veterans Affairs' will do everything legally required to protect commercially sensitive information. Specifically, if a Freedom of Information Act (FOIA) request is received, the Department of Veterans Affairs will consult with (DONOR) to determine if commercially sensitive information has been requested and if disclosure is required. If the Department of Veterans Affairs' determines that disclosure is required, (DONOR) will be given notice so that (DONOR) can take action necessary to protect their interest. If a FOIA suit is filed, the Department of Veterans Affairs' will notify (DONOR) of such.

## **PUBLICATIONS AND RIGHTS IN DATA**

The (DONOR) property right to the data generated during the study is subject to Federal Law and is further balanced against the right of the investigator to publish the study results in the scientific literature. These results, their underlying data and conclusions drawn from the study will not be publicly disclosed orally or by submission of a manuscript until (DONOR) has had thirty days in which to review the intended disclosure and make recommendations or comments.

## **INDEMNIFICATION**

The General Counsel and the San Francisco District Counsel concluded that the Department of Veterans Affairs' should not enter into Indemnification Agreements without some compelling reason. The Agreement is unnecessary because Department of Veterans Affairs' employees would be protected from personal liability under the provision of Section 4116 of Title 38. Coverage would be subject to Certification by the Department of Justice that an employee was performing services within the scope of the Department of Veterans Affairs' employment. 38 USC Section 4116; 38 CFR Section 14.600 et. al.  
(see over)

If there is a disagreement as to the wording of an agreement or contract, it is recommended that the following sentence be inserted before the signature blocks, **"This approval is subject to controlling Federal statutes."**

The signature blocks for these proposals should read as follows:

**AGREED TO AND ACCEPTED:**

_____ Donor Representative	_____ Title	_____ Date
_____ Investigator	_____ Title	_____ Date
_____ Signature of ACOS, R&D	_____ ACOS, R & D	_____ Date
_____ Signature of Exec. Director/President	_____ Exec. Director/President Title	_____ Date

**RDIS Reports**

All funds received for **research** must be reported on the VA's Annual Report as Extra-VA Funding under an **approved research project**. Thus, money deposited in the nonprofit corporation for research must be deposited under an approved research project title and as such must be reported under the RDIS Project Report annually.

**Corporation Mailing Address**

It is preferable for the corporation to have its own mailing address. For a small fee, a P.O. Box located in the VAMC's Post Office would be more convenient. This separate address prevents corporation mail being misrouted through the medical center.

**Donations**

Money may be accepted by the corporation from such sources as Federal or private nonprofit agencies engaged in the support of research and/or education in medicine, from commercial organizations involved in the development of new drugs and devices or in the support of medical research and/or education, from honoraria or consultant's fees obtained elsewhere or from personal contributions by members of the corporation, or from groups or individuals to defray the costs of scientific meetings, teaching sessions or other legitimate academic functions. All checks must be made payable to the corporation. Funds donated in support of a particular activity can be accepted only if the responsible investigator holds an appointment at the VA Medical Center or Clinic.

Some investigators request a sample of a donor letter for guidance. This sample is necessary for the corporation to know what limitations are on the donation, i.e. if the funds may be used for salary, supplies, travel, or at the discretion of the investigator. (See Appendix D.)

## Honorariums

The honorarium ban contained in 5 C.F.R. Part 2636 became effective January 1, 1991. An honorarium means a payment of money or anything of value for an appearance, speech (an address, lecture, oration or other form of presentation), or article. Exactly one year later, an amendment to the honorarium ban became effective as an Interim Regulation. (5 C.F.R. 2636.203(a)(13)) It is an exception to the honorarium ban whereby the term does not include:

Payment for a series of three or more different but related appearances, speeches or articles, provided that the subject matter is not directly related to the employee's official duties and that the payment is not made because of the employee's status with the Government."

Interpretation of this exception relies on an informal advisory opinion from the Office of Government Ethics. (85-18) On page 596 of this opinion, it states:

When the seminar, conference, or briefing in which the employee wishes to participate does not involve non-public information, but the subject matter thereof relates to the programs or operations of the employee's agency, the permissibility of the activity depends upon how closely the subject matter relates to the agency's responsibilities. Generally, an employee ... may lecture on a subject within the employee's inherent expertise based on his or her educational background or experience, even though the subject matter is related to the activities of the employing agency. The employee will be prohibited from receiving compensation only when the activity focuses specifically on the agency's responsibilities, policies, and programs...

In lieu of accepting honorariums, investigators (who are not sure if they meet these excepts) may request that a donation be made to the nonprofit corporation in support of his/her research.

## **General Post Funds – How to Transfer to the Corporation**

38 U.S. C. Section 4162: allows funds donated to the VA medical center's General Post Fund for VA research purposes to be transferred to the corporation. Other funds donated to the General Post Funds for a specific research project may be transferred to the corporation only if the donor provides consent.

Fiscal Service will want a letter from the donor stating their approval for the funds to be transferred to the nonprofit corporation. You can prepare this statement for the donor. (See Appendix E.)

If the General Post Fund consists and multiple donors, you need only check the balance in the fund and go back to the last donors that would be made up the balance left. When this approval is received, a cover memo needs to attached to it and sent to Fiscal Service. (See Appendix F.)

When this has been approved, the funds will be withdrawn from your medical center. Approximately six weeks later, a check will be received by your corporation with this balance. It is good practice to make a note of the exact amount of the balance that will be received as the VA does not send any notification or correspondence with the check to identify why the check is sent!

## **Funds Received**

Any check that is received should be deposited promptly. An acknowledgement letter should be send to first time donors. (See Appendix G.) All deposits made should be credited to either a research, educational or administrative account immediately. A memo should be send to the principal investigator advising him/her of the change in the fund total in their account. (See Appendix H.)

A record should be kept of all deposits made. This is called a, "Cash Receipts Journal." This journal will be needed for your annual IRS 990 report, and the annual report you make to VACO.

## Bank Accounts

Make sure your bank is federally insured. You may want to bank where you can receive more interest such as a money market account, such as Merrill Lynch, Schwab, etc. (Money market accounts are federal insured up to \$2,500,000 as the funds are invested in federally insured banks.) You may also want to consider investing in Certificates of Deposit. Unless your policies dictate otherwise, the interest earned becomes the property of your office (Administration) account.

An account with your local VA Credit Union should also be opened. This account would be used primarily for donations written in the principal investigator's name. The VACU will honor these "second party" checks only because they know the principal investigators. The principal investigator may request a letter from the corporation to the IRS stating that these funds were not used by him/her, but transferred to the corporation. (This request is usually made when they are doing their income taxes!)

## Supplies

Supplies and scientific accouterments such as scientific books, society memberships, etc. may be purchased for members by submitting the appropriate paperwork to the Executive Director. All dues and subscriptions must list the address of the VA. All purchase requests must be submitted on corporation purchase order forms. (See Appendix I.) The Executive Director will insure that sufficient funds are available to cover even a higher than anticipated cost. The President and Executive Director are the only persons authorized to make commitments of the corporation funds.

Supplies should be paid for shortly after they arrive. This sets up a good credit history with the vendors. Some GSA vendors will give the same government discount if they are informed that your corporation is a VA nonprofit corporation. Some vendors will request a letter advising them about your corporation. (See Appendix J.)

In some states, nonprofits must pay state tax. In other states, they don't. Check your State rules.

If supplies are purchased by the investigators or their staff, they may submit itemized receipts with a reimbursement form. (See Appendix K.)

## Expenditure Types

Determine the **type** each expenditure. This is required for CPA for the corporation's annual **IRS 990** report. The following are suggested types (and codes if needed):

AD	ADP EQUIPMENT
AN	ANIMALS
BO	BOARDING ANIMALS
CI	CIT CONTRACTS
CP	CPA CHARGES
CS	CONSULTANTS
CT	CONTRACTS MISC.
DU	DUES
EN	ENTERTAINMENT
EQ	NON-ADP EQUIPMENT
IP	IPA CONTRACT
LE	LEGAL FEES
MI	MISC.
MM	MEDICAL MEDIA
OH	OVERHEAD
PO	POSTAGE AND MAILING
PR	PRINTING & PUBLICATIONS
RE	REGISTRATION FEES OR DUES
SA	SALARY
SE	SERVICES
SF	SUBJECT FEE
SO	SOFTWARE
SU	SUPPLIES
TA	TAXES
TE	TELEPHONE CHARGES
TV	TRAVEL EXPENSES
TY	TYPING CHARGES
WC	WORKMENS COMPENSATION
XX	COPY CHARGES

All expenditures, such as the purchase of supplies, equipment, and travel for the corporation, must be approved by an appropriate official at

the medical center. Since all corporation employees are VA WOCs, then any corporation employee may be designated. One person may be approved to sign up to a limit set by the corporation officer(s). Additionally, it has been suggested that two signatures be required for expenditures over a certain amount.

## **Entertainment**

Make sure any entertainment expense is legal by requiring the investigator to answer, "**Who** (attendees), **What** (a speech, a meeting), **Where** (location), **When** (date and time) and **Why** (purpose)." These answers will cover the questions that would be asked in an IRS audit. These questions are answered in the form of a memo. (See Appendix L.)

## **Other Expenditures**

Reimbursement will be requested for Services, Postage or Telephone Costs will be received. These should be on separate memos as they must be separate charges for the IRS annual report. (Samples of these memos are shown in Appendices M, N & O.)

## **Subject Payments**

You will receive requests for checks to be made out to research subjects for payment. You will need to insure you receive the social security number and address of these subjects. This information may be necessary for IRS reporting in case they receive \$600 or more in a year.

## **Equipment**

Equipment may be purchased by corporation from the vendors recommended by the investigators. If there is a question about the appropriateness of a purchase, we will request a justification from the Principal Investigator. We expect that the corporation will be able to obtain the special "government" rates, most of the time. After receiving the equipment, the corporation office personnel should be advised of the serial number. Equipment purchased by the corporation becomes the property of the corporation, which retains the right to dispose of the equipment (either by transferring to another investigator or another

nonprofit organization) upon the termination of the investigator from the VA.

Equipment purchases should be tagged with the corporation label and recorded separately.

### **Personnel Employer Services Staff**

I strongly urge all corporations, no matter how small, to hire a personnel service to handle your payroll, payroll reports and monthly and quarterly deposits to the IRS and to your State. They will prepare all your quarterly reports, , annual reports, including your W-2 copies for your employees and the W-3 for the Social Security Administration. This is a tremendously time consuming job and it will be well worth the small administration fees.

If you have hired a Personnel Service your employees will actually be employees of the Personnel Services. However, you may interview, select and instruct the Personnel Service to employ full and part-time employees to carry out your research and/or education projects of the corporation. The hiring, termination, assignment of duties, and the determination of reasonable salary levels shall be upon the recommendation of the responsible member of the corporation.

All corporation or Personnel Service employees must be citizens or have the legal work documents. An application package is supplied by the Personnel Service.

All corporation or Personnel Service employees must be recorded with the VAMC as WOCs. This is for their own protection in case of injury, etc.

### **Salary determination**

The salary of Personnel Service employees is determined by the supervisor. If the employee is also a full time salaried VA employee, the salary will depend on the work done for the corporation. If it is basically the same work done while a VA salaried employee, then the rate of pay should be at least equal to the overtime rate for any hours over the cumulative rate of 8 hours a day or 40 hours a week. In other words, the employee could receive the same salary if the total hours working for the VA and the corporation are not more than eight hours a day or forty hours



a week. If the duties are different than the VA salaried duties, then the rate of pay may be what is agreed upon by the supervisor.

The benefits are whatever your corporation decides; however, all employees will be covered by FICA (social security), Medicare, State Disability Insurance, State Unemployment Insurance, as required by your State.

A Personnel Service has the advantage of group health plans and life insurance plans that a corporation with a small employee group may not be able to offer. Employees hired for more than 50% time should receive health and insurance benefits. Employees hired for less than 50% time may receive health and insurance benefits under special circumstances, as requested by the supervisor. Funds needed for annual leave accrual by the employees will be committed as it is earned.

Employees shall not be hired unless at least six months' salary costs and fringe benefits are received by the corporation, unless the entire project will last less than six months. Shorter projects should be budgeted in full before starting.

Any VA employee, including corporation officers, may not work on government time. However, it is expected that there is a small percentage of time that inevitable will be used on corporation business, i.e. answering phone or office inquiries. This is acceptable. Any salary earned as corporation employees must be for hours worked, other than their VA tour of duty, and doing duties different from their VA work. In other words, work they would not be doing if there were no corporation. A timecard for each employee must be submitted to the Service. (See Appendix M.)

## **Illness and Injury Prevention Plan**

Senate Bill 198 SEC. 10. (Section 6401.7 added to the Labor Code) requires that an Illness and Injury Prevention Plan must be established. This should include:

- Outlined plan
- Safety Inspection Reports
- Reports of Unsafe Condition or Hazard
- Safety Action Reports
- Occupation Accident, Injury or Illness Investigation Reports
- Training Verification

Supplemental Training Verification  
Safety Meetings  
Documents that must be at work site

If you hire a Personnel Service, they will be responsible for the plan. If you don't, you will be responsible for writing the plan.

### **Corporation Staff**

If you do not use a Personnel Service, the same rules for hiring apply as above. You will need a memo from the investigator stating the title, hourly salary, and beginning date of employment. A Form I-9 (See Appendix Q) must be included to insure the employee is a citizen or has the legal work documents. All corporation employees must be recorded with the VAMC as WOCs. This is for their own protection in case of injury, etc.

A timecard for each employee must be submitted at the end of each pay period. (See Appendix R.)

### **Benefits**

Since the corporation may not be able to offer health or insurance plans, a "lump sum" benefit amount could be added to the employees salary. The down side of this is this "lump sum" will be considered as income by the IRS and thus, will be taxed as such.

### **Employee Federal Taxes**

If you do not use a personnel service, you must pay the Federal taxes in a timely manner. If you estimate you will have more than \$500 to pay in one quarter, you must make periodic deposits to the IRS **each pay period**. This is done via Federal Tax Deposit Coupon made to a bank with your bank check. Be sure to check the proper quarter on the form. An error here can cause a nine month delay with the IRS to straighten out the error. These coupons may be obtained from the IRS. (Request Form 4417-A from the IRS to receive these deposit coupons.)

If you have a very small payroll, you can make your deposits quarterly with the required quarterly report. This is Form 641. You will be fined if you are late in your payments.

## **Annual Tax Forms**

In addition, you will have to prepare an Annual Report for the IRS which will include a copy of Forms W-2 for each employee, a Form W-3, a Form 1099s for each consultant, research subject, or person who did service who receive \$600 or more, and a Form 1096 as a cover page. Each employee will need to receive a W-2 set for their individual taxes. Each consultant or person who did service will need a set of Form 1099.

## **Employee State Taxes**

State taxes vary, but if you are in a state that taxes, you will need to do the following.

If you estimate you will have more than \$500 to pay in one quarter, you should be making periodic deposits to the State each pay period, or monthly, whichever amount falls into your size deposit. Usually once a month is sufficient. This is done via State Tax Deposit Coupon made to the State with your check. Be sure to check the proper quarter on the form that the funds are for. Again, you will have a Quarterly Report to do and an Annual Report to do. You will need to call your State to get the proper form numbers.

The Annual Report for your State will include copies of the W-2s, copies of the Form 1099s, and your local State forms. (In California, they are Form DE-43 and Form 596.)

## **VA Salaried Employees Working for the Corporation**

VA employees who are qualified to provide needed services while they are off official duty, may be hired by the corporation. However, such employment must be approved by an appropriate official at the medical center if they are Title 38 VA employees. The official is usually the the medical center director.

## **Supplementation of Salaries through VA Nonprofit Corporations**

Can full time VA physicians or other employees work for the corporation during off-duty hours and receive compensation exceeding their total negotiated salaries? Full time VA physicians or other employees may work for and be compensated by a VA Nonprofit corporation during off-duty hours, irrespective of the "TNS," subject to the legal strictures on outside employment. Those strictures generally prohibit full time VA physicians from assuming primary responsibility for non-VA patients' continuing medical care, prohibit outside activities conflicting with official duties, and permit only limited outside professional activities for payment, e.g., clinical teaching. These same rules would apply to full time physicians working for a VA nonprofit corporation outside their VA employment. There is no dollar limit on lawful outside employment.

Can VA physicians obtain a portion of their total negotiated salary from NIH or private research grants? (TNS refers to a physician's VA pay plus pay from the affiliated university.) Funds from NIH or private research grants may be used, through a VA nonprofit corporation, to pay VA physicians the non-VA portion of TNS for work performed for.....their faculty salaries. NIH and private research grants are both sources from which research corporations may lawfully accept funds, it would not be unlawful for the compensation that a VA physician receives for employment with a VA research corporation to be derived from NIH or private grants funding.

## **Consultants**

The Internal Revenue Service strongly advises us that no employee shall be listed as a consultant for the sole purpose of not withholding taxes. Fees to consultants, including travel and per diem costs, may be paid. A short written justification including the benefits of the visit, qualifications of the consultant, and estimated expenses must be submitted to the President for approval prior to a commitment being made. This memo should include the **SSN and address of the consultant**. At the end of the calendar year, an IRS Form 1099 is submitted listing the funds paid to any consultants. No cash advances will be provided for consultants.

If your consultants are not employees, you will need to submit a Form 1099 Misc. for all consultants, research subjects and individuals doing a service if the total received is **\$600 or more**. You will need to submit a cover Form 1096 to transmit these Form 1099s to the IRS. A copy of this packet must also be sent to your State Franchise Tax Board.

Hiring consultants require the same information and records as hiring employees. You must insure they are citizens or have the proper papers to legally work in this country. You must file an IRS Form 1099 at the end of the year for each person who is paid \$600 or more annually for services (whether a consultant or a person typing reports on their own time). If possible, it would be easier to hire them as employees and let your personnel people handle the IRS reports.

As stated above, you must file an IRS Form 1099 at the end of the year for each person who is paid \$600 or more annually. This not only includes people paid for services (whether a consultant or a person typing reports on their own time), but also any person who received \$600 or more for being a research subject.

### **Intergovernmental Personnel Act (IPA)**

Your corporation meets IPA mobility assignment program eligibility requirements and is eligible to participate in the IPA program. IPA mobility program regulations provide for the certification of a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, education, or development services, or related services, to governments or universities concerned with public management.

### **Travel**

Corporation funds may be used for travel, including attendance at educational conferences and seminars. Such travel must be limited to a purpose related to VA research activities.

A memo requesting funds to be committed (set aside) for such travel should be sent in advance of the travel. (See Appendix R.)

All travel by VA employees paid by the corporation must be approved in accordance with the appropriate Federal Travel Regulations

and the policies of Veterans Health Services. This means preparing a memo requesting approval (See Appendix S) and submitting VA Form 10-0101B, "Approval for Acceptance of Gifts, etc.". This approval allows the VA salaried employee to travel on Authorized Leave status; thereby being paid during the tour of duty absences. This form is not necessary for VA WOC employees. These forms are available in both the corporate office and in VA Personnel. When the trip has been completed, a request for travel reimbursement is submitted. (See Appendix T.)

An ACMD for R&D who once said, "The general consensus is that the government employee should live on this side of poverty, travel by Greyhound bus and lodge at the local "Y." Corporation funded travel for VA salaried employees or VA WOC employees may be funded at the corporation travel rules the Board of Directors have set. It is not necessary to travel at government per diem rates and rules, unless they are traveling on federal funds. In this event, they must comply with the same rules as employees traveling on government funds.

The corporation may support domestic or foreign travel expenses of its members to bonafide scientific meetings or for other research or educational purposes consistent with the purposes of the donation.

### **Suggested Restrictions for Corporation Travel**

On trips, VA and non-VA employee meal expenses may not exceed the per day amount set up by the corporation's Board, plus a "reasonable" amount for hotel (determined by the city involved). Maximum transportation reimbursement shall be limited to the equivalent direct coach fare by airplane, plus reasonable local ground transportation costs. First class airline fare will be approved only if justified based on physical disability. Travelers who purchase their own tickets will be reimbursed. Assuming that travel is appropriate to the purpose of the donation, these out of pocket expenses will be reimbursed. Most corporations request that costs over \$25 be backed up by receipts. Cash advances will be provided for travel only if requested and approved. **VA salaried employees** who are traveling on corporation expense, must have an approval on file or the acceptance of gifts/money from the corporation before a ticket may be purchased or reimbursement for per diem and expenses can be paid.

Corporation personnel traveling on government grant funds are restricted to the same per diem limits as government employees.

## Government Grants

Grantee institutions with high overhead may price themselves out of the grant market, according to NIH Director Bernadine Healy. Because the VA nonprofit corporations have a lower indirect cost rate than the universities, you may be planning to administer government grants. If so, there are several requirements:

1. A payment method called, "CASHLINE," can be used by any recipient organization that has a "Touch-Tone" telephone system. This method allows you to dial directly into the Voice Response computer located in Rockville, Maryland to request funds for grants paid through the Payment Management System (PMS) and have the funds "Direct Deposited: into the checking or savings account at your Financial Institute the next business day. (Request a SF1199A Direct Deposit/Sign-Up form.)
2. A quarterly report that includes all government grants giving the quarterly expenditures; the cumulative expenditures; and the interest earned on the account which holds only the grant deposits.

## U.S. Dept. of Health and Human Services Grant Requirements

Listed below is a list of the types of assurances your corporation must have on file to administer a federal grant. With the exception of the first three, I would not bother filing any of these other assurances until notified that they are needed.

Initial Assurance Regarding Procedures for Dealing with and Reporting Possible Misconduct in Science (Also, the VA Medical Center needs one on file.)

Animal Welfare Assurance, if appropriate

Human Subjects (IRB) Assurance, if appropriate

Certification Regarding Anti-Lobbying Activities for Contracts and Grants, Loan, and Cooperative Agreements

Civil rights

Nondiscrimination, etc.

Certification Regarding Drug-Free Workplace

## **Interest Earned on Federal Grants**

Funds received for Federal grants cannot be commingled with other donations. These funds require a separate bank account. However, if you receive several Federal grants, those funds may be in the same account. The reason is that any interest earned from Federal money, belongs to the Government. The last payment on a grant will be reduced at the interest it has earned. It is not necessary to keep accurate records of which Federal grant earned what percent of interest. You may estimate the portion that belongs to each grant as the final account will include the total interest earned. Recipients are permitted to retain \$100 per year (recipient's fiscal year) of the earned interest to cover administrative expenses.

## **How to Transfer Government Grants from VA to Corporation**

If the VA is currently administering a Government grant, you will have to send two letters to the granting agency. One letter from the VA stating that they willing will release the grant to the corporation, and one from the corporation stating that they are agreeable to administering the transferred grant. Your indirect costs will be ten percent on the salary portion. This percentage may be adjusted later, when you have established an indirect cost rate for your corporation.

## **Proposals for Setting Indirect Cost Rate for Federal Grants**

Preparing a proposal for an Indirect Cost Rate with the federal government agency is really not difficult. You will need to prepare this proposal for the federal agency that funds your first federal grant. Until a rate is established, your corporation will receive 10% of the salary portion of your grant.

For the office or administrative part, you will need to total all the estimated administrative costs then, subtract the amount paid for equipment. For the research (restricted) projects (not educational projects), you will then need to:



1. Total all of the research expenditures.
2. Add to this amount the total all the transfers these projects made to others (i.e. Pharmacy, Laboratory, Nuclear Medicine, etc.)
3. Subtract from this total all the expenditures for equipment or major subcontracts.
4. From this new total, subtract any overhead costs paid to the office/administration.

Divide the grand total for office/administration by the research projects grand total. You will have the Indirect Cost Rate percentage.

Example of Calculation:

Administration Costs	\$90,000
Less portion that was equipment	<u>-10,000</u>
Grand Total	\$80,000

Research Expenditures	\$615,000
Transferred to Pharmacy, Lab., etc.	15,000
Equipment expenditures	-50,000
Sub-contracts	<u>-30,000</u>
Grand Total	\$550,000

Divide the grand total for administration by the research projects grand total, you will have the Indirect Cost Rate of 14.5%.

Exp.: \$80,000 divided by \$550,000 = 14.5% Indirect Cost Percentage

The first time you submit an estimated Indirect Cost Rate Proposal. You will receive notification of your Provisional Indirect Cost Rate. After that fiscal/calendar year is over, you will need to do an actual cost lists. The percentage with the actual costs will be you Final Indirect Cost Rate (for that period). and will be the Provisional Indirect Cost Rate for the following fiscal/calendar year. Each year you will need to redo the Indirect Cost Rate. This may seem confusing, as a three year grant will fall under three different ICR percentages, but will be funded under the first year's ICR. These grants will be readjusted to the actual percentage rates at the end of the funding period. At that time there is a form that will need to be sent to the federal agency that will show whether they underpaid or overpaid the indirect costs.

You should estimate your ICR throughout the report year to see if you are increasing your rate. If you are not, you may decide this is the

report year to do something for the medical center, (such as to lease several copiers) that will show as expenditures on your administrative account! Or, send your corporation staff to the SRA meetings, etc.

## State Grants

Most State grants have a definite indirect cost rate that cannot be negotiated. In California, it is 8%. Additionally, there are foundations that have a limit on the indirect cost rate they can offer. An example of this is the American Heart Association and the American Lung Association who are limited to 10%.

Unlike federal grants who will advance you funds, most State grants will not pay the expenditures for their projects until a bill is submitted quarterly. If you are taking on a State grant, I would make sure just how specific they are in their categories. For instance, they approved a budget for salaries for \$40,000 with \$35,000 for employee A and \$5,000 for part-time employee B. Find out if they will have a "tizzy" if you spend \$33,000 for employee A and \$7,000 for employee B -- even though the total salaries spent was within the budget? If they will, be have the investigator submit an amended budget to be approved before you overspend on one employee and underspend on the other. (Some state grants can be a headache!)

## Reimbursing the Medical Center

It is virtually impossible, if you wish to reimburse the medical center for costs you may have incurred. Your medical center cannot accept "donations" from your corporation to reimburse other services, such as medical medial, building management, supply, etc. This can be done in another way. You may set up an amount that the hospital may use for expenditures, travel or expenses occurred to interviewing applicant doctors. Remember, these expenses cannot be listed in your Direct Costs when you are calculating your Indirect Costs. These expenditures are considered funds from your current Indirect Costs. However, such expenditures **could** be considered Direct Costs, if the expenditures, travel or interviews were part of research or an educational research project. Another way to repay the medical center would be to **lease** a copier that research, the corporation and hospital staff could use. This expense would be considered in your Direct Costs everyone is also using the copier.

## Investment of Funds

VA research corporations may not invest research funds which would put the funds at risk, even with the prospect of financial gain. Such risk could result in the loss of those monies, thus defeating Congress' intent that they be available to fund VA research. Funds should be deposited such funds in interest bearing accounts. Corporate funds must be deposited in Federally-approved depositories, such as Federally insured banks, savings and loans or credit unions where no loss would be incurred. Money market accounts are Federal insured as the funds are invested in federally insured banks. For instance, Merrill Lynch is insured up to \$2,500,000. Purchase of U.S. Treasury securities would not ordinarily constitute an "investment" as they are backed by the Federal Government and "are direct obligations of, or obligations guaranteed as to principal or interest by, the United States." Corporate funds may be placed in insured accounts, certificates of deposits or other instruments guaranteed against risk of loss. Of course, such long term investments should be made with corporate funds not needed for their immediate needs.

## Administrative Charges

The corporation office should estimate the overhead needed for the corporation to be administered. This estimate should be conveyed to the Board of Directors would will need to set the administrative/overhead charges.

The overhead on educational projects will need to be estimated differently, since the "profits" from such projects is not known in advance. Listed below are some examples of overhead charges. *These are only described as suggestions for your own policies.* You may choose to not charge overhead to smaller accounts, i.e. gift accounts that may have been donated in lieu of honorariums, etc. In these cases, you would want some sort of "activity" charge. Below is an example of what possibly could be charged for smaller accounts:

### Overhead

#### Donations

Any funding (drug money, grants, etc.) should include negotiations for 15% overhead for the Administration account. If 15% is not acceptable by the donor, the President/Executive Director of the

corporation may recommend to the Board of Directors that the funding be accepted with a different negotiated overhead.

### Educational Projects

Administrative overhead of 15% of the net income will be charged to Educational Research funding. 30% of the net income after all expenses, including administrative overhead will be transferred into an educational account of ACOS for Education with the balance (70%) going into an account for the Chief of Service sponsoring the educational event. The Chief of Service must negotiate any arrangement he/she wishes with the individual who actually directs the event.

### Gift money

Activity charges will apply to any gift money. A "gift" is defined as a donation made for which no services are expected in return. Drug company monies, AHA, etc. are **not** defined as gifts.

### Activity Charges:

#### Projects/Accounts of less than \$500

No administrative charges will be made for projects without overhead as a directly budgeted item (funds transferred in from a General Post Fund or gifts/honorariums donations) if the donation is less than \$500.

#### Projects/Accounts of \$500 or more

For projects **without overhead as a directly budgeted item** (funds transferred in from a General Post Fund or gifts/honorariums donations), the administrative expenses will be directly costed only to accounts of **\$500 or greater**, as follows:

- a). Fee to open and set up a new account \$50.
- b). Fee for **each** check deposit made to the account will be \$10; or \$30 per "batch" of 6 or more checks.
- c). Fee per check written for **each** reimbursements will be \$10.

d). Fee for processing **each** order for equipment or supplies (includes check written for payment) will be \$30.

e). Fee for **each** salary check will be \$30.

f). Fee for **each** transfer of funds from one account to another. i.e. to Pharmacy, etc. \$10.

g). Fee for **each** correspondence (such as writing and sending a thank you letter to a donor) will be \$20.

(Depending upon the type of activity the account will have, it may be beneficial for the investigator to elect to pay the overhead in lieu of the above "activity" charges.)

Your corporation office should have packets available to hand out to perspective investigators. The packet should include all the information, policies and rules of the corporation. It should also include a sample of each of the Appendices in this manual.

Your corporation office should also have the applications necessary for research or education research project applicants to submit to the R&D Committee and respective subcommittees.

Once funded, your investigators should receive a monthly statement of their account, which should include a detailed list of their expenditures and transfers. At this time, they should be given the opportunity to state whether they agree or disagree with the statement. I suggest you encourage them to put their disagreement remarks in writing, rather than phoning. This will give the staff an opportunity to review their records and prepare a response.

## **VA Circulars on Nonprofit Corporations**

The current list of VA Circulars on Nonprofit Corporations are:

Circular 10-89-75 "Nonrecurring Report on Nonprofit Corporations  
dated 7-24-89

Circular 10-89-99 "Nonprofit Research Corporations (RC10-0024)  
dated September 21, 1989

Circular 10-90-115 "Investment of Funds by Nonprofit  
Corporations  
dated September 6, 1990

## OMB A-133 Audit

OMB requires nonprofit corporations to be audited biannually. When you purchase the services of an auditor, make sure the fee includes the statement that it is on the condition that it is an acceptable audit for the federal agencies. When the audit schedule is set up, have a complete set of documents ready for the auditors.

It is recommended that your corporation consider be audited annually for two reasons: (1) It is usually less expensive to pay for two annual audits then for one two-year audit; and (2) If there is a problem in the audit, it is better to find out a year earlier, in order for it to be corrected.

Some of the questions asked by the auditors may include:

1. How often is the computer system backed up?
2. Where are the backup tapes kept?
3. Is there a Disaster Plan?
4. Are there accounting ties to the general ledger?
5. Is there a system of checks and balances?
6. Is there documentation for the expenditures, i.e. bids, receipts of delivery signed, etc.?
7. Is there documentation on bids being requested for equipment purchases?
8. Is there a procedure for minimizing errors, i.e. does P.I. or assignee sign the invoice and is it then stapled to receiving slip?
9. Are adequate records kept of all equipment purchases?
10. Is there an inventory of the equipment at least biannually?
11. Is the equipment inventory signed and dated by the person responsible for the inventory?

12. Does the P.I. receive a statement monthly. Does he/she sign stating that, "All charges billed on this statement were correct for this grant."

13. Does the P.I. or assignee sign for the accuracy of the timecards?

14. Does the payroll clerk report the time/hours accurately?

15. Are the correct indirect cost rate being used?

Basically the I.G. will be looking for is sensibility and accountability. They will look at the corporation's performance and compliance to the rules. Additionally, the I.G. will ask to review:

1. Articles of Incorporation
2. Corporation bylaws
3. Tax reports
4. General Council correspondence
5. List of Directors and Officers
6. Number, names and salaries of employees
7. Timecards
8. Tours of duty

A formal list of suggested audit procedures are listed in the OMB publication #1171 "Compliance Supplement for Audits of Institutions of Higher Learning and Other Non-Profit Institutions." In particular of interest is pages 502-509 and 546-548. (These pages are shown in Appendix U.)

## APPENDICES

- A - IRS Response Letter
- B - Educational Request Memo
- C - Standards of Ethical Conduct and Related Responsibilities of Employees
- D - Donor Letter to the Corporation Sample
- E - General Post Funds Approval of Transfer Letter
- F - Memo to Fiscal for General Post Funds Transfer
- G - First Check Acknowledgement Letter Sample
- H - Memo to PI Regarding New Account Total
- I - Purchase Order Form
- J - Letter Introducing Corporation
- K - Supplies Reimbursement Form
- L - Entertainment Reimbursement Form
- M - Services Reimbursement Form
- N - Postage Reimbursement Form
- O - Telephone Bill Reimbursement Form
- P - Subject Payment Request
- Q - Employee Timecard
- R - Request for Travel Funds to be Set Aside
- S - Request for Approval of Travel Memo
- T - Travel Reimbursement Memo
- U - Compliance Supplement for Audits of Institutions of Higher Learning and Other Non-Profit Institutions



# **Palo Alto Institute for Research and Education, Inc.**

*A California Nonprofit Public Benefit Corporation*

Franklin G. Ebaugh, Jr., M.D., President  
Barbara M. Gleason, Exec. Director

P.O. Box V-38  
3801 Miranda Avenue  
Palo Alto, CA 94304

**Board of Directors:**

James C. DeNiro, Chairman  
Franklin G. Ebaugh, Jr., M.D.  
Marguerite T. Hays, M.D.  
Shoichi Kohatsu, M.D.  
Lawrence Simon, M.D.  
Gary M. Gray, M.D.  
David Mendelow

August 17, 1989

Internal Revenue Service  
P.O. Box 2350, Room 5127  
Los Angeles, CA 90053-2350

Attn: E.O.G.:4:AHA

Dear Sir:

In response to your inquiry dated July 31, 1989, for additional information to determine whether the Palo Alto Institute for Research and Education, Inc. is exempt from Federal income tax, we submit the following:

A detailed list of currently funded research projects engaged in by the Palo Alto Institute for Research and Education, Inc. is enclosed. (See Attachment A.) As of this date, no Federal grants have been awarded; however, such grants are expected to be awarded in the future.

Much of the medical research relates to the development of new intervention therapies and diagnostic tools for human diseases. All such developments must be approved by agencies of the federal government prior to implementation into medical practice. It is apparent then that any developmental research carried out (whether it involves laboratory animal or human studies) which supports the ultimate objective of improved medical care for humans would potentially be submitted to a federal regulatory agency as data supporting an application for approval. Such research benefits the VA, the veteran patients and the general public in at least three ways:

- (a) It produces new knowledge, techniques or products which lead to the improved prevention, diagnosis, treatment and control of disease as well as correction of or compensation for defects.

(b) The potential to conduct such research is a job characteristic which attracts and retains highly qualified professional staff in the Department of Veterans Affairs which improves the care of VA patients.

(c) Such research is a key element in the creation of a stimulating and intellectual environment required for education program in the VA Medical Center.

Public Law 100-322 dated May 20, 1988 amended 38 USC, Chapter 73 and "Authorizes the establishment of a nonprofit corporation at each VA medical center at which significant medical research is carried out to provide a funding mechanism for monies received from other than VA appropriations to conduct research projects approved at the medical center." Additionally, it empowers "a corporation established under this Subchapter to (1) accept gifts and grants from and enter into contracts with individuals and public and private entities solely to carry out the purposes of this Subchapter." Consequently, the organization plans to accept both contracts and sponsored research projects as long as the projects are approved by the VA Research and Development

Committee. It is anticipated that a small percentage of the organization's revenue will be derived from honoraria and consulting fees earned by physicians and investigators associated with the organization. These revenues might stem from a speech or research project, and the receipt of such fees would provide additional monies to the organization to utilize for other research.

Public Law 100-322 requires that the Board include the Director of the VA Medical Center, the Chief of Staff of the Medical Center, and the Associate Chief of Staff for Research of the Medical Center. The names of the Board Members who fill these positions are as follows:

James C. DeNiro, Chairman	Medical Center Director
Franklin G. Ebaugh, Jr., M.D., President	Chief of Staff
Marguerite T. Hays, M.D.	Associate Chief of Staff, Research

The law also requires that the Board include at least two members of the Board who are not employees or officers of the Federal Government, but who are familiar with biomedical research. These two unrelated Board members are:

Gary M. Gray, M.D.  
David Mendelow

Also added as Board members were:

Shoichi Kohatsu, M.D.  
Lawrence Simon, M.D.

The Board members will not be compensated as employees or as contract laborers. Further, there will be no compensation to the non-affiliated Board members.

The research projects are determined and selected by the Research and Development Committee of the VA Medical Center where the research will be performed. The process starts when an investigator presents a research project to the Research and Development Committee. The project is peer reviewed by the Committee. The project is also peer reviewed for approval by the members of the Internal Review Board of Stanford University Medical Center, if human subjects are involved.

All results of the research being done by the Palo Alto Institute for Research and Education, Inc. will be made available to the general public and published in scientific journals widely distributed to libraries and the scientific community. There will be no preference to any organization or individual either as to results or time or release. Subject to any restrictions on the dissemination of research under the patient confidentiality privilege, once a research project is completed, the investigator is obligated to put the information into the public domain. In fact, negative reactions on testing must be immediately reported to the public domain (within twenty-four hours). Subject to the above, disposition of results of research conducted by the organization is by previous agreement. In many cases, the sponsor requires that they have first access to the information, but in other cases, there are no such requirements. If first access is required, the donor receives only a copy of the research to look at first, but the publication must immediately follow. The Palo Alto Institute for Research and Education, Inc. is aware of no agreement which permits a sponsor to prohibit publication, and the organization would not enter into such an agreement. Any research done under the auspices of the corporation will be available to the public in a timely manner to fully comply with Revenue Ruling 76-296.

Ownership or control of any patents, copyrights, processes, or formulas resulting from the research being generated by research funded through the Palo Alto Institute for Research and Education, Inc. will remain with the United States as to any inventions that are created on government time, using government resources. (Pursuant to Executive Orders 10096 and 10930, and 38CFR 1.652-.666.)

At this time, we cannot submit copies of publications showing reports of the research activities of the Palo Alto Institute for Research and Education, Inc. as we are a newly formed organization.

For your additional information, we are enclosing a copy of the VA's Circular 10-88-130 on the VA's definition of Research Nonprofit Organizations, dated October 21, 1988. (See Attachment B.)

Sincerely,

Franklin G. Ebaugh, Jr., M.D.  
President

Enclosures: 2

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

**EDUCATIONAL ACTIVITY REQUEST**

It is requested that the following education activity be approved. The object is to accomplish education and/or training related to research in the following areas:

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Suggested Title: \_\_\_\_\_

Suggested Location for Activity: \_\_\_\_\_

Suggested Registration Cost \_\_\_\_\_ (When setting this cost, remember that Administrative overhead of 15% of the net income will be charged to Educational Research funding. 30% of the net income after all expenses, including administrative overhead will be transferred into an educational account of ACOS for Education with the balance (70%) going into an account for the Chief of Service sponsoring the educational event. The Chief of Service must negotiate any arrangement he/she wishes with the individual who actually directs the event. Review the Rules and Policies statement.)

**Checks to be made payable to PAIRE**

Signature	Name	Title	Mail Code
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RECOMMEND APPROVAL/DISAPPROVAL

RECOMMEND APPROVAL/DISAPPROVAL

\_\_\_\_\_  
 C. REESE GALLIMORE  
 Chairman, Education Committee  
 VAMC Palo Alto, CA

\_\_\_\_\_  
 LAWRENCE SIMON, M.D.  
 ACOS, Education  
 VAMC Palo Alto, CA

APPROVED/DISAPPROVED

\_\_\_\_\_  
 MARGUERITE T. HAYS, M.D.  
 ACOS, Research & Development

## STANDARDS OF ETHICAL CONDUCT AND RELATED RESPONSIBILITIES OF EMPLOYEES

## 1.735-10 General requirements.

- (a) Each Department of Veterans Affairs employee shall be expected to serve diligently, loyally, and cooperatively; to exercise courtesy and dignity; and to conduct himself, both on and off duty, in a manner reflecting credit upon himself and the Department of Veterans Affairs.
- (b) An employee shall avoid any action which might result in, or create the appearance of:
  - (1) Using public office for private gain;
  - (2) Giving preferential treatment by any person, group, or organization;
  - (3) Impeding Government efficiency or economy;
  - (4) Losing complete independence or impartiality;
  - (5) Making a Government decision outside official channels; or
  - (6) Affecting adversely the confidence of the public in the integrity of the Government.
- (c) Employee shall not discriminate on the ground of race, color, sex, religion, or national origin in providing benefits under any law administered by the Department of Veterans Affairs. They shall not discriminate on those grounds or any other improper ground in any employment matter. Employees are responsible to cooperate in making equal opportunity for all a reality in the Department of Veterans Affairs.
- (d) An employee shall not attempt to accomplish indirectly--through his immediate family or otherwise--any activity which he is prohibited from doing directly.
- (e) Department of Veterans Affairs management and supervisors shall encourage the good conduct of employees by setting the example, by dealing with them considerately and impartially, and by showing sincere concern for them as individuals.

## 1.735-11 Gifts, entertainment, and favors.

- (a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept directly or indirectly for himself or any member of his family, any gift, gratuity, favor, entertainment, loan, or anything of monetary value, from a person (individual, corporation, company, associate, firm partnership, society, joint stock company, or any other organization or institute) who:
  - (1) Has, or is seeking contractual or other business or financial relations with the Department of Veterans Affairs;
  - (2) Conducts operations or activities regulated by the Department of Veterans Affairs;
  - (3) Has interests that may be substantially affected by the performance or nonperformance of his official duty; or
  - (4) Is attempting to influence the employee's official actions.
- (b) The restrictions set forth in paragraph (a) of this section do not apply where:
  - (1) It is clear that the motivating factor is the family or personal relationship (such as that between employee and his parents, children, or spouse) rather than the business relationship of the persons concerned;
  - (2) Food and refreshments of nominal value are infrequently accepted when offered in the ordinary course of a coffee break, luncheon or dinner meeting, or other meeting, while on official business or on an inspection tour where an employee may properly be in attendance;
  - (3) Loans from banks or other financial institutions are sought on customary terms to finance proper and usual activities of employees, such as home mortgage loans;
  - (4) Advertising or promotional material is unsolicited and of nominal intrinsic value (such as pens, pencils, note pads, or calendars);
  - (5) Common courtesy gifts such as flowers are indicated on appropriate occasions.
- (c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.
- (d) An employee is prohibited from accepting gifts or gratuities such as goods, money, services, purchases at discount, entertainment of

agents, since it could be interpreted that the favors are in return for official services rendered. The Administrator may authorize exceptions to this prohibition where such actions would not contravene the overall intent of this gift.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(f) Neither this section nor 5735-12 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law for expenses of travel and such other necessary subsistence, as in compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person (individual, corporation, company, association, firm, partnership, society, joint stock company, or any other organization or institution) for travel on official business under the Department of Veterans Affairs orders when reimbursement is prescribed by Decision 8-128527 of the Comptroller General dated March 7, 1967.

#### **5735.12 Outside employment, activity of compensation**

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to those which

- (1) Involve the acceptance of a fee, compensation, gift, payment of expense or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest;
- (2) Tend to impair his mental or physical capacity to perform his Department of Veterans Affairs duties and responsibilities in an acceptable manner;
- (3) Bring discredit upon, are disadvantageous to, embarrass, or cause or may cause unfavorable and reasonable criticism of the federal Government or the Department of Veterans Affairs;
- (4) Conflict with the interests of the Department of Veterans Affairs or the Federal Government or can possibly be construed by the public to be official acts of the Department of Veterans Affairs;
- (5) Involve the use of information obtained as a result of employment in the VA, to the detriment of the VA or those served by it;
- (6) Take time or attention during duty hours, or consist of a private practice of a recognized profession to the extent that the employee appears to be privately practicing his profession during official duty hours;
- (7) Violate a regulation, Executive order, or a Federal, State, or local statute or ordinance;
- (8) Tend to create suspicion of prejudice or favoritism in the administration of benefits to eligible veterans that could be of embarrassment to the VA.

(b) An employee shall not receive any salary or anything of monetary value from a private source or compensation for his or her services to the Government. This does not apply to employees working without compensation (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing not prohibited by law, Executive Order 11222, Part 735 of the Civil Service Regulations (5 CFR Part 735), the conduct regulations of this part or other agency policy. An employee shall not, however:

(1) Engage, with or without compensation, in teaching, lecturing or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class or persons for an examination of the Civil Service Commission or of the Board of Examiners for the Foreign Services, that depends on information obtained as a result of his or her Government employment, except when that information has been made available to the general public or will be made available on request, or when the Administrator give written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(2) If he or she is a Presidential appointee covered by section 401(a) of Executive Order 11222, receive compensation, an honorarium, or anything of monetary value for any consultation, lecture, discussion, writing or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the public domain.

(3) Accept any honorarium of more than \$2,000 (excluding amounts accepted for actual travel and subsistence expenses for such persons and his or her spouse or an aide to such person, and excluding amounts paid or incurred for any agent's fees or commissions) for any appearance, speech, or article, or honorariums aggregating more than \$25,000 in any calendar year. (Pub. L. 94-283 (90 Stat. 475), Federal Election Campaign Act Amendments of 1966.

(d) Employees are not prevented from

- (1) Receiving reimbursements in accordance with 0.735-11(f).
- (2) Participating in the activities of National or State political parties not proscribed by law,
- (3) Participating in the affairs of or accepting an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.
- (4) Engaging in outside employment permitted under this part,
- (5) Taking part as a citizen of his or her community in civic, charitable, religious and other community efforts.

(e) Employees are encouraged to take part in service organization activities that do not conflict with, or give the appearance of conflicting with, VA employment. Thus, an employee may hold an office or position at any level, provided that the combination of VA position and service organization position cannot be construed as giving advantage to that organization and if the employee agrees to disqualify himself or herself from taking part in any activities directed at the VA, its policies, procedures or programs, or claims for benefits administered by the VA. An employee may not act as a service officer preparing and presenting claims against the Government. Each employee is responsible for assuring that his or her intended actions are proper, and when in doubt, shall use the interpretation and advisory service established by 0.735-4. As used in this paragraph, a service organization is an organization usually composed of ex-servicemen, which presents claims from veterans and their dependents for benefits under laws administered by the VA.

(f) An employee who engages in any outside work while on sick leave is required to report that fact to his or her supervisor.

(g) An employee shall not hold membership in any subversive organization or in a political party which advocates the overthrow of the Government by force or violence.

I CERTIFY THAT I AM AND HAVE BEEN AWARE OF AND COMPLIED WITH THE ABOVE REGULATIONS PERTAINING TO CONFLICT OF INTEREST IN THE PERFORMANCE OF OFFICIAL FUNCTIONS. IN MY CAPACITY, I HAVE ENSURED COMPLIANCE BY OTHERS IN THIS MATTER.

SIGNATURE

PRINTED NAME

DATE

## SAMPLE DONOR LETTER

All initial donations made to the Palo Alto Institute for Research and Education, Inc. must be accompanied by a letter from the donor. Listed below is an acceptable letter suggested for use.

Investigator's Name  
Palo Alto Institute for Research and Education, Inc.  
P. O. Box V38  
3801 Miranda Avenue  
Palo Alto, CA 94304

Dear (Investigator's name):

Enclosed is our check made out to the Palo Alto Institute for Research and Education, Inc. in the amount of \$\_\_\_\_\_. These funds are donated for your use in conducting the \_\_\_\_\_ study and (or just) to support your ongoing \_\_\_\_\_ research.

It should be noted that these funds may be used in any manner you, as principal investigator, deem necessary.

Sincerely,



**SAMPLE DONOR LETTER  
AUTHORIZING TRANSFER OF  
FUNDS FROM GPF TO PAIRE**

An authorization for the transfer of General Post Funds to PAIRE must be received from the donor by the Chief, Fiscal Service, VAMC, Palo Alto, CA, before such transfers may be made. Listed below is a sample letter suggested for use.

Chief, Fiscal Service (04)  
Veterans Administration Medical Center  
3801 Miranda Avenue  
Palo Alto, CA 94304

To Whom It May Concern:

We authorize the amount of \$\_\_\_\_\_ (or the balance) of the donation we made to the Veterans Administration Medical Center, Palo Alto, California, to be transferred to the Palo Alto Institute for Research and Education, Inc. (PAIRE). These funds were donated for the study entitled, "\_\_\_\_\_" being done by \_\_\_\_\_, the principal investigator.

Sincerely,

(Donor's Name & Company)



# Memorandum

**Date** :  
**To** : Chief, Fiscal Service (04)  
THRU: ACOS, Research & Development (151)  
**From** : (INVESTIGATOR'S NAME)  
**Subject** : Transfer of funds from GPF #\_\_\_\_\_ to the Palo Alto  
Institute for Research and Education, Inc.

1. Please transfer the sum of \_\_\_\_\_ (or: Please transfer the balance of) from GPF#\_\_\_\_\_ to the Palo Alto Institute for Research and Education, Inc. (PAIRE).

2. A letter from the donor approving this transfer is attached.

(NOTE: *If GPF was from several donors, only letter of authorization from the last donations that equal the balance in the fund, will be necessary.*)

\_\_\_\_\_  
(Signature of Investigator)

APPROVED:

\_\_\_\_\_  
ACOS, Research & Development

# **Palo Alto Institute for Research and Education, Inc.**

*A California Nonprofit Public Benefit Corporation*

Barbara M. Gleason, Executive Director  
David Thomas, Asst. Executive Director

P.O. Box V-38  
3801 Miranda Avenue  
Palo Alto, CA 94304

**Board of Directors:**

Marguerite T. Hays, M.D., Chair  
James C. DeNiro  
Richard I. Mazze, M.D.  
Marion Smith, Ph.D.  
Lawrence Simon, M.D.  
Marian Knox  
Charles Kneil

**SAMPLE FIRST CHECK ACKNOWLEDGEMENT LETTER**

**DATE**

**DONOR  
ADDRESS  
CITY, STATE ZIP**

**Subject: TITLE OF PROJECT**

**Dear DONOR:**

We would like to acknowledge receipt and acceptance of your contribution in the amount of \$\_\_\_\_\_ in support of **TITLE OF PROJECT** being conducted by **PI** as principal investigator.

This research project will be conducted at this medical center. The project was approved on **DATE** by the Research and Development Committee, VA Medical Center, Palo Alto, California, who have the scientific responsibility for this project.

Funding for this proposal will be administered by the Palo Alto Institute for Research and Education, Inc. (PAIRE). In accordance with our nonprofit status, we should point out that these funds will be expended within five (5) years of this donation. We are enclosing a copy of our IRS approved nonprofit status letter for your files.

The acceptance of this donation does not imply endorsement on our part or on the part of the Veterans Administration. We do, however, want to thank you for your consideration and support.

For you information our IRS ID# is 77-0207331 and our California Nonprofit Corporation ID# is 1505913 PA21F.

Sincerely,

Marguerite T. Hays, M.D.  
Chair, Board of Directors

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

TO :  
DATE :  
FROM : PAIRE Office (151A)  
SUBJECT : Funds deposited into your PAIRE account

On \_\_\_\_\_ a check was received by PAIRE for your account  
as follows:

Budget Code	_____
Previous CTA Total:	\$_____
New Deposit Credited:	\$_____
	=====
New Total for FY 92:	\$_____

If you have any questions, please call Patty or Rene at Ext. 5295.

BARBARA M. GLEASON

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Principal Investigator \_\_\_\_\_ Date \_\_\_\_\_

P.I. Signature \_\_\_\_\_ Date Required \_\_\_\_\_

Project No. \_\_\_\_\_ Order No. \_\_\_\_\_ PAIRE Acct. No. \_\_\_\_\_

**OFFICE  
USE ONLY**

Catalog No.	Description of Order	Qty.	Unit	Total	Unit	Total

Justification (i.e., how does this order relate to research or research-related education):

Vendor \_\_\_\_\_ PAIRE Contact Person \_\_\_\_\_

Address \_\_\_\_\_ City, State \_\_\_\_\_

Zip \_\_\_\_\_ Telephone No. (     ) Deliver to: \_\_\_\_\_

**ALL ITEMS RECEIVED/PAYMENT AUTHORIZED:**

DELIVERY DATE	ORDER DATE	P.O. #	_____ COMMITTED
			_____ OBLIGATED
COMPANY CONTACT	PLACED BY	DATE PAID	AMOUNT PAID
			CHECK NO.

# **Palo Alto Institute for Research and Education, Inc.**

*A California Nonprofit Public Benefit Corporation*

Barbara M. Gleason, Executive Director  
David Thomas, Asst. Executive Director

P.O. Box V-38  
3801 Miranda Avenue  
Palo Alto, CA 94304

**Board of Directors:**

James C. DeNiro, Chairman  
Richard i. Mazze, M.D.  
Marguerite T. Hays, M.D.  
Marion Smith, Ph.D.  
Lawrence Simon, M.D.  
Marian Knox  
Charles Knell

**TO WHOM IT MAY CONCERN:**

The Palo Alto Institute for Research and Education, Inc. is a California nonprofit public benefit corporation. The specific purpose of this corporation is to promote medical research and related education for charitable, scientific, and educational purposes consistent with Title 38 U.S.C. 4161 through 4168 and is under the accountability and liability of the VA Medical Center. Public Law mandates that the VA Medical Center Director, the Chief of Staff, and the Associate Chief of Staff for Research and Education all be on the Board of Directors of the corporation.

The general purposes and powers of this corporation are to have and to exercise all rights and powers conferred on nonprofit public benefit corporations under the laws of the State of California, including the power to contract and to rent, buy and sell personal or real property.

All research and educational projects administered by PAIRE must be approved by the VA Medical Center's Research and Development Committee and are accountable to that committee.

Internal Revenue Service ID# 77-0207331

California Nonprofit Corporation ID# 1505913 PA21F.

Barbara M. Gleason  
Executive Director

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Date: \_\_\_\_\_

To : Barbara M. Gleason, Executive Director  
THRU: David Thomas, Asst. Executive Director

SUBJ: Reimbursement for Supplies

1. Reimbursement to \_\_\_\_\_ for \$\_\_\_\_\_
- is requested for the following supplies:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Itemized receipts are attached for your records.

\_\_\_\_\_  
PAIRE Investigator

\_\_\_\_\_  
Project Number

**For Office Use Only**

Order # \_\_\_\_\_  
Check # \_\_\_\_\_  
Comitted \_\_\_\_\_  
Obligated \_\_\_\_\_

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Date: \_\_\_\_\_

To : Barbara M. Gleason, Executive Director  
THRU: David Thomas, Asst. Executive Director

SUBJ: Business Meeting Dinner Expenditure Details for IRS Audit

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ TOTAL EXPENDITURE \_\_\_\_\_

LOCATION \_\_\_\_\_

THOSE ATTENDING \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_PURPOSE OF THE MEETING \_\_\_\_\_  
\_\_\_\_\_BRIEF DISCRIPTION OF WHAT WAS DISCUSSED \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ALL RECEIPTS ARE ATTACHED.

\_\_\_\_\_  
PAIRE Investigator**For Office Use Onl**

Order # \_\_\_\_\_

Check # \_\_\_\_\_

Comitted \_\_\_\_\_

Obligated \_\_\_\_\_



**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Date: \_\_\_\_\_

To : Barbara M. Gleason, Executive Director  
THRU: David Thomas, Asst. Executive Director

SUBJ: Reimbursement for Services

1. Reimbursement to \_\_\_\_\_ for \$ \_\_\_\_\_  
is requested for the following services :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
PAIRE Investigator

\_\_\_\_\_  
Project Number

**For Office Use Only**

Order # \_\_\_\_\_

Check # \_\_\_\_\_

Comitted \_\_\_\_\_

Obligated \_\_\_\_\_

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Date: \_\_\_\_\_

To : Barbara M. Gleason, Executive Director  
THRU: David Thomas, Asst. Executive Director

SUBJ: Reimbursement for Postage

1. Reimbursement to \_\_\_\_\_ for \$ \_\_\_\_\_  
is requested for the following Postage

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Receipts for postage is attached.

\_\_\_\_\_  
PAIRE Investigator

\_\_\_\_\_  
Project Number

**For Office Use Only**

Order # \_\_\_\_\_

Check # \_\_\_\_\_

Comitted \_\_\_\_\_

Obligated \_\_\_\_\_

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Date: \_\_\_\_\_

To : Barbara M. Gleason, Executive Director

THRU: David Thomas, Asst. Executive Director

SUBJ: Reimbursement for Telephone Costs

1. Reimbursement to \_\_\_\_\_ for \$ \_\_\_\_\_  
is requested for the following telephone costs:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. A copy of the telephone bill is attached.

\_\_\_\_\_  
PAIRE Investigator\_\_\_\_\_  
Project Number**For Office Use Only**

Order # \_\_\_\_\_

Check # \_\_\_\_\_

Comitted \_\_\_\_\_

Obligated \_\_\_\_\_

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Date: \_\_\_\_\_

To : Barbara M. Gleason, Executive Director  
THRU: David Thomas, Asst. Executive Director

SUBJ: Subject Payment

1. Please make a check to \_\_\_\_\_ for \$ \_\_\_\_\_  
as payment for being a subject in my research project number \_\_\_\_\_.
2. Subjects Social Secutity Number is: \_\_\_\_\_

\_\_\_\_\_  
PAIRE Investigator

\_\_\_\_\_  
Project Number

**For Office Use Only**

Order # \_\_\_\_\_  
Check # \_\_\_\_\_  
Comitted \_\_\_\_\_  
Obligated \_\_\_\_\_

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

**TIME AND ATTENDANCE SHEET**

EMPLOYEE \_\_\_\_\_ DATES \_\_\_\_\_

PP# \_\_\_\_\_

W  
E  
E  
K  
  
O  
N  
E

Day	No. Hours Work	Tour of Duty		Leave Used		Annual Leave Hours	Sick Leave Hours	Employee Initials
		From	To	From	To			
SUNDAY								
MONDAY								
TUESDAY								
WEDNESDAY								
THURSDAY								
FRIDAY								
SATURDAY								

W  
E  
E  
K  
  
T  
W  
O

Day	No. Hours Work	Tour of Duty		Leave Used		Annual Leave Hours	Sick Leave Hours	Employee Initials
		From	To	From	To			
SUNDAY								
MONDAY								
TUESDAY								
WEDNESDAY								
THURSDAY								
FRIDAY								
SATURDAY								

PAIRE SUPERVISOR \_\_\_\_\_

*Office will  
fill in this  
lower  
section.*

Annual Leave Record	
Balance	
Earned	
Available	
Used	
Balance	

Sick Leave Record	
Balance	
Earned	
Available	
Used	
Balance	

**Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

DATE: \_\_\_\_\_

TO : Barbara M. Gleason, Executive Director  
THRU: David Thomas, Asst. Executive Director

SUBJ: Request for Travel Funds

It is requested that \$\_\_\_\_\_ be set aside from funds in my account.

These funds will be used by \_\_\_\_\_

to attend \_\_\_\_\_

on date(s) \_\_\_\_\_ My participation in this

meeting includes: \_\_\_\_\_

## CHECK ONE:

- ☐ Traveler is an employee of PAIRE.
- ☐ Traveler is a VA employee. Paperwork has been submitted to obtain Acceptance of Gifts and Donations and Authorized Absence or VA travel.
- ☐ Other \_\_\_\_\_

An advance of funds of \$\_\_\_\_\_ is requested

\_\_\_\_\_  
(PAIRE Investigator Name and Signature\_\_\_\_\_  
Project Number

APPROVED/DISAPPROVED:

Marguerite T. Hays, M.D., Chair, Board of Directors

**For Office Use Only**

Order # \_\_\_\_\_

Check # \_\_\_\_\_

Comitted \_\_\_\_\_

Obligated \_\_\_\_\_



# Memorandum

**Date** : \_\_\_\_\_

**To** : Medical Center Director (00)  
 THRU: Chief of Staff (11PA)  
 THRU: Personnel Service (05B)  
 THRU: Research Administration (151A)

**From** : Research Service ( 151A )

**Subject** : Request for Approval for Acceptance of Gifts/Donations

1. \_\_\_\_\_ wishes to attend the \_\_\_\_\_  
 to be held in \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_.
2. Approval is requested for Dr. \_\_\_\_\_ to accept support in kind for travel expenses from the Palo Alto Institute for Research and Education, Inc., a 501(c)(3) approved nonprofit organization.

\_\_\_\_\_  
 Service Chief

Attachment: VA Form 10-0101B

RECOMMEND APPROVAL/DISAPPROVAL

RECOMMEND APPROVAL/DISAPPROVAL

\_\_\_\_\_  
 Administrative Officer

\_\_\_\_\_  
 Richard A. Mazze, M.D.  
 Chief of Staff, PAD

RECOMMEND APPROVAL/DISAPPROVAL

RECOMMEND APPROVAL/DISAPPROVAL

\_\_\_\_\_  
 Chief, Personnel Service

APPROVED/DISAPPROVED

\_\_\_\_\_  
 Medical Center Director

# **Palo Alto Institute for Research and Education, Inc.**

P.O. BOX Y-38 3801 Miranda Avenue, Palo Alto, CA 94304

Date: \_\_\_\_\_

To : Marguerite T. Hays, M.D., Acting President  
THRU: Barbara M. Gleason, Executive Director

SUBJ: Travel Reimbursement

1. Reimbursement of expenses are requested for \_\_\_\_\_

who attended \_\_\_\_\_

in \_\_\_\_\_ on \_\_\_\_\_

My participation in this meeting included \_\_\_\_\_

2. The following is a breakdown of expenses:

Hotel	_____
Meals	_____
Transportation	_____
Cabs	_____
Parking	_____
Registration	_____
Total	_____

3. Attached are original receipts for all items of \$25.00 or more and all other approvals required to process this reimbursement.

4. If this is a VA employee, the required forms are attached:

- The approved Acceptance of Gifts and Donations form
- The approved Authorized Absence for Travel form

## **For Office Use Only**

Order # \_\_\_\_\_

Check # \_\_\_\_\_

Comitted \_\_\_\_\_

Obligated \_\_\_\_\_

\_\_\_\_\_  
PAIRE Investigator

\_\_\_\_\_  
Project Number



# ¶1171 Compliance Supplement for Audits of Institutions of Higher Learning and Other Non-Profit Institutions

Issued by the Office of Management and Budget, October 1991

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## Part 1. INTRODUCTION

This document sets forth the major compliance requirements that should be considered in an organization-wide audit of universities and other nonprofit institutions that receive federal assistance. It supplements OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions."

Following this Introduction, this compliance supplement is divided into Parts 2, 3, and 4. Part 2 contains the General Requirements that shall be considered in all financial and compliance audits. Generally, requirements are national policies prescribed by statute, executive order, or other authoritative source that apply to the assistance programs of two or more agencies. The General Requirements included here are the ones that, if not observed, could have a material effect on the organization's financial statements including those prepared for federal programs.

Of particular note is the inclusion of the requirement for periodic federal financial reports, as specified in OMB Circular A-110, "Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations," and agency regulations. The auditor's tests of compliance with this requirement provide the federal government with assurance that these reports are complete and reliable.

Part 3 sets forth Common Major Program Requirements for research and development programs and student financial aid programs. These common requirements are used in lieu of program specific requirements because Circular A-133, "Audits of Institutions of Higher Education and other Nonprofit Institutions," designates these two categories as major programs if either category's expenditures is greater than three percent of total expenditures or \$100,000, whichever is larger. The Guaranteed Student Loan Program, which applies to guarantee agencies, has separate requirements included in the supplement.

Part 4 of the document provides requirements that are specific to larger Agency Programs. For each program, the following information is provided: Objectives of the program, a brief description of how the program operates, and major compliance requirements, including Code of Federal Regulations (CFR) or

statutory citations, where applicable. The requirements are organized into five categories: (1) types of service allowed or unallowed; (2) eligibility; (3) matching, level of effort, and/or earmarking requirements; (4) special reporting requirements; and (5) special tests and provisions. Federal agencies have determined that, in general, noncompliance with these requirements might materially affect the program.

Each requirement is accompanied by suggested audit procedures that can be used to test for compliance. These audit procedures are not mandatory. Nor are they the only procedures the auditor can apply. Auditors should use professional judgment when deciding which procedures to apply, and the extent to which reviews and tests should be performed. Some of the audit procedures require a review and evaluation of internal controls. If the reviews and evaluations have been performed as a part of a review of the internal controls structure, the audit procedures used for individual programs should be altered to avoid duplication of procedures.

The federal departments and agencies have identified the compliance requirements and included suggested audit procedures, as of the date of publication for each program that will meet the compliance testing requirements of Circular A-133. However, the auditor is responsible for ensuring that specific requirements which are modified because of changes in laws or regulations are reflected in the audit procedures.

The compliance requirements and suggested audit procedures replace the individual program audit guides issued by the departments and agencies.

Questions regarding a requirement, including requests for information about changes in requirements, should be addressed to the granting department or agency. Requirements and suggested audit procedures for smaller grant programs not contained herein can also be obtained from the granting department or agency. Auditors may refer to the statute or the CFR to obtain complete requirements. Also, the auditor should refer to the Compliance Supplement for Single Audits of state and local governments. This supplement contains programs for which nonprofit institutions are eligible.

## Part 2. GENERAL REQUIREMENTS

Several statutory and regulatory requirements are applicable to all or most federal assistance programs. The following are those requirements that involve a significant national policy. Failure to comply with these requirements could have a material impact on

an organization's financial statements including those prepared for federal programs. Accordingly, these compliance requirements shall be included as part of every audit that involves federal financial assistance.

### POLITICAL ACTIVITY

#### *Compliance Requirement*

Federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.

[Hatch Act of 1940 (5 U.S.C. 1501-1508) and Intergovernmental Personnel Act of 1970 (45 U.S.C. 4701), as amended by Title VI of Civil Service Reform Act of 1978 (Public Law 95-454 Section 602)] .

#### *Suggested Audit Procedures*

- Test the expenditure and related records for indications of activities, publications, or other materials intended for influencing legislation or similar type costs.
- Test the personnel and payroll records, and identify persons whose responsibilities or activities include partisan political activity.
- Test whether the above costs, if any exist, are charged directly or indirectly, to federally assisted programs.

### DAVIS-BACON ACT

#### *Compliance Requirement*

When required by federal grant program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor [40 Stat 1494, Mar. 3, 1921, Chap. 411, 40 U.S.C. 276a—276a-5].

#### *Suggested Audit Procedures*

- Identify the programs involving construction activities.
- Review selected construction contracts and subcontracts and determine whether they contain provisions requiring the payment of "prevailing" wages.
- Review the recipient's system for monitoring applicable contractors and subcontractors with respect to payment of prevailing wages and evaluate for adequacy.

- Review the monitoring system for contracts for selected programs and determine whether there is adherence to the prescribed procedures.
- For recipients which have not developed a system, or whose system is not operating effectively
  - Obtain the "local" Department of Labor (DOL) wage determination from the auditee, the architect/engineer (A/E) managing the project, or DOL.
  - Obtain from the auditee payroll registers of the construction company and test to determine whether wages paid conform to prevailing wages.

### CIVIL RIGHTS

#### *Compliance Requirement*

No person shall, on the grounds of race, color, national origin, age, or handicap, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or in part, by federal funds. Discrimination on the basis of sex or religion is also prohibited in some federal programs (Age—42 U.S.C. 6101 *et seq.*; Race—42 U.S.C. 2000d; Handicap—29 U.S.C. 794).

#### *Suggested Audit Procedures*

- Determine whether the recipient has announced a formal policy of nondiscrimination.
- For recipients employing 15 or more persons, ascertain whether a person has been designated to oversee civil rights compliance. If a person has been designated, interview that person and get an understanding of how the civil rights compliance program operates.
- Ascertain from the grant agreements whether any of the programs contain prohibitions against discrimination on the basis of sex or religion.

- Ascertain the number of complaints filed with federal, state and/or local agencies responsible for ensuring nondiscrimination in government programs during the fiscal year, the status of unresolved complaints or investigations, and the actions taken on resolved complaints or completed investigations.
- Ascertain whether programs contain prohibitions against discrimination in employment. For those programs: (1) review the annual report filed with the Equal Employment Opportunity Commission (EEOC), if any; (2) ascertain the number of complaints or completed investigations; and, (3) review the status of unresolved complaints or investigations and the actions taken on unresolved complaints or completed investigations.
- Determine whether facilities financed by federal funds that are required to be located in a nondiscriminatory manner are so located.
- Obtain representation and/or attorney letters to determine if any civil rights suits have been adjudicated or are pending.

## CASH MANAGEMENT

### *Compliance Requirements*

Recipient financial management systems shall include procedures to minimize the time elapsed between the transfer of funds from the U.S. Department of the Treasury and the disbursement of funds by the grantee.

Advances made by primary recipients to subrecipients shall conform substantially to the same standards of timing and amount as apply to advances by federal agencies to primary recipient organizations.

- Recipients shall maintain advances of federal funds in interest bearing accounts. Interest earned on federal advances deposited in such accounts shall be remitted promptly, but at least quarterly, to the federal agencies that provided the funds. Interest amounts up to \$100 per year may be retained by the recipient for administrative expense (OMB Circular A-110, Attachment I, 8(a)). However, some non-profit institutions may be instrumentalities of a state and covered by the provisions of the Cash Management Improvement Act of 1990 (Public Law 101-453).

### *Suggested Audit Procedures*

Review the recipient's cash forecasting process and evaluate for adequacy. (Note: For purposes of this supplement, adequacy can be interpreted as providing a reasonable assurance that the

system or procedures, if followed, will result in the intended event or action occurring.)

Review the recipient's system for requesting federal funds and evaluate whether it is adequate to keep federal cash disbursements limited to the organization's immediate needs.

For selected grant programs, determine dates and amounts for selected advances, drawdowns and other receipts of federal funds and compare to the dates the funds were disbursed and/or checks were presented to the banks for payment.

For the same programs, evaluate the size of the balances in relation to the program's needs.

Review the recipient's system for monitoring advances and payment requests by secondary recipients. Evaluate whether the system is sufficient to limit payments to amounts needed to meet immediate cash requirements.

- Review selected cash reports submitted by subrecipients and determine if the reports show large amounts of excess cash. If they do, ascertain why.

- Review the recipient's system for maintaining federal funds in interest bearing accounts, calculating the interest earned on these funds, and remitting the interest promptly.

## FEDERAL FINANCIAL REPORTS

### *Compliance Requirements*

Most federal programs require the periodic submission of financial reports. The special requirements for each grant program are presented in the Reporting Requirements (III-D) section for the program. The suggested audit procedures are provided below to facilitate the requirement for the auditor to comment on completeness and accuracy [OMB Circular A-110, and Treasury Circular 1075, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs"].

1. OMB Circular A-110 lists four required financial reports that apply to most of the programs described in this supplement.

- Financial Status Reports (SF-269 and SF-269A)—Report status of funds for all nonconstruction programs.
- Request for Advance or Reimbursement (SF-270)—Requests funds for nonconstruction programs when advance letter of credit or predetermined advance payments are not used.
- Outlay Report and Request for Reimbursement for Construction Programs (SF-271)—Requests reimbursements and reports status of funds for construction programs.

- Federal Cash Transactions (SF-272 and SF-272A)—Reports cash transactions and balances for grantees receiving advances or reimbursement by Treasury checks.

2. Certain federal agencies have received OMB approval to adapt the above reports or require other financial reports to meet their particular program needs.

### *Suggested Audit Procedures*

- Verify on a test basis that reports on file were actually submitted to the federal agency.
- Review the procedures for preparing the federal financial reports and evaluate for adequacy.
- Sample federal financial reports for each major and/or material program and review for completeness of submission.
- Trace data to the supporting documentation, i.e., worksheets, ledgers, etc.
- Review adjustments made to the general ledger amounts in the report affecting federal programs and evaluate for propriety.

## ALLOWABLE COSTS/COST PRINCIPLES

### *Compliance Requirement (Direct and Indirect Costs)*

The costs of a federally supported program are comprised of the allowable direct costs of the program plus its allowable indirect costs, less applicable credits. Federal cost principles are designed to provide that federal programs bear their fair share of recognized costs as determined by applicable cost principles. No provisions for profit or other increment above cost is intended.

OMB Circulars No. A-21, "Cost Principles for Educational Institutions," and Circular A-122, "Cost Principles for Nonprofit Organizations," and other principles issued by federal granting agencies, such as the Department of Health and Human Services (HHS) 45 CFR 74 Appendix E, "Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals," establish principles and standards for determining costs applicable to grants, contracts, and other agreements with colleges and universities, nonprofit organizations, and hospitals, respectively. A cost is allowable for federal reimbursement only to the extent of benefits received by federal programs,

and costs must meet the basic guidelines of allowability, reasonableness, and allocability and be the net of all applicable credits.

OMB's grants management circulars are issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; and, Executive Order 11541. The HHS hospital cost principles are issued under the authority of 5 U.S.C. 301.

The auditor is responsible for auditing direct and indirect costs. The suggested procedures for auditing direct costs applicable to all programs are presented in the following paragraphs. This avoids having to list these audit procedures for each individual program. The suggested audit procedures for auditing direct costs applicable to each specific program are included in parts 3 and 4 of this compliance supplement. The suggested audit procedures for auditing indirect costs are included as a general requirement in this part of this compliance supplement.

### *Suggested Audit Procedures (Direct and Indirect Costs)*

The following suggested audit procedures should be developed in conjunction with the audit tests of indirect costs and direct costs for major and individual programs.

- For transactions selected by the auditor which involve federal funds, determine whether the costs meet the criteria generally contained in the "Basic Considerations" section of the various applicable cost principles, i.e., that the cost is:

- (1) Necessary and reasonable for the performance and administration of the federal program and allocable thereto under the provisions of the cost principles.
- (2) Authorized or not prohibited under state or local laws or regulations and approved by the awarding agency, if appropriate. Certain costs require specific approval by the grantor agency while some costs are not allowed as set forth in the section of the applicable cost principles dealing with "Selected Items of Costs."
- (3) In conformance with any limitations or exclusions set forth in the applicable cost principles, or limitations in the program agreement or specific requirements in the program regulations.
- (4) Given consistent treatment with policies, regulations, and procedures applied uniformly to federal and non-federal activities of the recipient organization.
- (5) Given consistent accounting treatment within and between accounting periods and not allocable to, or included as a direct cost of, a federal program if the same or similar costs are allocated to the federal program as an indirect cost.
- (6) Determine in accordance with generally accepted accounting principles or other comprehensive basis of accounting.
- (7) Not included as a cost or used to meet cost sharing requirements of other federally supported activity of the current or a prior period.
- (8) Net of all applicable credits, e.g., volume or cash discounts, refunds, rental income, trade-ins, scrap sales, direct billings (in the case of indirect cost), etc.
- (9) Supported by underlying documentation, e.g., time and attendance payroll records, personnel activity reports or other time and effort records for employees charged to federal awards or to more than one activity, approved purchase orders, receiving reports, vendor invoices, canceled checks, etc., as appropriate, and correctly charged as to account, amount, and period.

### *Compliance Requirement (Indirect Costs Only)*

In order to receive reimbursement for indirect costs, recipients must prepare indirect cost rate proposals that provide the basis for allocating indirect costs to federal programs. Each recipient must submit its proposal to the federal government for negotiation of an indirect cost rate. Circulars A-88 and A-122 provide for cognizance systems whereby one federal agency is designated as the cognizant agency to deal with a college, university or non-profit organization on behalf of the entire federal government and negotiate indirect cost and other rates which are used by all other federal agencies in dealing with that recipient organization. In most cases, therefore, proposals are submitted to an appropriate cognizant agency.

Proposals are usually prepared on a prospective basis using actual financial data from a prior period or budgeted data for the current year. When the actual costs for the year are determined, the difference between the originally proposed costs and the actual costs are either carried forward to a subsequent period's rate or adjusted with the granting federal agency on a retroactive basis. In cases where predetermined rates are determined and approved by the cognizant federal agency, subsequent adjustments are not made with the exception of

eliminating any unallowable costs. Audit procedures must be tailored according to the type of rate and size and type of organization being reviewed. If unallowable costs are found, cost recoveries and adjustments should be made in accordance with the provisions of the applicable cost principles.

### *Suggested Audit Procedures (General)*

- Determine whether indirect costs are charged to federal awards. If not, the rest of this section does not apply. If such costs are charged, the following guidelines should be followed.
- Obtain and read the current negotiation agreement as well as any agreements, conditions or understandings related thereto and determine the types of rates and procedures required.
- Select a sample of claims for reimbursement submitted to the federal agency and determine if the amounts charged and rates used are in accordance with the agreements and if rates are being properly applied to the appropriate base.
- Determine whether the rates used or amounts charged are final or predetermined or are still open to adjustment or revision, either immediately or as a carry forward adjustment in a future period. If final, the results of the audit work should be reflected, if appropriate, in recommendations for future procedural improvements. However, if the final or predetermined rates include unallowable costs, they should be identified and reported along with the estimated federal share of the costs.
- Determine whether costs or types of costs, chargeable directly to federal awards or any other direct activity (including any costs required for matching or cost charging) have been eliminated from the pool of indirect costs and included in the allocation or rate base.
- Determine whether the established procedures to identify and eliminate unallowable costs are comprehensive and applied in a consistent manner. Verify that the results of these procedures are incorporated into the indirect cost proposal submitted to the cognizant agency.
- Review on a test basis supporting documentation to determine whether:
  - The indirect cost pools contain only items that are consistent with the applicable cost principles and negotiated agreements. This part of the review should be aimed at determining whether the indirect cost pools contain any unallowable costs as defined by the cost principles (e.g., entertainment, lobbying, etc.).
  - The methods of allocating the costs are in accordance with the provisions of the appropriate cost principles, other applicable regulations, and negotiated agreements and produce an equitable distribution of costs.
  - Statistical data (e.g., square footage, population or full-time equivalents, salaries and wages) in the proposed allocation bases are current, reasonable, updated as necessary, and do not contain any material omissions.
  - Personnel activity reports, time and effort reports, or other methods used to allocate salary and wage costs are mathematically and statistically accurate, are implemented as approved, and are based on the actual effort devoted to the various functional and programmatic activities to which the salary and wage costs are charged.
  - Special costs analysis studies (such as library studies or energy studies) are mathematically and statistically accurate, are factually based to the extent possible, use reasonable and supportable assumptions, produce reasonable re-

sults, and, if appropriate, agree with any prior agreements with, or conditions placed by, the cognizant agency concerning such studies.

- The data can be reconciled to the most recently issued financial statements. Investigate significant reconciling items.

#### **Additional Suggested Audit Procedures—Other Types of Rates**

Organizations frequently act as self-insurers or provide some types of services for direct activities from centralized service departments on a charge for use basis. In addition, they frequently charge fringe benefits to all activities by means of a fringe benefit rate applied to the salary and wage costs incurred in those activities. The cognizant negotiators, while responsible for such rate activities, may or may not actually negotiate and publish the rates themselves, but merely negotiate the rate setting methodologies and/or resolve any problems which arise.

- When such practices exist determine, whether:
  - The rate bases include all users and all are treated in a consistent manner.
  - Billing rates (or charges) have been adjusted to eliminate profits and unallowable costs.

### **DRUG-FREE WORKPLACE ACT**

#### **Compliance Requirements**

- All recipients receiving grants, including cooperative agreements, from any federal agency must certify that they will provide a drug-free workplace, or, in the case of a grantee who is an individual, certify to the agency that his or her conduct of grant activity will be drug-free. Making the required certification has been a precondition of receiving a grant from a federal agency since March 18, 1989. Every recipient is required to make this certification for each grant.
- The recipient certifies that it will provide a drug-free workplace by:
  - (a) Publishing a policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
  - (b) Establishing an on-going drug-free awareness program to inform employees about:
    - (1) The dangers of drug abuse in the workplace.
    - (2) The grantee's policy of maintaining a drug-free workplace.
    - (3) Any available drug counseling, rehabilitation, and employee assistance programs.
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
  - (d) Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the grant the employee will:
    - (1) Abide by the terms of the statement.
    - (2) Notify the employer in writing of any criminal drug statute conviction for a violation occurring in a workplace no later than five calendar days after such conviction.

- The methods used to adjust for accumulated over/under recoveries distributed them in reasonable proportion to the same users as were originally billed for the services which created the accumulation.
- Any retained or unexpended earning (including reserves) are present and, if so, determine: (a) if they have been computed in accordance with the applicable cost principles, (b) if they are excessive in amount, and (c) whether a refund has been made to the federal government for its fair share of any amounts thereof which have been removed (transferred out) or borrowed from the fund.
- Fringe benefit allocations, charges, or rates deal fairly with differing levels, if any, of benefits provided to different classes of employees and whether the pool of fringe benefit costs has been reduced for any refunds or rebates received.
- Independent actuarial studies appropriate for self-insurance programs and certain types of fringe benefit programs are performed, and, if so, are kept current, reflect actual conditions, and use reasonable actuarial assumptions.

- (e) Notifying the agency in writing within ten calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction.
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted—
  - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

[Public Law 100-690 Title V, Subtitle D, 41 U.S.C. 701 *et seq.*]

#### **Suggested Audit Procedure**

- Determine through discussions with employees and written communications to employees whether the grantee has taken action to provide a copy of the policy statement to each employee engaged in the performance of a grant.
- Ascertain whether the statement contains all the necessary notifications.
- Determine whether the report made to federal grantor agencies on convictions of employees is filed and complete.
- Test a sample of files of convicted employees and determine whether the report made to federal grantor agencies on convictions was reported within 10 calendar days after the employer received any notice of an employee's conviction.
- Ascertain whether the grantee took the required personnel or treatment referral action within 30 calendar days after receiving notice of an employee conviction.

## ADMINISTRATIVE REQUIREMENTS

Federal assistance programs are subject to the provisions of Circular A-110, "Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations."

Three administrative requirements, financial reporting, cost principles, and cash management principles, are covered elsewhere in this part of the Compliance Supplement. The auditor should also consider those common agency administrative requirements listed below from Circular A-110. The scope of the audit work performed for these requirements will depend on the amount of testing performed in connection with individual programs and whether the requirement is material to federal programs.

Interest earned on advances

Period of availability of funds<sup>1</sup>

Program income

Real property

Equipment

Supplies

Subawards to debarred and suspended parties<sup>1</sup>

Procurement

Subawards<sup>1</sup>

Revolving fund repayments

(See procedures under the following compliance requirements.)

### **Compliance Requirement**

Program income consists of earnings from federally supported activities, i.e., income from service fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights. Program income may be used in one of three ways; as a general rule, program income must be used as a deduction from total project costs. If permitted by the terms of awards, such income may be used instead to further eligible program objectives, or finance the nonfederal share of the project. The auditor should refer to the agreement to determine which option applies. Program income excludes interest earned on advances.

The institution must have procedures to ensure proper accountability for program income (Circular A-110, Attachment D).

### **Suggested Audit Procedures**

- Determine whether systems and procedures are in place for the identification and assignment of program income to assume appropriate use in accordance with the terms of

awards.

- Test selected items to determine whether program income was properly accounted for and utilized.

### **Compliance Requirement**

The institution must maintain a property management system for its federal award programs and related activities that is adequate to meet the standards of OMB Circular A-110, Attachment N, and the requirements of OMB Circular A-21 or A-122.

### **Suggested Audit Procedures**

- Review and evaluate the institution's property management system.
- Test the system to determine whether the institution is:
  - maintaining adequate records of equipment purchased under federal awards.
  - properly disposing of equipment no longer necessary to project and properly accounting for the federal share of such equipment.

### **Compliance Requirement**

The institution must have a procurement system which meets the requirements of OMB Circular A-110, Attachment O.

### **Suggested Audit Procedures**

- Review and evaluate the institution's policies and procedures for ensuring that:
  - procurement practices provide for competition.
  - unnecessary equipment purchases are avoided.
  - subcontractor and subgrantee proposal and performance are adequately reviewed.
- Test a sample of procurement transactions to determine whether the minimum requirements of Attachment O are met.

### **Compliance Requirement**

Determine if any of the other administrative requirements listed above are material to federal awards.

### **Suggested Audit Procedures**

- Review and evaluate internal controls in the administrative areas selected for review.
- Test transactions for compliance.

<sup>1</sup>Will be included in the revised circular.

## Part 3. COMMON MAJOR PROGRAM REQUIREMENTS

### RESEARCH AND DEVELOPMENT PROGRAMS

#### I. PROGRAM OBJECTIVES

Specific and general research are sponsored by the federal government to achieve objectives agreed upon between the sponsoring agency and the institution. The types of research conducted

under these agreements are widely varied. The objective of the individual research projects is explained in the grant agreement or contract.

#### II. PROGRAM PROCEDURES

Research grants and contracts are awarded to colleges and universities on the basis of research proposals submitted to federal government agencies. These proposals are sometimes unsolicited.

A grant or contract agreement is then negotiated in which the purpose of the project is specified, the amount of the award is indicated, and terms of administration are delineated.

#### III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

##### A. Types of Services Allowed or Unallowed

The objectives of individual research projects are explained in the grant agreement or contract; therefore, there are no specific compliance requirements listed here. However, the auditor should ensure funds were used to meet the objectives of the grant.

##### *Suggested Audit Procedures*

- See the suggested audit procedures for direct and indirect costs in the General Requirements section of this guide.

##### B. Eligibility

The auditor is not expected to test for eligibility.

##### C. Matching, Level of Effort, and/or Earmarking Requirements

##### *Compliance Requirement*

Institutions may be required to share in the cost of research either on an overall institutional or individual grant basis (Circular A-110, Attachment E).

##### *Suggested Audit Procedures*

- Obtain an understanding of the cost sharing arrangements with the federal awarding agencies. Determine whether cost sharing is on an institutional or project-by-project basis.
- Examine the cost-sharing or matching commitment specified by the sponsoring agency in the award document.
- Test whether the organization met these requirements.
- Determine whether in-kind contributions for cost sharing were valued in accordance with applicable federal cost principles (OMB Circular A-21) and with OMB Circular A-110, Attachment E.

##### D. Special Reporting Requirements

##### *Compliance Requirement*

The grant and contract agreement will specify the required reports.

##### *Suggested Audit Procedure*

- See procedures for Federal Financial Reports in the "General Requirements" section of this supplement.

##### E. Special Tests and Provisions

##### *Compliance Requirement*

The institution should have an accounting system that provides accurate and timely financial reports on federal awards and related activities. Costs claimed should be allowable and allocable

in accordance with federal cost principles (OMB Circular A-110, Attachment F).

##### *Suggested Audit Procedures*

- Review the institution's accounting system to determine whether it is adequate to:
  - Identify the federally supported activities including the award, authorizations, obligations, unobligated balances, assets, liabilities, outlays and revenues.
  - Accumulate and record expenditures by cost categories provided in the approved federal award.
  - Account for the institution's financial participation, if required.
  - Assess the reasonableness and allowability of costs claimed in accordance with the provisions of applicable federal cost principles and the terms of the agreement.
  - Assure that individual items of costs are not claimed against more than one project.
- Test the accounting system to determine if it is operating effectively.

##### *Compliance Requirement*

The distribution of individual employee compensation to federally sponsored research projects must follow the guidance as stated in OMB Circulars A-21 and A-122, HHS Hospital Cost Principles (45 CFR Part 74 Appendix E), and applicable award documents.

##### *Suggested Audit Procedures*

- Review and evaluate the institution's system of internal controls and test time distribution and other records to determine whether:
  - Personal service costs have been properly recorded and distributed based on a distribution of activity.
  - Personal service costs incurred were properly approved.
  - Personal service costs were not materially misstated due to processing errors.
  - A liability was accrued for all costs applicable to the period.
  - For personal service costs charged to federal awards:
    - Recorded activity is appropriate for the federal award.
    - The salary charge is commensurate with the amount of actual activity.
    - The record of activity is signed by authorized personnel.



—Full distribution of personnel costs is reconciled to the books of accounts at least annually.

—For a sample of personal service compensation charges, determine whether the system is working as intended by conducting interviews of employees, comparing records or other tests.

#### **Compliance Requirements**

Employee benefits must be charged to federal awards in accordance with OMB Circulars A-21 and A-122.

#### **Suggested Audit Procedures**

- Review and evaluate the institution's system of internal controls and the accounting records to determine whether:
  - The fringe benefits were authorized by the personnel policies.
  - The fringe benefits charged to federal awards were supported by the accounting records.

#### **Compliance Requirements**

Direct costs charged to federal awards must be charged in accordance with OMB Circulars A-21 and A-122 and applicable awards documents.

#### **Suggested Audit Procedures**

- Review and evaluate the institution's system of internal controls and test the accounting records to determine whether:
  - The institution has a policy on the use of consultants that is in accordance with federal requirements.
  - The institution has an acceptable travel policy.
- Select separate samples for travel costs, consultant costs, cost transfers between projects and other direct charges and determine if they are properly documented and are allowable.

#### **Compliance Requirements**

The grant award may have special terms and conditions which should be considered during the audit.

#### **Suggested Audit Procedures**

- Determine the significant compliance requirements from the research grant or award.
- Develop audit procedures to test compliance with these requirements.

—Full distribution of personnel costs is reconciled to the books of accounts at least annually.

—For a sample of personal service compensation charges, determine whether the system is working as intended by conducting interviews of employees, comparing records or other tests.

#### *Compliance Requirements*

Employee benefits must be charged to federal awards in accordance with OMB Circulars A-21 and A-122.

#### *Suggested Audit Procedures*

- Review and evaluate the institution's system of internal controls and the accounting records to determine whether:
  - The fringe benefits were authorized by the personnel policies.
  - The fringe benefits charged to federal awards were supported by the accounting records.

#### *Compliance Requirements*

Direct costs charged to federal awards must be charged in accordance with OMB Circulars A-21 and A-122 and applicable awards documents.

#### *Suggested Audit Procedures*

- Review and evaluate the institution's system of internal controls and test the accounting records to determine whether:
  - The institution has a policy on the use of consultants that is in accordance with federal requirements.
  - The institution has an acceptable travel policy.
- Select separate samples for travel costs, consultant costs, cost transfers between projects and other direct charges and determine if they are properly documented and are allowable.

#### *Compliance Requirements*

The grant award may have special terms and conditions which should be considered during the audit.

#### *Suggested Audit Procedures*

- Determine the significant compliance requirements from the research grant or award.
- Develop audit procedures to test compliance with these requirements.

## Section J. DEPARTMENT OF HEALTH AND HUMAN SERVICES

### FAMILY PLANNING SERVICES

93.217

#### I. PROGRAM OBJECTIVES

The objectives of grants for family planning services are to assist in the establishment and operation of voluntary family planning projects. These projects shall consist of the planning

projects. These projects shall consist of the educational, comprehensive medical and social services necessary to aid individuals in freely determining the number and spacing of their children.

#### II. PROGRAM PROCEDURES

Grantees request funds through a grant application which contains a budget and a narrative plan. After review and approval of the grant application, a Notice of Grant award is prepared by the grants management office.

The annual Notice of Grant Award specifies funds to be provided for the year and indicates the length of time Health and

Human Services (HHS) intends to support the project without requiring reapplication for funds. This period, called the project period, will usually be for 3 to 5 years. If during the grant year, conditions change, the grantee should notify the Administrator and a revised Notice of grant Award may be prepared.

#### III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

##### A. Types of Services Allowed or Unallowed

###### • Funds are to be used:

- to provide for (1) medical services related to family planning including physician's consultation, examination, prescription, continuing supervision, laboratory examination, and contraceptive supplies, and necessary referral to other medical facilities when medically indicated, and (2) the effective usage of contraceptive devices and practices.
- to provide for social services related to family planning including counseling, referral to and from other social or medical services agencies, and any ancillary services which may be necessary to facilitate clinic attendance.
- to provide for information and educational programs designed to (1) achieve community understanding of the project, (2) inform the community of the availability of services, and (3) promote continued participation in the project by persons to whom family planning services may benefit. In addition, funds may be used to provide for coordination and use of referral arrangements with other providers of health care services including but not limited to local health and welfare departments, hospitals, voluntary agencies and health services projects supported by other federal programs (42 CFR 59.5).

###### Funds may not be used:

- to provide pregnancy care (including obstetric or prenatal care) (42 CFR 59.2).
- to provide counseling concerning the use of abortion as a method of family planning or provide referral for abortion as a method of family planning (42 CFR 59.8).
- for expenditures to encourage, promote or advocate abortion as a method of family planning (42 CFR 59.10).
- for expenditures that are contrary to the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

###### *Suggested Audit Procedures*

- Review and evaluate the internal control systems designed to ensure expenditures are only made for allowable services
- Test expenditures and related records to determine whether expenditures were made only for allowable services.

##### B. Eligibility

###### *Compliance Requirement*

Any public or non-profit private entity in a state may apply for a grant (42 CFR 59.3).

###### *Suggested Audit Procedure*

Review the incorporation documents or related records and/or the most recent Internal Revenue Service List of tax-exempt organizations as defined in Section 501(c)(3) of the Internal Revenue Code.

##### C. Matching, Level of Effort, and/or Earmarking Requirements

###### *Compliance Requirement*

There is no matching, level of effort or earmarking requirements.

##### D. Special Reporting Requirements

There are no special reporting requirements.

##### E. Special Tests and Provisions

###### *Compliance Requirements*

- The grantee should maximize non-grant revenue.
- The grantee should secure payment from clients for services in accordance with the schedule of discounts based on the ability to pay (42 CFR 59.5(a)(7)).
- If a third party is authorized or legally obligated to pay for services, the grantee should make all reasonable efforts to obtain third party payment without application of any discounts (42 CFR 59.5(a)(8)).

###### *Suggested Audit Procedures*

- Review and evaluate the grantee's policies and procedures for billing and collection, including use of the schedule of discounts.
- Test client charges to determine whether they were properly recorded based on the schedule of discounts.
- Test accounts receivable records to determine that collections are maximized.

- Test selected bad debts to determine whether collection could have been made on the account.

#### **Compliance Requirement**

There are three options regarding the use of the grant-related income allowed by 45 CFR 74 Subpart F. The grant award document will specify which option is allowed.

#### **Suggested Audit Procedure**

- Review and evaluate the internal controls in place to account for program income in accordance with grant award.
- Test records to determine whether program income is accounted for in accordance with the grant award.

## **COMMUNITY HEALTH CENTERS (Section 330)**

93.224

### **I. PROGRAM OBJECTIVES**

The objective of the Community Health Centers Program is to support the development and operation of community health centers which provide primary health services, supplemental

health services and environmental health services to medically underserved populations.

### **II. PROGRAM PROCEDURES**

Any public or nonprofit private entity is eligible to apply for these funds.

### **III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES**

#### **A. Types of Services Allowed or Unallowed**

The program receives funds which may be used for the cost of planning, development, and operation of community health centers.

#### **Suggested Audit Procedures**

Review and evaluate internal controls designed to ensure that expenditures are made only for services of the approved project.

#### **B. Eligibility**

#### **Compliance Requirement**

Any public or nonprofit (42 CFR 51c.102(f)) private entity is eligible to apply for a grant (42 CFR 51c.103).

#### **Suggested Audit Procedures**

- Determine if the grantee is a governmental entity or is identified in the most recent Internal Revenue Service list of tax-exempt organizations as defined in Section 501(c)(3) of the IRS Code.
- Examine a certified copy of the Grantee's certificate of incorporation or similar document that clearly establishes the nonprofit status of the entity.

#### **C. Matching, Level of Effort and/or Earmarking Requirements**

#### **Compliance Requirement**

The following funds for centers must be accounted for as being expended during the budget period for the approved project prior to the use of grant funds: a) all state, local, and other operational funding received by or allocated to the approved project, and b) all fees, premiums, and third-party reimbursements accrued after adjustments for uncollectible up to and including the amount expected for the budget period [42 CFR Part 51c.303(r)]. The "amount expected" is the amount of fees, premiums, and third-party reimbursements in the non-federal share of the final approved budget for the budget period.

Fees, premiums, and third-party reimbursements above the amount expected for the budget period must be used as needed when the costs of the center's operation during the budget period exceed the total of the amounts cited in a) and b) in the preceding paragraph and the section 330 grant.

#### **Suggested Audit Procedures**

- Identify, study and evaluate the controls designed to insure that all applicable non-grant funds are used before grant funds.
- Determine whether all applicable non-grant funds were used for the approved project prior to use of the grant funds.
- Determine whether fees, premiums, and third-party reimbursements above the amount expected for the budget period were used for costs of the center's operation.

#### **D. Special Reporting Requirements**

#### **Compliance Requirement**

The BCHS Common Reporting Requirements (BCRR) Report will be required annually beginning with reports for calendar year 1991. Table 6 of the BCRR Report is an accrual basis report of all costs associated with the approved project.

#### **Suggested Audit Procedures**

- Reconcile accounting records with Table 6 of the BCRR Report.
- Verify that the BCRR report is being accurately prepared.

#### **E. Special Tests and Provisions**

#### **Compliance Requirement**

Audited financial statements are to be prepared in accordance with Generally Accepted Accounting Principles [Public Health Service Act Section 330(h)(1)].

#### **Suggested Audit Procedure**

Determine whether the financial statements and results of financial operations are reported in accordance with generally accepted accounting principles and identify any departures as a compliance violation.

#### **Compliance Requirement**

The grantee shall secure payments from patients for services in accordance with the schedule of fees and discounts which has been adjusted on the of the patient's ability to pay (42 CFR 51c.303 (f)).

#### ***Suggested Audit Procedures***

- Review and evaluate policies and procedures for 1) identifying the patient's ability to pay, 2) using sliding fee schedules to adjust rates based on ability to pay and 3) properly recording and adjusting patient fees.
- Review and evaluate policies and procedures for 1) maximizing revenues from third parties such as insurance maximizing revenues from third parties insurance, Medicare and Medicaid and 2) maximizing collection of charges, including use of collection agencies, where appropriate.
- Test fees to determine if they were properly recorded based on ability to pay and adjusted based on the sliding fee schedule.
- Test selected accounts receivable records and bad debts to determine that collections were maximized.

#### ***Compliance Requirement***

The center must use excess program income to: (I) expand and improve its services; (II) to increase the number of persons

(eligible to receive services from such a center); (III) construct, expand, and modernize its facilities; (IV) improve the administration of its service programs; or (V) establish the financial reserve for the furnishing of services on a prepaid basis. Without the approval of the awarding authority, not more than one-half of the excess program income from a given budget period may be used for construction and modernization (see purpose II in the preceding statement) of the center's facilities.

Excess program income is the amount of fees, premiums, and third-party reimbursements accrued from center operations during the budget period, which is not needed for the actual costs of the approved project and exceeds the expected amount of fees, premiums, and third-party reimbursements for the budget period.

#### ***Suggested Audit Procedures***

- Review and evaluate internal controls designed to ensure that excess program income is used only for authorized purposes and that the grantee obtained prior review and/or approval of the use as appropriate.
- Test expenditures and related records.