

DEPARTMENT OF HEALTH AND SOCIAL SERVICES



7 AAC 78

GRANT PROGRAMS

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Revised through October 16, 2012

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Title 7. Health and Social Services.

Part 6. Miscellaneous -

Chapter 78. Grant Programs

7 AAC 78.010. Scope of chapter

(a) Except as provided in 7 AAC 78.020 and (b) of this section, this chapter applies to grants made by the department.

(b) This chapter does not apply to the child care grant program under 7 AAC 39 or to grant services provided to individuals under 7 AAC 81.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 6/23/2006, Register 178

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.25.071</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>
<u>AS 47.30.530</u>	<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>
<u>AS 47.80.130</u>				

7 AAC 78.020. Limitation

If a state or federal statute or regulation addresses a particular grant program and is inconsistent with a provision of this chapter, the state or federal statute or regulation supersedes the provision of this chapter.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.030. Eligible applicants

(a) A state agency, a political subdivision of the state, or a nonprofit organization, including a consortium that is a nonprofit organization, may apply for a grant under this chapter.

(b) An organization that is a nonprofit subsidiary of a nonprofit corporation may apply for a grant. If the nonprofit subsidiary applies for a grant, it must submit with its proposal proof of its nonprofit status or

(1) proof of the nonprofit status of its parent corporation; and

(2) a statement, signed by an agent of the parent corporation, that the subsidiary corporation is a nonprofit subsidiary of the parent corporation.

(c) An individual may apply for a grant under AS 47.37 (Uniform Alcoholism and Intoxication Treatment Act).

(d) If the department intends to give preference to one category of applicant, the department will state that intent in its instructions.

(e) An Alaska Native entity or a nonprofit subsidiary of one or more Alaska Native entities may apply for a grant under this chapter. An Alaska Native entity must submit with its proposal a resolution approved by its governing body that waives the entity's sovereign immunity from suit with respect to claims by the state arising out of activities related to the grant.

(f) An eligible applicant awarded a grant under this chapter may not receive a provider agreement under 7 AAC 81 to provide the same services.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.040. Solicitation for grant services

(a) The department will issue a solicitation for grant services under this chapter through a request for proposals under 7 AAC 78.050 or an alternate method of solicitation under 7 AAC 78.095.

(b) Repealed 10/16/2012.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.01</u>
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7 AAC 78.050. Requests for proposals

(a) The department will give public notice of the availability of a request for proposals for a grant in a manner that is reasonably calculated to reach potential applicants. The public notice will specify

- (1) the grant period;
- (2) contact information to obtain a copy of the request for proposals; and
- (3) the deadline by which a proposal in response to the request for proposals is due.

(b) The department will specify in the request for proposals

- (1) each service delivery area or pre-defined allocation of money by area;
- (2) grant program goals to be achieved as a result of the grant project;
- (3) minimum responsiveness criteria;
- (4) whether an applicant must submit a multi-year plan as part of the proposal;
- (5) any planning document upon which a grant award decision may be based; and
- (6) instructions for formatting, completing, and submitting a proposal.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.060. Submission of grant proposal

To be considered for a grant, an applicant responding to a request for proposals issued under 7 AAC 78.050 must

- (1) submit the grant proposal in the format specified by the department in the request for proposals;
- (2) include in the proposal all information required by the request for proposals; and
- (3) submit the proposal to the department at the address and by the date specified in the request for proposals.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.070. Review of letter of intent

Repealed.

History: Eff. 4/11/81, Register 78; repealed 7/21/2002, Register 163

7 AAC 78.080. Distribution of application for review

Repealed.

History: Eff. 4/11/81, Register 78; repealed 7/21/2002, Register 163

7 AAC 78.090. Review of proposals

(a) Unless the department cancels a solicitation issued under this chapter, no later than 60 days after the grant proposal submission deadline, the department will review each proposal received in response to a request for proposals issued under 7 AAC 78.050 and prepare a record of recommendations for the commissioner's consideration.

(b) In preparing a record under (a) of this section, the department will

- (1) evaluate each grant proposal for compliance with the minimum responsiveness criteria, technical or other requirements, conditions, and criteria set out in 7 AAC 78.100 and the request for proposals; based on the contents of the proposal and other documentation and information regarding the applicant that is available to the department;

(2) eliminate from consideration each proposal that fails to meet the minimum responsiveness criteria;

(3) make a recommendation regarding whether each proposal should be financed, and at what level; in a recommendation, the department will consider:

(A)) priorities in applicable state health and social services plans;

(B) requirements of applicable state and federal statutes and regulations; and

(C) any municipal ordinance or regulation applicable to the grant program;

(4) decide whether to

(A) forward its recommendations to the commissioner for review under 7 AAC 78.093; or

(B) appoint a proposal evaluation committee under 7 AAC 78.092; the department may appoint a proposal evaluation committee if

(i) there are multiple responsive proposals for which there is insufficient money to fully fund all responsive proposals; or

(ii) the services requested are so technical or specialized in nature that expertise is required to evaluate whether the services proposed are sufficient to meet the intent of the request for proposals;

(5) open proposals so as to avoid disclosure of contents to competing applicants before notice of award is issued.

(c) In this section, "record" has the meaning given in AS 09.80.190 (Uniform Electronic Transactions Act).

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.092. Proposal evaluation committee

(a) If the department decides, under 7 AAC 78.090(b) (5)(B), to appoint a proposal evaluation committee, it will

(1) appoint at least three committee members to review each responsive grant proposal and make recommendations in accordance with (c) and (d) of this section; and

(2) ensure that each member of a committee appointed under this section has received basic training in the procedures and responsibilities of a proposal evaluation committee before the committee meets to evaluate proposals.

(b) A proposal evaluation committee member shall

(1) comply with applicable provisions of AS 39.52 (Alaska Executive Branch Ethics Act); and

(2) disclose any potential conflict of interest before participating on the committee so that the department may evaluate whether the member's participation might unduly influence the committee's recommendations; if the department determines that a committee member has a conflict of interest, the department may excuse that committee member from further involvement with the committee and will not consider any recommendations by the excused member regarding any proposal; if excusing the member from the committee leaves the committee with less than three members, the department will appoint a new member.

(c) Each member of a proposal evaluation committee appointed under this section shall

(1) evaluate each responsive grant proposal

(A)) independently of other committee members; and

(B) based on the criteria set out in 7 AAC 78.100 and the request for proposals; and

(2) consider, if requested by the department,

(A) the information contained from recommendations in each evaluation prepared under 7 AAC 78.090(b) (1); and

(B)) the recommendations for financing under 7 AAC 78.090(b) (3).

(d) After each committee member has reviewed each grant proposal under (c) of this section, the committee shall meet to

- (1) consider information provided by each applicant in an oral presentation, if the request for proposals stated that oral presentations may be made to the committee;
- (2) make recommendations to approve or disapprove a grant award, make modifications to a proposed grant, or impose special conditions for a grant award; and
- (3) rank the proposals in priority order.

History: Eff. 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.093. Commissioner's decision on grant awards

(a) The commissioner will make the final decision on the award of a grant. In making a final grant award decision, the commissioner will consider

- (1) recommendations from the department;
- (2) recommendations from any proposal evaluation committee appointed under 7 AAC 78.092;
- (3) other advisory recommendations; and
- (4) the criteria established in 7 AAC 78.100.

(b) The commissioner will decide

- (1) to approve the grant award for the amount requested;
- (2) to approve the grant award for an amount different from the amount requested or with modifications;
- (3) to approve the grant award with special conditions or modifications; or
- (4) not to approve the grant award.

(c) An award approved under (b)(2) or (3) of this section is contingent upon a negotiated agreement for necessary revisions in the applicant's proposed budget and proposed scope of services.

(d) Subject to (c) of this section, the commissioner will make the final decision on a grant proposal no later than 15 days after an appropriation for the grant is enacted into law and is effective. This timing does not apply if

(1) the statutory authority for a grant program provides for a different timeline for the award of grants;

(2) the commissioner receives the recommendations for grant awards after the relevant appropriation for the state fiscal year has been enacted into law;

(3) the request for proposals with respect to a particular grant specified a different timeline for award of the grant; or

(4) the grant is a capital grant.

(e) The commissioner may extend an existing grant for a limited time if

(1) by July 1 of the state fiscal year for which a grant proposal is made, the relevant appropriation bill for the grant program for that fiscal year is not enacted into law and effective; and

(2) the commissioner determines that good cause exists for the extension.

(f) If the commissioner extends a grant under (e) of this section, the department will, within 15 days, notify the grantee in writing that an extension has been granted, including the amount and duration of the extended grant.

History: Eff. 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.095. Alternate methods for solicitation and review of grant proposals

(a) The commissioner will waive the requirements of 7 AAC 78.050 if, based on grant program goals and desired outcomes and on supporting facts submitted by the department, the commissioner finds that

(1) the only potential applicants for a particular grant are political subdivisions of the state or other state agencies;

(2) only a single potential grantee or limited number of potential grantees have the knowledge, capability, or expertise necessary to accomplish the goals of the grant project;

(3) only a single potential grantee or limited number of potential grantees can meet the goals of the grant project more satisfactorily than any other potential grantee; or

(4) an imminent threat exists to public health, welfare, or safety, and an emergency grant award can be made by reasonable means; any finding under this paragraph will be based on a written determination by the department that sets out the facts justifying the emergency.

(b) Repealed 6/24/2004.

(c) Subject to (d) of this section, in lieu of requesting a finding by the commissioner under (a)(2) or (3) of this section, the department may issue a request for letters of interest to determine the interest of potential grantees. If, based on the responses to a request for letters of interest, the department determines that there is only a single potential grantee or that only a limited number of potential grantees have the necessary knowledge, capability, or expertise, the department may evaluate those responses under (f) of this section.

(d) If, based on the responses to a request for letters of interest issued under (c) of this section, the department determines that the number of qualified grantees is sufficient to provide competition for a proposed grant, the department will

(1) issue a request for proposals under the provisions of 7 AAC 78.050 in those service delivery areas where competition for the proposed grant exists; or

(2) request the commissioner to proceed to a final grant award under 7 AAC 78.093 based on the responses to the request for letters of interest; if the commissioner denies the department's request under this paragraph, the department will proceed under (1) of this subsection.

(e)) A request for letters of interest issued under (c) of this section must include the following:

(1) a description of the specific services being sought;

(2) a description of the population to be served by the grant;

(3) the geographic area in which the services are to be provided;

(4) the deadline for submission of a letter of interest;

(5) any technical requirements specific to the grant program; and

(6) the duration of the grant.

(f) For grant proposals received in response to a request for letters of interest or other solicitation method under this section, the department will solicit from an applicant documents and other information that the department considers necessary to determine an award, including the level of financing, potential modifications, and special compliance conditions. The department will review the documents and other information submitted and make recommendations to the commissioner for approval or disapproval under 7 AAC 78.093. The department's recommendations will take into account the review criteria set out in 7 AAC 78.100 and whether an award would be in the best interests of the state.

History: Eff. 6/23/85, Register 94; am 1/14/2000, Register 153; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.100. Criteria for review of proposals

Unless the department approves an exception from a criterion that is not relevant to the grant project or grantee, the department will, in addition to criteria established by other applicable state and federal law, use the following criteria in the review of a grant proposal under this chapter:

- (1) criteria relating to grant program policy and strategies, program goals, and budgets;
- (2) criteria relating to personnel, management, and facilities, including
 - (A) eligibility to receive grant money under 7 AAC 78.030;
 - (B) the applicant's previous experience in providing the same or similar services or projects and history of compliance with grant requirements, including the resolution of audit exceptions, if any, for an applicant that has previously received a grant;
- (3) criteria relating to community support and collaboration; and
- (4) program-specific criteria other than criteria in (1) - (3) of this section, and included in the request for proposals, request for letters of interest, or other method of solicitation.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
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<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.110. Notification of award

(a) No later than 15 days after the commissioner makes a final grant award decision under 7 AAC 78.093, the department will send to the applicant a notice of

- (1) intent to award the grant; or
- (2) intent not to award the grant.

(b) No later than 15 days after receipt of a grant agreement, the grantee must sign the grant agreement to indicate acceptance of the terms set out in the agreement, and any revisions required under 7 AAC 78.093(c), and this chapter. The signed grant agreement is a contract between the department and the grantee.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.120. Equal employment opportunity

(a) The grantee shall post in conspicuous places, accessible to employees and applicants for employment, at the location of the grantee's grant project, notices setting out the provisions of AS 18.80.220.

(b) The grantee shall state, in solicitations or advertisements for employees to work on a grant project, that the grantee is an equal opportunity employer and that all qualified applicants will be considered for employment without regard to race, religion, color, national origin, age, physical or mental disability, gender, or any other status or condition described in AS 18.80.220 (a)(1).

(c) The grantee shall send to each labor union or representative of workers with which the grantee has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the grantee's commitments to equal employment opportunity and shall post copies of the notice in conspicuous places accessible to employees and applicants for employment, at the location of the grantee's grant project.

(d) The grantee shall include the requirements of this section in the grantee's contracts that are paid for, in whole or in part, with grant money and shall require compliance with the requirements of this section in contracts entered into by the grantee's subcontractors.

(e) The grantee shall promptly comply with state directives necessary to insure compliance with federal and state statutes and regulations relating to the prevention of discriminatory employment practices.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.130. Civil rights of recipients of services

(a)) A grantee shall comply with the requirements of the following federal statutes:

- (1) 42 U.S.C. 2000d (Civil Rights Act of 1964);
- (2) 41 U.S.C. 701 - 707 (Drug Free Workplace Act of 1988);
- (3) 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act of 1990).

(b) A grantee shall establish procedures for processing complaints alleging discrimination on the basis of race, religion, national origin, age, gender, physical or mental disability, or other status or condition described in AS 18.80.220 (a)(1).

(c) A grantee may not exclude an eligible individual from receiving grant-supported services. However, with the department's concurrence, a grantee may offer alternative services that meet the identified needs of a particular eligible individual if the health or safety of staff or other recipients of services may be endangered by inclusion of that individual.

History: Eff. 4/11/81, Register 78; am 6/23/85, Register 94; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.140. Duration

(a) Except for capital grant awards, the department will not commit money for a grant for a period that exceeds the state fiscal year for which the grant is awarded unless otherwise appropriated or allowable by law.

(b) Each year of the grant, the department will require a grantee to submit a budget for that one-year period and a one-year plan specifying the service to be delivered. The commissioner will approve financing the grant project annually for additional years contingent upon the continued need for the grant project service, the availability of grant money, the grantee's satisfactory performance during the previous grant year, satisfactory negotiation for any change in service, and whether continuation of the financing is consistent with public health and welfare. The department will notify the grantee of the intent to continue financing the grant for an additional grant year before the beginning of that year by sending a notice of intent to award, contingent upon any revision necessary for approval under this chapter.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.150. Accounting requirements

A grantee shall maintain the financial records and accounts of the grantee's grant project, using accounting principles generally accepted in the United States, in a manner that permits those records and accounts to be audited as prescribed in 7 AAC 78.230.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.160. Costs

(a) This section applies to a grantee's use of grant money.

(b) A grantee may use grant money to pay a cost incurred by the grantee only

(1) in accordance with the limitations established in this section; and

(2) if the cost is reflected in the budget, or budget amendment involving a change in the grant amount approved by the commissioner, for the grant project.

(c)) A grantee may use grant money to pay the following costs for operating a grant project:

(1) telephone, postage, telegram, and other communication costs;

(2) the cost of insurance, including

(A)) insurance for employee health; and

(B) hazard, malpractice, and other liability insurance coverage for personnel, vehicles, and activities of the grant project;

(3) registration fees for symposiums and seminars;

(4) stipends for individuals used as subjects in research projects;

(5) dues for the grantee's membership in professional organizations;

(6) tuition and related costs for providing employee training in support of the grant project, if the grantee obtains pre-approval of the grantee's written training plan from the department;

(7) the cost of providing training services for persons other than employees;

(8) bonding costs;

(9) equipment purchase costs, subject to 7 AAC 78.270 - 7 AAC 78.280;

(10) equipment maintenance and repair costs;

(11) the cost of transporting equipment;

(12) the cost of supplies;

(13) the cost of toys, games, and equipment acquired

(A) to provide educational and therapy services so that parents can participate in the services of the grant project;

(B) for diagnostic or therapeutic purposes in specialty or diagnostic clinics and similar programs; or

(C) for purposes of the grant project other than those set out in (A) and (B) of this paragraph;

(14) the cost of an audit if the scope of the audit is defined in accordance with applicable federal or state statutes or regulations.

(d) A grantee may use grant money to pay the following costs for capital grants:

(1) general construction;

(2) allowable administrative expenses, as provided in the grant agreement, and subject to (r) of this section;

(3) major fixed and movable equipment, if a security agreement that protects the state's interest in the asset, approved by the facilities manager, has been executed by the grantee;

(4) architect and engineering fees;

(5) consultation fees;

(6) building permits;

(7) project management fees;

(8) project contingency costs;

(9) insurance;

(10) real property acquisition;

(11) other costs that are allowed by language of the capital appropriation under which the grant is made.

(e) A grantee may use grant money to pay for relocation costs if the relocation is for the benefit of the grant project, and if the relocation costs are incidental to a change of duty assignment of an employee for an indefinite period, or for a definite period of not less than 12 months, or to the recruitment of a new employee. The relocation costs paid by a grantee under this subsection may include only transportation of the employee and of the employee's family, dependents and household goods to the new location. Before paying a cost under this subsection, the grantee must establish written policies that

(1) state the circumstances under which the grantee will pay for relocation costs;

(2) state the maximum amount the grantee will pay; and

(3) require the employee to reimburse the grantee, pro-rata based on the number of months remaining at the time the employee terminates employment, for the relocation costs if the employee resigns for reasons within the employee's control less than 12 months after the relocation; the grantee shall refund to the department any money reimbursed under this paragraph unless the department approves reallocation of that money.

(f) Repealed 6/24/2004.

(g) A grantee may, subject to prior department approval, use grant money to pay for fees, transportation expenses, and per diem or subsistence expenses of a consultant. However, a grantee may not use grant money to pay these costs to an employee of the grantee if doing so will result in double compensation to the employee or to the grantee for services or hours provided by the employee. To receive department approval for a proposed payment under this subsection, the grantee must show to the department that

(1) the consultant's services are essential to the grant project and cannot be provided by a person whose salary is paid, in whole or in part, with grant money;

(2) the grantee will establish and use a selection process to secure a qualified consultant;

(3) the selection of the consultant is subject to approval by a senior officer of the grantee; and

(4) the grantee will assure that the consultant's fees are appropriate, considering the qualifications of the consultant, the consultant's normal fees, and the nature of the services rendered by the consultant.

(h) Subject to (i) of this section, a grantee may use grant money to pay for travel expenses as follows:

(1) for air travel, the expenses may not include first-class seating or travel on a carrier other than a United States carrier unless no other form of air travel is available; and

(2) payment for travel expenses may not exceed the greatest of

(A) the basic reimbursement for travel expenses and the basic per diem and meal allowances allowed under AS 39.20.110 - 39.20.190;

(B) the actual costs, not including gratuities, of moderately-priced accommodations and meals; or

(C) for a project that includes money under a federal grant to the grantee or federal contract with the grantee, the travel costs allowable under the federal grant.

(i) If the grantee has a written travel policy that is more restrictive than the limitations set out in (h) of this section, the grantee may use grant money to pay no more for the travel expenses under (h) of this section than the amount that is allowed under the grantee's policy.

(j) A grantee may use grant money to pay tax expenses. However, these expenses may not include taxes from which the grantee is exempt.

(k) Depreciation on buildings, renovations, and nonexpendable personal property not purchased with state money is allowable under this section, using the straight-line method to calculate depreciation. The useful life of assets must be determined by using the most recent applicable Internal Revenue Service table. The grantee must maintain any payment received under this section in a separate reserve account designed for the replacement of the asset when fully depreciated, or for the purchase of other assets in support of the grant project that have been approved by the department.

(l) A grantee may use grant money to pay the following costs in support of the grant project only after receiving department approval for the cost:

(1) the cost of advertising and public-awareness activities;

(2) drug costs;

(3) the cost of legal services;

(4) the cost of routine and ancillary medical services on either an inpatient or outpatient basis for a recipient of services or an employee;

(5) salaries, wages, overtime, and fringe benefits paid to employees of the grant project, subject to (m) and (n) of this section;

(6) the cost of rental or true lease of facilities and equipment, subject to (o) of this section;

(7) the cost of altering or renovating a building if

(A)) the grantee is not an individual;

(B) the building has a usable life consistent with the objectives of the grant project, is architecturally suitable for conversion, and conforms with federal statutes and regulations governing access by individuals with disabilities;

(C) the space involved will be occupied by the grant project or part of the grant project;

- (D) the grantee secures a lease for the building for the grant period if the grantee does not own the building;
 - (E) the grantee has executed a security agreement that the facilities manager has approved, and that protects the state's interest in any asset purchased with grant money as part of the building alteration or renovation; and
 - (F)) the cost is approved by the facilities manager;
- (8) the cost of the acquisition of a building, including principal and interest costs, if
- (A)) the grantee is not an individual;
 - (B) the building has a usable life consistent with the objectives of the grant project, is architecturally suitable, and conforms with federal statutes and regulations governing access by individuals with disabilities;
 - (C) the space involved will be occupied by the grant project;
 - (D) the grantee provides a long-term plan demonstrating to the department's satisfaction that the acquisition is economically feasible and that the building is, or will be, architecturally sound;
 - (E) the grantee has executed a security agreement that protects the state's interest in the asset, and that the facilities manager has approved; and
 - (F)) the cost is approved by the facilities manager.
- (m) If an employee of a grantee performs for the grantee both duties that are under the grant project and duties that are not under the grant project, the grantee shall determine the amount of a payment under (l)(5) of this section on the basis of the amount of time spent by the employee in performing the grant project duties. If the employee concurrently performs the same duty for two or more grant projects or for one grant project for which the grantee receives money under two or more grants, the grantee may allocate payments under (l)(5) of this section among the grants or grant projects in a manner that the grantee considers appropriate. However, the allocation may not result in payments that exceed the amount owed to the employee.
- (n) As part of a payment under (l)(5) of this section, the grantee may include payment for leave taken by an employee in accordance with the written employee leave policy established by the grantee under 7 AAC 78.170.
- (o) The total amount of true lease or rental payments made by a grantee under (l)(6) of this section may not exceed the maximum amount allowed by the department for lease or rental agreements entered into by the department. Upon request, the department will provide a copy of the applicable

cost principles to an applicant for a grant or a grantee. Before a grantee renews a true lease or rental agreement for which the grantee has made payments under (l)(6) of this section, the grantee must receive department approval.

(p) Except for capital grant projects, a grantee may use grant money to pay indirect costs of the grant project in accordance with an indirect cost rate agreed upon by the federal government and the grantee. In computing the amount of indirect cost to the grantee, the commissioner will accept the indirect cost rate in effect between the grant applicant and the federal government at the time of the grant award. An amount allocated for indirect costs of a grant project is considered part of the grant award and not an addition to it. An increase or decrease in the indirect cost rate made after the grant award does not affect the amount of the grant award. A grant applicant desiring approval in a grant agreement of payment of indirect costs in accordance with this subsection must include in the grant proposal, or have on file with the department, a copy of the most recent federally-approved indirect cost rate and other relevant documentation as the department directs. If a grantee enters into a subcontract with an agency that also has a federally-approved indirect cost rate, the total indirect cost that may be paid under this subsection may not exceed the amount allowed in the grantee's indirect cost rate. It is the responsibility of the grantee and subcontractor to negotiate an equitable allocation of indirect costs. A grantee shall make available to the state and to any appropriate municipal government, upon request, all federal audit data relating to indirect costs for the grant project paid by the federal government.

(q) Except for capital grant projects, an applicant that does not have a federally approved indirect cost rate may include administrative costs in the applicant's proposed budget as direct costs. The applicant shall document the proposed costs in the applicant's justification narrative for the proposed budget.

(r) The department will specify the amount of administrative and general costs the grantee may charge a capital grant project in the request for proposal, request for letters of interest, or other method of solicitation, and in the grant agreement.

(s) A grantee may use grant money to pay for costs in support of the grant project, other than those costs described in this section, only after receiving department approval.

(t) A grantee may not use grant money to pay for lobbying or fund raising activities.

History: Eff. 4/11/81, Register 78; am 6/23/85, Register 94; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

Editor's note: The travel expense, per diem, and meal allowance information, referred to in 7 AAC 78.160(h), may be obtained by writing to the Grants Administrator, Department of Health and Social Services, P.O. Box 110650, Juneau, Alaska 99811-0650.

7 AAC 78.170. Administrative policies of grantees

(a) A grantee shall establish written policies relating to employee salaries and overtime, employee leave, employee relocation costs, use of consultants and consultant fees, training, criminal background checks, if necessary for the protection of vulnerable or dependent recipients of services, and conflicts of interest. The grantee shall apply these policies consistently in the administration of the grant project without regard to the source of the money used for the purposes to which the policies relate.

(b) A grantee that is a nonprofit organization must establish and adhere to a written policy stating that an employee of the grantee may not be a member of the grantee's governing board.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.180. Subcontracts

(a) Subject to the requirements of 7 AAC 78.270 and 7 AAC 78.275, a grantee may enter into a subcontract for the performance of an activity required by the grant project only if the grantee

(1) remains administratively and financially responsible for the activity and is responsible for the performance of the subcontractor;

(2) ensures that the subcontractor's records are protected, preserved, and retained as required by this chapter;

(3) demonstrates that the method of procurement to be used to identify the subcontractor for

(A)) operating grants is reasonably competitive;

(B) capital grants meets or exceeds the requirements of AS 36.30 or substantially similar law of another jurisdiction; and

(4) obtains department approval before entering into a subcontract; however, if the grant received is an operating grant, the grantee must obtain department approval only before entering into a subcontract with a value of \$5,000 or more.

(b) The grantee shall ensure that a subcontract authorized under this section requires the subcontractor to provide the department, the grantee, or a representative of the department or grantee with reasonable access to the subcontractor's books, documents, papers, and records if the department or the grantee determines that access to this information is necessary. The subcontract must state that the department may, at any time, obtain and retain the originals of any records generated as a result of the grant project to which the subcontract applies.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.190. Payment

(a) Subject to 7 AAC 78.200 and as specified by the department in the request for proposals, request for letters of interest, or other method of solicitation, and in the grant agreement, the department will make a first advance no later than 15 days after the grant agreement is fully executed.

(b) Repealed 10/16/2012.

(c) Other than a first advance under (a) of this section, the department will calculate and pay advances and reimbursements based on the grantee's compliance with 7 AAC 78.160, 7 AAC 78.200, 7 AAC 78.210, and 7 AAC 78.260.

(d) A grantee shall reimburse the department for a payment to the grantee to the extent that the grantee does not expend or encumber the money before the end of the grant period. A grantee shall submit a final cumulative fiscal report prepared in accordance with the grant agreement, and shall notify the department in writing of any outstanding encumbrance made under the grant. Unless the department approves an extension of time, the grantee shall submit the final cumulative fiscal report and the written notice of any outstanding encumbrance no later than 30 days after the end of the grant period. To be eligible for reimbursement by the department for an encumbrance reported under this subsection, the encumbrance must

(1) require the use of the encumbered money no later than one year after the end of the grant period; and

(2) relate to a cost that is

(A)) reflected in the budget or an approved budget amendment; and

(B) allowed under 7 AAC 78.160.

(e) A capital grant will be disbursed to the grantee in accordance with terms of the grant agreement entered under 7 AAC 78.110.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.200. Reports

(a) To receive grant money under this chapter, a grantee must

(1) submit financial and progress reports in accordance with the requirements of the grant agreement; and

(2) if requested by the department,

(A) furnish the department with confidential information about the recipients of services paid for, in whole or part, by the grant and comply with applicable state and federal statutes and regulations, including department regulations, regarding the submission of that information; and

(B) provide other information that the department considers necessary to evaluate the efficacy of service delivery or compliance with applicable state and federal statutes and regulations.

(b) The grantee shall submit reports required under (a) of this section in accordance with instructions provided to the grantee by the department.

(c)) Repealed 6/24/2004.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.210. Grant income

(a)) Grant income earned by a grantee

(1) through a community mental health project funded under AS 47.30.520 - 47.30.620 must be used to augment or enhance the grantee's mental health services; or

(2) through a grant project other than a project identified in (1) of this subsection must be used to further the goals and desired outcomes of the grant project.

(b) A grantee subject to (a) of this section shall ensure that grant income

(1) is used in a way that meets accepted standards of fiscal accountability for public money; and

(2) is not used

(A)) to support or oppose any candidate for political office or any ballot proposition; or

(B) to pay expenses associated with lobbying the legislature or any other governmental body.

History: Eff. 4/11/81, Register 78; am 6/28/84, Register 90; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.220. Confidentiality

(a) If a federal or state statute or regulation requires confidentiality in a grant program, the department will establish procedures for preserving that confidentiality before the commissioner awards the grant. The department will include the procedures as part of the terms of the grant agreement.

(b) Personally identifiable information obtained from a grantee by the department relating to a recipient of services paid for, in whole or part, by the department is confidential under AS 40.25.120 (a).

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.30.845</u>	<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>
<u>AS 47.80.130</u>				

7 AAC 78.230. Audit requirements

(a) At least once every two years, a grantee that is not subject to audit under 2 AAC 45.010 shall ensure that a fiscal audit of the grantee's operations under the grant program is performed by an independent certified public accountant. The department may accept a state or federal audit as a substitute for this audit. In addition to this audit, or an audit conducted under 2 AAC 45.010, the department may conduct an audit of a grantee's operations at any time that the department determines an audit is needed. If the department conducts an audit under this subsection, the auditor may be a representative of the department or an independent certified public accountant. If the grant includes money provided by the federal government or a municipal government, and the federal or municipal government conducts an audit, the auditor may be a representative of the federal or municipal government or an independent certified public accountant. For an audit conducted under this subsection, or for an audit conducted under 2 AAC 45.010, the grantee shall provide the auditor with reasonable access to the grantee's books, documents, papers, and records.

(b) For an audit conducted under this section or under 2 AAC 45.010, the audit report must include a statement of revenue and expenses, budget and actual, that provides, for each state fiscal year grant,

- (1) the final approved budget by line-item category;
- (2) actual revenues and expenditures by approved line-item category;
- (3) any variance between budgeted and actual revenues and expenditures; and
- (4) any disallowed or questioned costs.

(c) In the audit report prepared under (b) of this section, any outstanding liability to the state, including unspent grant funds and disallowed costs, must be shown as payable to the state.

(d) An audit under this section must be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained, in the most current version of *Government Auditing Standards*, issued by the Comptroller General of the United States. If an audit is required under 2 AAC 45.010, the records and accounts of the grantee must also be audited in accordance with the most current version of the *State of Alaska Audit Guide and Compliance Supplement for State Single Audits*.

(e) Within 30 days after a grantee receives written notice of an audit report prepared under this section or under 2 AAC 45.010 that questions a cost incurred by the grantee or otherwise notes an audit exception, the grantee shall provide to the department a response to the question or exception. If the grantee fails to respond, or if the department determines that the response does not adequately explain or justify the questioned cost or other audit exception, the department may require the grantee to refund to the department the grant money paid on the questioned cost or other audit exception, as applicable. The grantee shall refund the money as specified by the department.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.240. Monitoring and evaluation

(a) A representative of the department may monitor and evaluate the performance and progress of the grant project.

(b) The department may enter into a contract with a third party to provide for monitoring and evaluation of grantees under (a) of this section.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.250. Retention of records

(a) The grantee shall ensure that its records, and the records of each subcontractor under 7 AAC 78.180, are protected and preserved as required by this chapter and other applicable state and

federal law. The grantee shall safeguard confidential information and ensure that any disclosure of that information is made in a manner that is permissible under applicable state and federal law.

(b) The grantee shall retain and preserve financial and administrative grant records, including records of the receipt and disposition of grant income that are necessary to meet auditing requirements, for at least three years, subject to the following:

(1) the grantee shall retain the records as long as an audit is in progress or as long as audit findings, litigation, or claims involving the records are pending;

(2) the grantee shall retain records for nonexpendable personal property of the grant project for at least three years after the final disposition of that property or appropriate reimbursement for that property to the state;

(3) the retention period for each year's records begins on the date of submission to the department of the grantee's annual or final financial status report or its equivalent.

(c) The grantee shall retain and preserve records that relate directly to the care and treatment of a recipient of services for at least seven years following the termination of services to that recipient, subject to the following:

(1) if the grantee or subcontractor is a hospital subject to AS 18.20.085, the grantee shall retain the records in accordance with AS 18.20.085;

(2) if the grantee or subcontractor is not a hospital subject to AS 18.20.085, and if a recipient of services is under the age of majority, the records must be kept for at least seven years after the recipient has reached the age of majority or until seven years after the termination of services, whichever is longer.

(d) If records described in this section are transferred under 7 AAC 78.255, any continuing board, officers, or successor organization must protect, retain, and preserve those records as required by this section through at least the applicable retention period that would have applied to those records if they had not been transferred.

(e) After the required retention period, or at any time during the retention period, the grantee, or any continuing board, officers, or successor organization must seek approval from the department before destroying the records identified in this section. If the department approves the request, destruction of the records must be done in a manner approved by the department.

(f) The provisions of this section do not apply to records transferred to or maintained by the department. Notwithstanding (e) of this section, the department may request a transfer of the records described in this section to the custody of the department at any time during the retention period established under this section if the department determines that the records possess long-term retention value.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.255. Transfer of records

(a) The provisions of this section apply to the records of a grantee or a subcontractor that relate to a grant award, including the records of each recipient of service under the grant award, if the grantee's business or organization closes or ceases to exist as a service provider under the grant, or if the records must be transferred for any other reason.

(b) If a grantee decides to close or cease to exist as a service provider under a grant, the grantee shall notify the department in writing within 48 hours of the decision. A notice under this subsection must

(1) be signed by the grantee's board of directors or chief executive officer;

(2) indicate whether the grantee will retain and store the grantee's records in an appropriate, secure fashion, or transfer its records to

(A)) a continuing board or other officers;

(B)) the department; or

(C) another organization; and

(3) include a formal plan for the transfer of records that includes

(A) a description of how and when the grantee will notify each recipient of service regarding where the files will be transferred, and how the recipient can continue to receive services and obtain a copy of that recipient's records; the plan for notice under this subparagraph must include those recipients for whom the grantee has on file a signed release allowing the recipient's files to be transferred, and those for whom a signed release has not been obtained;

(B) a complete list of all files being transferred; and

(C) a complete list of all recipients of services who will be sent the notice under (A) of this paragraph.

(c) The department may require the grantee to transfer its records to a successor organization selected by the department.

(d) Before storage or transfer, the grantee must

(1) box all paper records and ensure, with respect to treatment records, that records of minors are in separate boxes from records of adults;

(2) contact the department for instructions regarding the most appropriate way to transfer electronic records, including the need for encryption of confidential records; and

(3) ensure that financial and operating records are in separate boxes from treatment records.

(e) Records transferred under this section are subject to 7 AAC 78.250.

(f) If records are transferred to the department, the department will, at the written request of a recipient of services, copy records to be sent to the recipient's next service provider.

History: Eff. 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.260. Changes in approved grant project

(a) Before changing the service plan of a grant project from the terms of the grant agreement, a grantee must submit the proposed changes in writing for department approval. The department will notify the grantee of its decision within 30 days after receipt of the proposed changes.

(b) To change the beginning or ending date of a grant period, a grantee must submit for department approval a written request for the change. Within 30 days after receipt of the request, the department will review the request and notify the grantee of the decision. The grantee may not use grant money to pay an expense incurred before the beginning date or after the ending date of the grant period unless payment of the expense is authorized in writing in advance by the department.

(c) If the person designated by the grantee as director of a grant project relinquishes or expects to relinquish active direction of the grant project, the grantee shall immediately notify the department in writing. If the grantee wishes to continue the grant project, the grantee must select a replacement for the director, and must obtain department approval of the replacement.

(d) If the grantee wishes to terminate a grant project, the grantee must notify the department as required by 7 AAC 78.255(b). The grantee shall work with the department to develop a transition plan to mitigate disruption of service to recipients of services provided under the grant.

(e) If the director of the grant project anticipates a temporary absence from the project exceeding three months, the grantee shall notify the department of the anticipated absence as soon as it becomes known to the grantee and submit an interim plan for project management during the director's absence. The department may terminate the grant if the interim plan does not meet the original terms of the grant agreement.

(f) Subject to 7 AAC 78.180(a) (4) and 7 AAC 78.280(b), the grantee may reallocate grant money between budget categories within the total budget of a grant project to meet unanticipated expenditures necessary to the successful continuation or completion of the grant project. To reallocate grant money under this subsection, the grantee must

(1) receive department approval before reallocating an amount that exceeds 20 percent of a budget category that is increased by the reallocation, or \$50,000, whichever is less;

(2) notify the department within 30 days after the end of any quarter during which the grantee reallocated an amount that is not subject to (1) of this subsection.

(g) Except as provided in (h) of this section, the grantee must submit to the department a request under this section for approval to reallocate money between budget categories within the total budget no later than 30 days after the end of the grant period.

(h) A grantee may submit a request for a retroactive line-item budget revision if an audit conducted under 7 AAC 78.230 discloses line-item expenditures that exceed the limit allowed under (f)(1)(A) of this section. The department may approve a revision under this subsection if

(1) the grantee justifies the overexpenditures as necessary to meet program goals and the desired outcomes of the grant project;

(2) the expenditures are allowable costs under 7 AAC 78.160; and

(3) the grantee has no other source of income to pay the overexpenditures.

(i) Repealed 10/16/2012.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

AS 18.05.040 AS 18.08.010 AS 18.08.080 AS 18.25.100 AS 18.28.010
AS 18.28.050 AS 29.60.600 AS 44.29.020 AS 47.05.010 AS 47.20.075

AS 47.20.110 AS 47.27.005 AS 47.27.050 AS 47.30.477 AS 47.30.530
AS 47.37.030 AS 47.37.045 AS 47.40.041 AS 47.40.120 AS 47.80.130

7 AAC 78.270. Purchasing practices and procedures for operating grants

If the grant awarded is an operating grant, and as a condition of the grant agreement, a grantee must establish uniform purchasing practices and procedures for the procurement of goods and services. The practices and procedures must provide that

- (1) for a purchase of nonexpendable personal property with a value of \$5,000 or more, or for the award of a contract or subcontract with a value of \$5,000 or more, the grantee will request, if feasible, at least three competitive price quotations from potential suppliers;
- (2) the grantee will retain written records of price quotations in accordance with 7 AAC 78.250 and will include in the written records
 - (A)) specifications;
 - (B) the suppliers' names and addresses; and
 - (C) the prices quoted; and
- (3) if obtaining competitive price quotations is not feasible, the grantee will document and retain a written record justifying not following a competitive process.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

AS 18.05.040 AS 18.08.010 AS 18.08.080 AS 18.25.100 AS 18.28.010
AS 18.28.050 AS 29.60.600 AS 44.29.020 AS 47.05.010 AS 47.20.075
AS 47.20.110 AS 47.27.005 AS 47.27.050 AS 47.30.477 AS 47.30.530
AS 47.37.030 AS 47.37.045 AS 47.40.041 AS 47.40.120 AS 47.80.130

7 AAC 78.275. Purchasing practices and procedures for capital grants

If the grant award is a capital grant, and as a condition of the grant agreement, a grantee must establish uniform purchasing practices and procedures for the procurement of goods and services. The documented competitive process used must meet or exceed the requirements of AS 36.30 or substantially similar law of another jurisdiction.

History: Eff. 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.280. Property management

(a) If a grantee plans to acquire an interest in real property with grant money, the grantee must enter into a written agreement with the department on terms that secure the state's interest in the property before acquisition.

(b) Before the grantee may use grant money to purchase nonexpendable personal property, the acquisition cost of the property must be included in the budget, or in an amendment to the budget, of the grant project approved by the department. In this subsection, "acquisition cost" means

- (1) the cost of the nonexpendable personal property and the cost of necessary accessories; and
- (2) ancillary charges, such as duty, taxes, transportation, protective in-transit insurance, and installation fees if the inclusion of those charges is in accordance with the grantee's regular accounting practices.

(c) Title to property purchased under (b) of this section vests in the grantee upon acquisition, subject to the right of the department to require the grantee to transfer title to the property to the state or to another person or legal entity if

- (1) the department did not waive its right to require transfer of title to property under this subsection under the terms of the grant;
- (2) the grantee no longer has need for the property in the grant project for which it was acquired, or the grant project or that part of the grant project for which the property was acquired is being transferred to another grantee;
- (3) no later than 120 days after the completion or termination of the grant or 120 days after the date of an appeal decision under 7 AAC 78.310, if applicable, whichever is later, the department provides written notice to the grantee of its intent to require transfer of the property, along with a list of the property subject to transfer; and
- (4) the department reimburses the grantee for the property by
 - (A) calculating the amount that the grant project contributed to the purchase of the property, as a percentage of the total cost of that property;

(B) applying the percentage calculated under (A) of this subsection to the current fair market value of the property; and

(C) including reimbursement to the grantee for reasonable shipping and storage costs incurred in connection with the transfer of the property.

(d) Except when the department has exercised the right to transfer title under (c) of this section, a grantee shall retain property purchased under (b) of this section in the grant project as long as the property is needed for successful accomplishment of an objective of the grant project. During that time, the grantee shall make the property available for use in other activities conducted by the grantee that use financial assistance from the state if this use does not interfere with the grant project. Among the other activities, the grantee shall give priority to the use of the property in an activity receiving financial assistance from the department.

(e) If the grantee no longer needs property purchased under (b) of this section in the grant project, the grantee may retain the property if the grantee compensates the state, or may dispose of the property as instructed by the department. If the grantee wishes to retain the property, the grantee shall reimburse the department, computing the amount of compensation by calculating the amount that the grant project contributed to the purchase of the property, as a percentage of the total cost of that property, and applying that percentage to the current fair market value of the property. The grantee may deduct from the amount of compensation 10 percent of the proceeds of the sale or \$100, whichever is greater. If the grantee does not wish to retain the property, the grantee shall request disposition instructions from the department. The department may instruct the grantee to ship the property elsewhere or sell it in accordance with procedures specified by the department.

(f) A grantee shall maintain accurate property records as well as effective inventory, control, and maintenance procedures for nonexpendable personal property purchased under (b) of this section. The department may require a property inventory of items valued at less than \$5,000 by listing those items in the grant agreement. These records must include the following information:

- (1) a description of the property and the manufacturer's serial number or other identification number;
- (2) the grant program under which, and the grant project for which, the property was acquired;
- (3) the acquisition date and cost of the property;
- (4) the percentage of the total cost of the grant project contributed to the grant project by the department for the budget period in which the property was acquired;
- (5) the location, use, and condition of the property, and the date on which that information was recorded;

(6) the disposition of the property, including the date of its disposal and its sales price or the method used to determine its current fair market value.

(g) A grantee shall take an inventory of nonexpendable personal property of the grant project and must reconcile the results of the inventory with the property records maintained under (f) of this section at the end of the grant period to verify the existence, current use, and continued need for the property.

(h) A grantee shall maintain a control system to ensure adequate safeguards to prevent loss, damage, or theft of nonexpendable personal property of the grant project. A grantee shall provide for the investigation and full documentation of the loss, damage, or theft of nonexpendable personal property of the grant project.

(i) A grantee may, with prior department approval, dispose of property acquired under (a) or (b) of this section that is unserviceable or unsafe or if it is no longer useful to the grant project or grant program.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.290. Suspension and termination

(a) If a grantee fails to comply with the terms of a grant or the applicable provisions of this chapter, the commissioner may, no sooner than 15 days after providing the grantee with written notice of the failure to comply, suspend the grant. A grantee may not use grant money to pay an obligation incurred during the period of the suspension. However, the grantee may use grant money to pay an obligation incurred before the period of suspension, if the grantee obtains department approval and if payment of the obligation would otherwise be allowed under this chapter or under the terms of the grant. A suspension under this subsection remains in effect until

- (1) the grantee takes corrective action and gives assurance of the corrective action that the department considers satisfactory;
- (2) the grantee successfully appeals the suspension; or
- (3) the department or grantee terminates the grant.

(b) The commissioner may terminate a grant, in whole or in part, before the end of the grant period if the grantee fails to comply with the terms of the grant or the applicable provisions of this chapter. The commissioner will notify the grantee in writing at least 15 days before the termination. The notice will state the reasons for the termination, the effective date, and the portion of the grant to be terminated if the termination is partial. The department may make necessary arrangements for managing the grant before the effective date of the termination and for closing the grant.

(c) The commissioner may terminate a grant before the end of the grant period, in whole or in part, with the consent of the grantee.

(d) A grantee may terminate a grant, in whole or in part, before the end of the grant period upon written notification to the commissioner at least 30 days before the termination date. The written notification must state the reasons for the termination, the effective date, and the portion of the grant to be terminated if the termination is partial.

(e) If a grant is terminated, payments to the grantee or recovery of grant money by the department will be made in accordance with the rights and liabilities of the grantee and the department. The grantee may not incur any new obligation to be paid with money from a terminated grant or the terminated portion of a grant after receiving notice of the termination of the grant. The grantee shall make a reasonable effort to cancel the grantee's outstanding obligations that, but for the termination, would be payable, in whole or in part, with grant money. To the extent that the grantee cannot cancel a properly incurred obligation, the department may provide for payment to the grantee to satisfy that part of an obligation that, but for the termination, would be payable with grant money.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.300. State liability

Repealed.

History: Eff. 4/11/81, Register 78; repealed 7/21/2002, Register 163

7 AAC 78.305. Request for appeal

(a) An applicant or grantee may appeal the following decisions under 7 AAC 78.310:

(1) a final decision under 7 AAC 78.093 or a decision eliminating an applicant from consideration under 7 AAC 78.090(b)(2);

(2) a decision to withhold a payment under 7 AAC 78.190(c);

(3) a decision to require a refund of grant money under 7 AAC 78.230(e);

(4) a decision to suspend or terminate a grant under 7 AAC 78.290.

(b) The appellant must submit, within 15 days after receipt of notification of the decision, a written request for appeal to the commissioner. The request must contain the reasons for the appeal and must cite the statute, regulation, or terms of the grant upon which the appeal is based.

(c) The commissioner will review the request for appeal and, within 15 days after receipt of the request, will advise the appellant of acceptance or rejection of the appeal and, if the appeal is rejected, inform the applicant of the reason for the rejection.

(d) If the appeal is accepted, the commissioner will

(1) find that the appeal has merit and remedy the problem by whatever means within the commissioner's authority; or

(2) appoint a hearing officer to hear the appeal under 7 AAC 78.310.

History: Eff. 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.310. Appeal procedures

(a) If the commissioner appoints a hearing officer under 7 AAC 78.305(d) to hear an appeal, the hearing officer will set a date for a hearing that is no more than 15 days after the appointment.

(b) The hearing officer may

(1) upon the agreement of the appellant, for good cause shown, or as is otherwise in the interest of the state, extend the time set for the hearing;

(2) arrange for the hearing to be held by teleconference;

(3) with the agreement of the appellant, review the appellant's appeal on the basis of the written submissions of the appellant and the department, without a hearing.

(c) In a hearing under this section,

(1) the hearing officer shall regulate the order of testimony and presentation of the appeal;

(2) interested persons may attend, give testimony, or submit written statements;

(3) formal rules of evidence do not apply; however, testimony must be given under oath; and

(4) the hearing must be recorded and will be transcribed at the request and expense of the person requesting the transcript.

(d) The appellant has the burden to prove by a preponderance of the evidence that the appellant is entitled to the remedy requested.

(e) The hearing officer shall provide a written recommendation to the commissioner. The commissioner will

(1) accept the hearing officer's recommendation;

(2) reject the hearing officer's recommendation and remand the recommendation back to the hearing officer with instructions; or

(3) issue a written decision based on the appeal record.

(f) The commissioner will mail or deliver to the appellant or the appellant's representative a copy of any decision or order the commissioner issues on the appeal.

(g) The commissioner's decision on the appeal is a final administrative decision of the department that may be appealed to the superior court under the Alaska Rules of Appellate Procedure.

History: Eff. 4/11/81, Register 78; am 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.315. Limitation of appropriations

(a) During each state fiscal year, the department will authorize the payment of costs under a grant only to the extent of money allocated in the state budget for the grant program for that fiscal year.

(b) The department will determine the amount of money, if any, that it will keep in reserve at a particular time, based on the part of the fiscal year that remains and the demand for services of the program that the department expects during the balance of the fiscal year.

(c) If authorized financing for a grant program is less than the amount required to provide service to all individuals who meet the applicable eligibility criteria and seek those services, the department will prioritize which individuals will receive services.

History: Eff. 7/21/2002, Register 163; am 6/24/2004, Register 170

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>

7 AAC 78.320. Definitions

Repealed.

History: Eff. 4/11/81, Register 78; repealed 7/21/2002, Register 163

Editor's note: Definitions formerly in 7 AAC 78.320 have been relocated to 7 AAC 78.950.

7 AAC 78.950. Definitions

Unless the context indicates otherwise, in this chapter

(1) "Alaska Native entity" means an Alaska Native organization that the Secretary of the Interior acknowledges to exist as an Indian tribe through the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a;

(2) "applicant" means the individual, organization, or other entity that responds to a request for proposals, request for letters of interest, or other method of solicitation issued by the department under this chapter;

(3) "approval" means a written agreement or permission to proceed, signed by an authorized representative of the commissioner or by the department, as applicable, in response to a written request from an applicant or a grantee for approval of a proposed action;

(4) "approve" means to issue an approval;

- (5) "budget" means the financial expenditure plan for a grant project approved by the department; "budget" includes money awarded by the commissioner as a grant under a grant program and any other financing used for a grant project;
- (6) "capital grant" means a grant that is financed by a capital appropriation;
- (7) "commissioner" means the commissioner of the Department of Health and Social Services;
- (8) "consortium" means a group of legal entities that has joined together to accomplish one or more agreed-upon purposes;
- (9) "criminal background check" means a report of criminal justice information under 13 AAC 68.300 - 13 AAC 68.345;
- (10) "department" means the Department of Health and Social Services;
- (11) "desired outcomes" means the expected results from a grant program, including results from strategies used in a grant project;
- (12) "direct cost" means a cost that can be identified with a particular grant or an activity of a grant project;
- (13) "encumbrance" means a financial commitment related to unperformed executory contracts for goods or services;
- (14) "facilities manager" means the department employee designated by the commissioner to supervise the management of facilities operated under grants made under this chapter;
- (15) "grant" means an award of financial or direct assistance to an eligible applicant under this chapter;
- (16) "grant award" means the award of a grant under this chapter;
- (17) "grant income" means income earned during the grant period as a result of the grant award, including income from Medicaid reimbursement if an entity is required by 7 AAC 43.734(g), 7 AAC 43.740(b), or another state law to have a grant under this chapter before the entity may bill Medicaid;
- (18) "grant money" means the money provided in a grant award, including any match described in the grant agreement; "grant money" does not include grant income;
- (19) "grant period" means the time period for which the grantee has been awarded a grant;

(20) "grant program" means a program established by the department, or created under state or federal law, for which the commissioner awards a grant for the services or activities an applicant or grantee provides or proposes to provide through a grant project;

(21) "grant project" means a project for which a grant is awarded to provide services or activities for one or more grant programs;

(22) "grantee" means the person or other legally accountable entity that receives a grant;

(23) "indirect cost" means a cost that is common to two or more projects or operations of a grantee;

(24) "minimum responsiveness criteria" means requirements set out in a request for proposals, request for letters of interest, or other method of solicitation that a grant applicant must comply with in the submission of a grant proposal to be considered for a grant by the department, including any deadline for submittal that is stated in the request or solicitation;

(25) "nonexpendable personal property" means

(A) an article of tangible personal property that is complete in itself, is of a durable nature, has an expected useful life of more than one year, and has an acquisition cost, as defined in 7 AAC 78.280(b), of \$5,000 or more; or

(B)) intangible personal property, including patents, inventions, and copyrights;

(26) "nonprofit organization" means an

(A)) organization that is organized as

(i) a nonprofit corporation under AS 10.20;

(ii) a religious corporation under AS 10.40; or

(iii) an entity that is substantially similar to one described in (i) or (ii) of this subparagraph, and that is not organized for profit under the laws of another state; or

(B) an entity that has been granted tax exempt status by the United States Internal Revenue Service under 26 U.S.C. 501(c)(3);

(27) repealed 10/16/2012;

(28) "personal property" means property other than real property;

(29) "political subdivision of the state" means a

(A) municipality; or

(B) regional educational attendance area organized under AS 14.08 and AS 29.03.020 ;

(30) repealed 10/16/2012;

(31) "program goals" means a condition of well-being for children, families, or communities, as applicable, resulting from a particular grant program;

(32) "proposal" means the response submitted by an applicant to a request for proposals, request for letters of interest, or other method of solicitation issued under this chapter;

(33) "real property" means land, land improvements, and structures and appurtenances located on land; "real property" does not include movable machinery and equipment;

(34) "responsive grant proposal" means a proposal received in response to a solicitation under this chapter that conforms in all material respects to the solicitation;

(35) "straight-line method" means a method of depreciation that is calculated by using an item's acquisition cost, less its salvage value, divided by its useful life, measured in years; this method produces a single depreciation amount that is used for each year of the item's useful life;

(36) "strategies" means a plan of action, or series of actions, intended to achieve desired outcomes;

(37) "technical requirements" means conditions that a grant applicant must comply with before the award of a grant; "technical requirements" includes minimum responsiveness criteria;

(38) "true lease" means a lease other than one under which

(A) ownership of the property is transferred to the lessee under the terms of the lease by the end of the lease term;

(B) the lease grants an option to buy the property at a price less than the fair market value of the property;

(C) the lease term is 75 percent or more of the estimated economic life of the property; or

(D) the present value of the total payments made by the lessee under the lease is 90 percent or more of the fair market value of the property, less the amount of investment tax credits to be retained by the lessor under 26 U.S.C. 38 during the term of the lease, the valuation date for this purpose is the date of the lease agreement or the date of a commitment to enter into a lease agreement, whichever is earlier.

History: Eff. 7/21/2002, Register 163; am 6/24/2004, Register 170; am 10/16/2012, Register 204

Authority:

<u>AS 18.05.040</u>	<u>AS 18.08.010</u>	<u>AS 18.08.080</u>	<u>AS 18.25.100</u>	<u>AS 18.28.010</u>
<u>AS 18.28.050</u>	<u>AS 29.60.600</u>	<u>AS 44.29.020</u>	<u>AS 47.05.010</u>	<u>AS 47.20.075</u>
<u>AS 47.20.110</u>	<u>AS 47.27.005</u>	<u>AS 47.27.050</u>	<u>AS 47.30.477</u>	<u>AS 47.30.530</u>
<u>AS 47.37.030</u>	<u>AS 47.37.045</u>	<u>AS 47.40.041</u>	<u>AS 47.40.120</u>	<u>AS 47.80.130</u>