

Subject: PERFORMANCE OF COMMERCIAL ACTIVITIES IN THE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

- 18-10-00 Purpose
  - 10 Policy
  - 20 Applicability
  - 30 Responsibility
  - 40 Reports
  - 50 Bulletins
  - 60 Implementation

### 18-10-00 PURPOSE

This Chapter prescribes Department policy concerning the review of the method of performance of commercial activities (CA) within the Department of Health and Human Services.

In accordance with paragraph 9d of OMB Circular A-76, "Performance of Commercial Activities" which requires agencies to implement A-76, "... with a minimum of internal instructions", this chapter will prescribe unique Departmental guidance only.

### 18-10-10 POLICY

- A. It is Departmental policy in full accord with the policies and intent of the A-76 Circular to rely on the private enterprise system to supply its needs in products and services, except where it is proven that such reliance on the private sector would not be in the national interest.
- B. It is Departmental policy to locate and/or encourage development of private sector support, where lack of such capabilities are instrumental in the initiation/continuance of an "in-house" commercial activity (CA).

### 18-10-20 APPLICABILITY

- A. The requirements of OMB Circular A-76 and this General Administration Manual Chapter 18-10 are mandatory on all operating divisions (OPDIV), staff divisions (STAFFDIV), and their components within the Department of Health and Human Services.
- B. Each HHS OPDIV and STAFFDIV specified in 18-10-30, "Responsibilities" will prescribe necessary internal operating instructions to insure compliance with this Chapter and OMB Circular A-76. A copy of such internal operating procedures shall be submitted to the Deputy Assistant Secretary for Procurement, Assistance and Logistics for review.

18-10-30 RESPONSIBILITIES

- A. The Assistant Secretary for Management and Budget (ASMB) is responsible for overall Departmental compliance with the Circular A-76 and this Chapter. Specific responsibilities include:
- (1) Disseminating and interpreting Department-wide policies.
  - (2) Coordination with the Office of Management and Budget on matters pertaining to overall policy.
  - (3) Maintaining oversight of OPDIV/STAFFDIV implementation of A-76 and subsequent CA reviews.
  - (4) Adjudication of appeals in accordance with established OPDIV A-76 procedures for a review of a method of performance decision made by any other Assistant Secretary level official, or the Director, Office of Facilities and Management Services, OS.
- B. Deputy Assistant Secretary for Procurement, Assistance, and Logistics (DASPAL), OASMB is responsible for:
- (1) Staff implementation of all the responsibilities assigned to ASMB.
  - (2) The compilation and maintenance of a current inventory of all Departmental CA's.
- C. The Heads of Operating Divisions and HHS Region III Director (as lead region) are responsible for implementation of the provisions of OMB Circular A-76 and this chapter for their respective organizations. Specific responsibilities include:
- (1) Establishing internal operating procedures necessary to carry out the requirements of OMB Circular A-76 and this Chapter.
  - (2) Designating and assigning the senior management **official** of their immediate staff as the **OPDIV** or Regional Office, Commercial Activities Control Officer (CACO) who is directly responsible for:
    - (a) Ensuring compliance with the requirements of OMB Circular A-76 and this Chapter.
    - (b) Providing staff implementation of all responsibilities.
    - (c) Compiling and maintaining a current inventory and review files of all **Commercial Activities (CA)**, and periodically providing status of review efforts to DASPAL as specified **18-10-40(c)**.

- (d) Establishing internal cost comparison review and approval thresholds levels in accord with A-76
  - (e) Establishing internal CA appeals procedures, levels and thresholds in accord with A-76. (When internal instructions require an assistant secretary decision on the method of performance of a CA, such appeals to that decision will be adjudicated by ASMB. Internal OPDIV/STAFFDIV procedures will cite this provision).
  - (f) Authorizing the operation of a CA when its operation is based upon criteria specified in A-76 paragraph 8a. This authority cannot be redelegated.
  - (g) Authorizing the operation of a CA when its operation is based upon criteria specified in A-76 paragraph 8c. (This authorization, which is only applicable to the Public Health Service, must be exercised only with the consultation of the Chief Medical Director of the PHS. This authority cannot be redelegated.
- D. The Director, Office of Facilities and Management Services, OS, is the Commercial Activities Control Officer for the Office of the Secretary and is responsible for the requirements enumerated in paragraph C(1) through C(2)(f) above. Such authorities will be exercised with the advice of STAFFDIV heads.

#### 18-10-40 REPORTS

- A. The A-76 required reports enumerated in OMB Circular A-76 and Supplements thereto, Chapter 4, are required for receipt in the Office of the DASPAL by March 1 of each year. DASPAL will consolidate such reports for a single Departmental report to OMB.
- B. In addition to the A-76 reports CACO's will submit an inventory of all in-house Commercial Activities (CA's) in accordance with the instructions and format of Exhibit 18-10-A. The report is due for receipt by the DASPAL on or before November 1, 1983 and shall be completely updated each year thereafter. Additions or deletions to the inventory shall be accomplished by the CACO as required throughout the year. The transmitting memorandum will cite the number of staff years and expenses incurred resulting from A-76 reviews and oversight during the reporting quarter.
- C. Three times yearly, February 1, May 1, and August 1, CACO's shall submit a commercial activities inventory status report in accordance with the instructions and format of Exhibit 18-10-B. The report will be for the preceding fiscal quarter and will be submitted to the DASPAL for use in monitoring accomplishment of review schedules. The transmitting memorandum will cite the number of staff years and expenses incurred resulting from A-76 reviews and oversight during the reporting quarter.

18-10-50 BULLETINS

- A. The DASPAL shall, as the need **arises**, issue A-76 policy and procedure amendments or general information, via "Commercial Activity Bulletins." Such Bulletins are in the Format of Exhibit 18-10-C.

18-10-60 IMPLEMENTATION

- A. OPDIV heads and HHS Region III Director shall designate a Commercial Activities Officer in accordance with 18-10-30c. Designations will be in memorandum form and will be received by DASPAL no later than 15 days after publication of this Chapter.
- B. Within 45 calendar days after publication of this Chapter, CACO's will submit internal A-76 implementing procedures enumerated in 18-10-30C(1) containing all delegations of review and approval authorities and established appeals procedures.
- C. CACO's will schedule all applicable Commercial Activities for review in accordance with A-76 and compile and submit the Inventory of all Commercial Activities to DASPAL no later than December 15, 1983 (November 1 each year thereafter).

## Instructions for Completion of Commercial Activities Inventory

### Several

CACO shall complete the Commercial Activities inventory in accordance with the instructions below, indicating all in-house Commercial Activities within their respective OPDIV/RO/STAFFDIV. The completed form(s) are due for receipt by the Deputy Assistant Secretary for Procurement, Assistance, and Logistics on or before November 1 of each year. The data should reflect applicable information as of October 1.

Selected data elements will be updated by 3 quarterly reports (see xl 8-10-B) due February 1, May 1, and August 1 of each year.

### Completion Instructions

#### Header Data

The report will be divided into two basic parts; Parts I and II. CACOs will complete and title the Commercial Activities Inventory form(s) of "Part I" for all CA's with ten or less FTE's. Such form(s) will contain a summary line at the end of the columns denoting;

Column 1: total CA's with 10 or less FTE's

Column 4: total FTE's

Column 5: total operating costs

Column 6: total capital investment

CACO's will complete and title the Commercial Activities Inventory form(s) as Part II for all CA's above 10 FTE's. In addition to the Part II summary line for Columns 1, 4, 5, and 6, the Part II form will also contain a totals summary line for both Parts I and II. The totals line will add the summary lines of Parts I and II.

Column Data

- Column 1: Enter CACO assigned activity number for the CA being entered, The activity number will remain the same as long as that activity is in inventory.
- Column 2: Enter the activity title and city, state location of the CA.
- Column 3: Enter a brief (1 or 2 sentence) description of the CA work effort.
- Column 4: Enter the number of full-time equivalent (FTE) personnel directly engaged in performance of the CA. (See Part I, Chapter I of A-76 Supplement for FTE explanation).
- Column 5: Enter current annual cost of operating the CA in thousands of dollars.
- Column 6: Enter cost of capital investment in plant and equipment in thousands of dollars.
- Column 7: Enter the last and next scheduled A-76 review completion dates.
- Column 8: Enter one of the following codes denoting what phase a current A-76 review is in. For **CAs** not currently under review, this will be left blank. The action codes are:
1. Management Study Completed
  2. Statement of Work Completed
  3. Government Cost Estimate Prepared
  4. Cost Comparison Completed
  5. Method of Performance rendered
  6. Appeal of Decision in process

Column 9: Enter applicable code from A-76 Supplement Part I, Chapter 7, page I- IO for CA's whose method of performance authorized establishment or continuation of in-house operation. Please note:

Code A is not applicable for HHS use.

Codes B, C, D, require the direct approval of the CACO.

Column 10: Enter applicable remarks.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART I: UNDER IO FTE's

OPDIV/STAFFDIV/RO \_\_\_\_\_

RESPONSIBLE OFFICIAL \_\_\_\_\_

PART II: OVER IO FTG

COMPONENT \_\_\_\_\_

DATE PREPARED \_\_\_\_\_

PART \_\_\_\_\_

COMMERCIAL ACTIVITIES INVENTORY

1	2	3	4	5	6	7	8	9	10	
ACTIVITY NUMBER	TITLE/LOCATION	DESCRIPTION	FTE	OPER COST: (\$000)	CAP. INVST. (\$000)	REV. COM. LAST	DATES NEXT	ACTION CODE	IN-HOUSE REASON CODE	REMARKS

HHS Commercial Activities  
Quarterly Status Report Format and instructions

General

On February 1, May 1, and August 1, CACO's will submit the Commercial Activities Quarterly Status Report in the following Format for each activity whose A-76 review status changed during the **preceeding** fiscal quarter:

<u>Activity #</u>	<u>Action Codes</u>	<u>In-house Reason Code</u>	<u>Remarks</u>
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Instructions:

Activity #: Self Explanatory

Action Code: See Exhibit 18-10-A for applicable action codes

In-house Reason Code: See A-76 Part I, Chapter I, Page 1-10 for applicable reason codes

Remarks: Enter Applicable Remarks. Such occurrences as a revised completion date should be fully explained in remarks column.





DEPARTMENT OF HEALTH & HUMAN SERVICES

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**COMMERCIAL  
ACTIVITIES  
BULLETIN**

**DATE:**

**TO:**

**SUBJECT:**



CHAPTER 18-20

USER CHARGES

- 
- 18-20-00 Purpose
  - 10 Policy
  - 20 **Charges and Fees**
  - 30 Collections
  - 40 Changes in Existing Law
  - 50 Accounting and Reporting

18-20-00 PURPOSE

This chapter states **DHEW policy** and procedures for implementation of **Government-wide** policy concerning "user charges". It prescribes **development** of a uniform **system** of charges for rendering special services and for selling or leasing property to persons or non-federal organizations. It also outlines the requirements for determining the amounts **to be charged**, the disposition of receipts, and the accounting records **to be maintained**. Its provisions are based primarily on OMB Circular A-25, September 23, 1959, as amended.

18-20-10 POLICY

A. General

A reasonable **charge** should be **made** to **each** identifiable recipient for a measurable unit or **amount** of **Government service** or property **from which** he derives a special benefit.

B. Special Services

1. As a rule, services (or privileges) which **provide** special benefits to identifiable recipients above and **beyond** those which accrue to the public at large **should be charged for at levels which** recover the **full cost** to the **Federal Government**. For **example**, a special benefit will be considered to accrue and a charge **should be imposed** when a **Government-rendered service**:

- a. Enables the **beneficiary** to obtain **more immediate** or substantial gains or values (which **may** or may not be measurable **in monetary** terms) than those which accrue to the general public (e.g., receiving a patent or a license to carry **on** a specific business);

(18-20-10 continued)

- b. Provides business stability or assures public confidence in the business activity of the beneficiary (e.g., safety inspections of aircraft): or
  - c. Is **performed** at the **request** of the recipient and is above and beyond the services regularly **received by other members of the same industry or group** or of **the** general public (e.g., receiving a passport, visa, airman's certificate, or an **inspection** after regular duty hours).
2. No **charge** should be made for **services when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefiting broadly the general public** (e.g., licensing of new biological products).
  3. The award of grant (in cash or kind), traineeship, **fellowship**, or other authorized training does not provide special service benefits for "User Charges" purposes.

C. Lease or Sale

Where Federally owned resources or property are leased or sold, a fair **market** value should be obtained. Charges are **to** be determined by the **application** of sound business management principles, and so far as practicable and feasible in accordance with **comparable commercial** practices. **Charges need not be limited to the recovery of costs; they may produce net revenues to the Government.**

D. Exclusions and Exceptions

1. The provisions of this chapter do not apply to fringe benefits for military personnel and civilian employees, sale or disposal of surplus property under approved programs, or interest rates.
2. In general, charges **may** be waived or reduced when:
  - a. The recipient of the benefit is engaged in a **non-profit** activity designed for public safety, health, education or welfare, except in those cases in which:
    - (1) Charges are being made or are authorized on an individual basis,

(18-20-10 continued)

- (2) There is reasonable ground for believing that a charge would not **be contrary** to the statutory objective of the activity.
- b. The **incremental cost of** collecting the fee would be an unduly large part of the receipt **from** the activity.
- c. The furnishing of the service is an appropriate courtesy to a foreign country or international organization; or **comparable** fees are set on a reciprocal basis.
- d. Payment of the full fees by a State, **local government**, or non-profit **group would** not be in the interest of the program.
- e. Programs in which the rendering of the service fee to statutory beneficiaries is an **element** of the program objective e.g., **medical** care of merchant seam. **How-**ever, medical services are not excluded per se.

**18-20-20 CHARGES AND FEES**A. Establishment of Fees

Each agency shall establish fees in accordance with the policies **and procedures** stated in this chapter. Fees and rates for the recovery of full costs or fair market value of a special service will be established in advance **when** feasible. The cost of providing the service, not the value of the service to the recipient, will govern the fee level. **The** costs shall be reviewed every year and the fees adjusted, if necessary. Heads of operating agencies will be responsible for providing for the review of cost **computations** so as to assure their adequacy.

B. Determination of Costs

1. Costs shall be determined or **estimated from** the best available records **in** the agency. New cost accounting **systems** will not be established solely for this purpose. **The** cost **computations** shall cover the direct and indirect costs to the **Government** of carrying out the activity, including but not limited to:
- a. Civilian salaries or wages, personnel costs of leave and government contributions for retirement, medical **expense**, insurance, etc.,

(18-20-20 continued)

- b. Cost of materials, supplies, travel expense, communications, utilities, property and equipment rental, maintenance and depreciation of property and equipment,
  - c. A proportionate share of the agency's management and supervisory costs.
  - d. A proportionate share of military pay and allowances, where applicable,
  - e. The costs of enforcement, research, establishing standards, and regulation, to the extent they are determined to be properly chargeable to the activity.
2. When elements of costs are not incorporated in accounting records, e.g. accrued leave or depreciation charges, they should be recognized for the purposes of computing user charges. A reasonable fixed amount may be charged or an equitable proration established, for example by finding the percentage relationship for a representative period that the accrued leave and depreciation bear to all direct costs. This percentage would then be applied to the direct costs related to users in determining the total user charges.
  3. Charges in connection with fees for special information services will be determined in accordance with Public Information Regulation, Title 45, Subtitle A, Part 5 - Availability of Information to the Public Pursuant to PL 90-23.

18-20-30 COLLECTIONS

- A. Collection of charges and fees should usually be made in advance of rendering the service. In certain instances, it may be more practical to collect at the time of conveying the service or property to the recipient.
- B. Collections will normally be deposited into the general fund of the Treasury as Miscellaneous Receipts. However, exceptions may be made where:
  1. It is intended that a specifically identifiable part of a program or an organization administering such a program be operated on a substantially self-sustaining basis from receipts for services performed or from the sale of products or use of Government-owned resources or property,

(18-20-30 continued)

2. **The agency can show** that the **initiation** or increase of fees or charges is not feasible without earmarking of receipts: or
  3. **The receipts are in payment** of the cost of authorized special benefits for which the **demand** is irregular or unpredictable, such as **inspections performed** upon request outside the regular duty hours.
- C. This chapter is not intended to change the **present system of sharing** with States and counties receipts **from** the lease of certain lands and the sale of certain resources.

18-20-40 CHANGES IN EXISTING LAW

In cases where collection of fees and charges for services or property in accordance with this chapter is limited or restricted by provisions of existing law, the agencies concerned should **submit** appropriate **remedial** legislative proposals to the Office of the Secretary under the established clearance procedure.

18-20-50 ACCOUNTING AND REPORTING

A. Accounting Requirement

Each agency's Financial Management Officers will maintain records for each fiscal year on:

1. All changes in costs or charges for services or property covered by this directive, as **well** as for the **establishment of new user charges based upon the** annual review.
2. Total collection of user charges during the fiscal year, furnishing the total **amount deposited** and credited to Miscellaneous **Receipts** of the Treasury and to each appropriation and fund account.
3. A **complete** inventory of all user charges in effect.

B. Reporting Requirement

There is no requirement for an annual report to the Department. **Information** required by the preceding paragraph will **be maintained by** the agency to support the review process and for special studies.



- A. A separate form will be **prepared** for each of the following categories, where applicable:
1. Special services for which existing charges are producing full cost recovery; and lease or sale activities which are **returning** fair market value.
  2. Special services for which existing charges are producing less than **full** cost recovery; and lease or sale activities for **which** less than fair market value is being obtained.
  3. Special services and activities for which no charges are currently being made, and for which charges are apparently required.
  4. Special services and activities for which no charges are to be made in accordance with the policy guidelines and exceptions provided.
  5. Services and activities which have been discontinued or **transferred** to other agencies since the previous report (not applicable to the initial report).
- B. The **category** of items covered by each form will be identified in the heading by placing an "X" in the box corresponding with the number of the category as shown above. **Forms** need not be submitted for categories in which there is nothing to be reported. Enter the full title of the **DHEW** in the box on the form labeled "**Agency.**" Enter the **full** title of the operating agency **under** "Bureau."
- C. Columns on the form will be **completed** as follows:
1. Enter the number used in previous reports. **For new activities** assign a number within the scheme developed **for previous reports.**
  2. List each special service provided under a heading "Special **Services**" and each lease or sale activity under a heading, "**Lease** or Sale."
  3. Enter the unit for measuring the service or property provided.
  4. **Enter** the amount of the charge being made for each unit as of the preceding June 30. **In** cases where there are various rates for differing situations, a **summary** schedule of rates may be **attached in lieu of listing each rate individually.**
  5. Enter the date the charge **shown** in **Column 4** became effective.

c. (continued)

6. Enter the **amount** of the charge which was made previous to the date in Column 5.
7. Enter the number of **units** of activity for the last completed fiscal year.
8. **Enter** (in thousands of dollars) the cost of providing the **service** or the fair market value of resources or property sold or leased.
9. Enter (in thousands of dollars) the **amount** of collections (net of refunds) during the last completed fiscal year.
10. Enter the **symbol** of the receipt account, appropriation account, or **fund** account (excluding deposit funds) to which collections were or will be credited.
11. Enter any pertinent explanatory comments relating to the information shown in the preceding columns. On reports covering categories 2, 3, and 4, specifically note in this **column**, for each item, the reason that full cost recovery or fair market **value** for lease and sale activities is not obtained for services. Also indicate whether **full** cost recovery for special services or fair **market** value for lease **and** sale activities can be obtained under existing law; the status of specific legislative proposals (e.g., under study, drafted, cleared, introduced, or reported); and the status of proposed administrative changes in fees and charges, **including** effective dates. On reports subsequent to the initial report, indicate in this column the previous category in which **the item was** reported. On reports covering category 5, identify the services and activities transferred to other agencies or organizational units and the agency or organizational unit to which the transfer was made.

D. Where SF-4 May Be Obtained

SF-4 will be stocked by the GSA and should be procured by each **organiza-**  
tion through its normal supply channels.

USER CHARGES REPORT

STANDARD FORM NO. 4  
 (SEPTEMBER 1951)  
 BUREAU OF THE SUPPORT  
 CIRCULAR NO. A-31

CATEGORY OF ITEMS (Check one)

- 1
- 2
- 3
- 4
- 5

AGENCY

BUREAU

CONTACT

DATE SUBMITTED

IDENTIFICATION NUMBER	SPECIAL SERVICES OR ACTIVITIES	CHARGE AS OF JUNE 30			PREVIOUS CHARGE	VOLUME	ACTIVITY, FISCAL YEAR 19			REMARKS
		UNIT	AMOUNT	DATE ESTABLISHED			COST OR FAVORABLE VALUE (THOUSANDS)	COLLECTIONS	AMOUNT (THOUSANDS)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)