

been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

*Unrecovered indirect cost* means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

*Working capital advance* means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996; 62 FR 41878, Aug. 4, 1997]

#### § 74.3 Effect on other issuances.

This part supersedes all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part, except to the extent they are required by Federal statute, or authorized in accordance with the deviations provision in § 74.4.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996]

#### § 74.4 Deviations.

(a) After consultation with OMB, the HHS OGAM may grant exceptions to HHS awarding agencies for classes of awards or recipients subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances. HHS awarding agencies may apply more restrictive requirements to a class of awards or recipients when approved by the OGAM, after consultation with the OMB. HHS awarding agencies may apply less restrictive requirements without approval by the OGAM when making small awards except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by HHS awarding agencies without seeking prior approval from the OGAM. OGAM will maintain a record of all requests for exceptions from the provisions of this

part that have been approved for classes of awards or recipients.

(b) As a matter of Departmental policy, requests for individual case deviations will be considered favorably by HHS and its awarding agencies whenever the deviation will facilitate comprehensive or integrated service delivery, or multiple-source consolidated awards, unless the deviation would impair the integrity of the program.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996]

#### § 74.5 Subawards.

(a) Unless inconsistent with statutory requirements, this part (except for § 74.12 and the forms prescribed in § 74.22) shall apply to—

(1) Except for subawards under block grants (45 CFR part 96), all subawards received by institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations from any recipient of an HHS award, including any subawards received from States, local governments, and Indian tribal governments covered by 45 CFR part 92; and

(2) All subawards received from States by any entity, including a government entity, under the entitlement programs identified at 45 CFR part 92, § 92.4 (a), (a)(7), and (a)(8), except that §§ 74.12 and 74.25 of this part shall not apply.

(b) Except as provided in paragraph (a)(2) of this section, when State, local, and Indian Tribal government recipients of HHS awards make subawards to a government entity, they shall apply the regulations at 45 CFR part 92, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," or State rules, whichever apply, to such awards.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996]

### Subpart B—Pre-Award Requirements

SOURCE: 59 FR 43760, Aug. 25, 1994, unless otherwise noted.