

Grant Regulations

Chapters

7 AAC 78

and 81



DEPARTMENT OF HEALTH AND SOCIAL SERVICES

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CHAPTER 78. GRANT PROGRAMS.

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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 grant services that a grant agency provides to individuals under 7 AAC 81. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

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. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.030. ELIGIBLE APPLICANTS. (a) A nonprofit organization, including a consortium that is a nonprofit organization, a state agency, , or a political subdivision of the state may apply for a grant under this chapter. A nonprofit organization must submit with its application, or have on file with the grant administrator, at least one of the following:

(1) reference to the nonprofit organization's listing in the United States Internal Revenue Service's most recent register of tax-exempt organizations described in 26 U.S.C. 501(c)(3)

(2) a copy of a currently valid United States Internal Revenue Service document granting tax exemption to the applicant under 26 U.S.C. 501(c)(3)

(3) a copy of the nonprofit organization's certificate of incorporation if the certificate of incorporation clearly establishes the organization's nonprofit status.

(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 application proof of its nonprofit status in the manner provided in (a)(1) - (3) of this section or

(1) proof of the nonprofit status of its parent corporation in the manner provided in (a)(1) - (3) of this section; 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 a grant agency intends to give preference to one category of applicant, the grant agency will state that intent in its application instructions.

(e) A native entity may apply for a grant under this chapter. A native entity must submit with its application a resolution approved by the entity's 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) A nonprofit organization that receives a grant under this chapter may not receive a provider agreement under 7 AAC 81 to provide the same services. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.040. SOLICITATION FOR GRANT SERVICES. (a) Except as otherwise authorized by the commissioner under 7 AAC 78.095, a solicitation for grant services under this chapter may be issued by a grant agency through either a request for proposals under 7 AAC 78.050 or a request for letters of interest or other solicitation under 7 AAC 78.095.

(b) When a grant agency determines that it wishes to obtain grant services under this chapter, the grant agency shall request approval from the commissioner of the proposed grant and the proposed solicitation method before the solicitation documents are prepared. The request for the commissioner's approval must include

- (1) the estimated amount of money available for the grant program;
- (2) a description of the services to be obtained and the proposed service delivery area;
- (3) the proposed duration of the grant;
- (4) an assessment of the need for the services to be obtained;
- (5) the methodology that will be used to allocate money across the proposed service delivery area, if necessary;
- (6) the proposed method of solicitation; and
- (7) an explanation for the choice of the proposed method of solicitation. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.050. REQUESTS FOR PROPOSALS. (a) A grant agency shall 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 must specify

- (1) the grant period;
- (2) minimum responsiveness criteria;
- (3) whether an applicant must submit a multi-year plan as part of the proposal;
- (4) contact information to obtain a copy of the grant agency's request for proposals; and
- (5) the deadline by which a proposal in response to the request for proposals is due.

(b) The grant agency shall provide a copy of the request for proposals with respect to a proposed grant to each potential, qualified applicant of which the agency is aware and to each person who requests a copy of that document.

(c) The grant agency may establish service delivery areas for a grant and may pre-define the allocation of money for each service area. If the grant agency establishes service delivery areas or pre-defines the allocation of money by area, that information must be included in the request for proposals.

(d) In addition to information about the proposed grant and applicable requirements to qualify for the grant, the grant agency shall specify in the request for proposals the format required by the agency for a proposal and provide instructions for completing and submitting the proposal. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

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 grant agency 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 grant agency at the address and by the date specified in the request for proposals. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

AS 29.60.600 AS 47.30.477

7 AAC 78.070. REVIEW OF LETTER OF INTENT. Repealed. (Eff. 4/11/81, Register 78; repealed 7/21/2002, Register 163)

7 AAC 78.080. DISTRIBUTION OF APPLICATION FOR REVIEW. Repealed. (Eff. 4/11/81, Register 78; repealed 7/21/2002, Register 163)

7 AAC 78.090. REVIEW OF PROPOSALS. (a) Within 60 days after the grant proposal submission deadline, a grant agency shall review each proposal received in response to a request for proposals issued under 7 AAC 78.050 and prepare written recommendations for the commissioner's consideration.

(b) The grant agency shall

(1) evaluate each grant proposal for compliance with technical requirements, including

(A) receipt of the proposal at the address and by the deadline specified in the request for proposals;

(B) eligibility for the grant under 7 AAC 78.030; and

(C) other conditions or requirements published in the request for proposals;

(2) eliminate from consideration each proposal that fails to meet the minimum responsiveness criteria specified by the grant agency in the request for proposals;

(3) prepare a written evaluation of each proposal using the criteria set out in 7 AAC 78.100, based on the contents of the proposal and other documentation and information regarding the applicant that is available to the grant agency; and

(4) appoint a proposal evaluation committee to review each proposal and make recommendations to the grant agency in accordance with (e) of this section.

(c) A proposal evaluation committee appointed under (b)(4) of this section must

(1) have a minimum of three members, none of whom may be an employee of an applicant; and

(2) include at least one state employee.

(d) The grant agency shall assure that each member of a proposal evaluation committee appointed under (b)(4) of this section has received basic training in the procedures and responsibilities of a proposal evaluation committee before the committee meets to evaluate proposals.

(e) Each member of a proposal evaluation committee appointed under (b)(4) of this section shall

(1) evaluate each grant proposal independently of other committee members;

(2) evaluate each proposal based on the criteria set out 7 AAC 78.100 and the request for proposals;

(3) consider information contained in the grant agency's evaluations of proposals prepared under (b)(3) of this section;

(4) consider the information provided by each applicant in an oral presentation if the request for proposals stated that oral presentations may be made to the proposal evaluation committee; and

(5) if the request for proposals did not state that the committee would make recommendations on the amount of money, review the grant agency's recommendations for financing to the commissioner and document any disagreement the member has with the financing recommendations of the grant agency and the basis for that disagreement.

(f) After each proposal evaluation committee member has reviewed each grant proposal under (e) of this section, the committee shall meet to

(1) make recommendations to the grant agency to approve or disapprove a grant award, make modifications to a proposed grant, or impose special conditions of a grant award;

(2) rank the proposal in priority order for financing, taking into account the reasonable allocation of resources across the service delivery area; and

(3) make recommendations to the grant agency on the amount of financing under the grant, if the request for proposals stated that the proposal evaluation committee would make recommendations on the amount of financing.

(g) A proposal evaluation committee member shall comply with applicable provision of AS 39.52 (Executive Branch Ethics Act). Additionally, a proposal evaluation committee member shall disclose any potential conflict of interest before participating on the committee so that the grant agency may evaluate whether the member's participation might unduly influence the committee's recommendations. If the grant agency determines that a committee member has a conflict of interest, the grant agency shall excuse the committee member from further involvement with the committee and may not consider any recommendations by that member regarding any proposal. If excusing the member from the proposal evaluation committee results in the committee having less than three members, the grant agency shall appoint a new member.

(h) After review of grant proposals under (b) - (f) of this section, the grant agency shall submit to the commissioner, in writing, the recommendations of the grant agency and of the proposal evaluation committee to approve or disapprove a grant award, the level of financing, any special condition of an award, and the ranking of proposals.

(i) The commissioner will make the final decision on the award of a grant. In making a final grant award decision, the commissioner will consider the recommendations from the grant agency and the proposal evaluation committee, other advisory recommendations, the criteria established in 7 AAC 78.100, priorities in applicable state health and social services plans, and the requirements of applicable state and federal statutes or regulations. The commissioner will also consider any municipal ordinance or regulation applicable to the grant program.

(j) The commissioner will decide to

(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

(4) not to approve the grant award.

(k) If the commissioner's final decision is to approve the grant under (j)(2) of this section, the grant agency shall negotiate with the applicant for necessary revisions in the applicant's proposed budget and proposed scope of services and activities. The negotiations must be completed within the time limits established in (l) of this section. However, the commissioner may extend the applicable time limit up to 25 days if the commissioner determines that good cause exists for the extension. The grant agency shall notify the applicant in writing of any extension under this subsection. A decision by the commissioner under (j)(2) of this section is conditional upon completion of negotiations in accordance with this subsection.

(l) Subject to (n) of this section, with the exception of capital grants, the commissioner will make the final decision on a proposal for a grant no later than 15 days an appropriation is enacted into law with sufficient money available for the grant for the state fiscal year for which the proposal is made.

(m) With the exception of capital grants, if, 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, the commissioner may extend an existing grant for a limited time. The grant agency shall notify the grantee in writing that an extension has been granted under this subsection, including the amount of the extended grant, and its duration by July 15 of that fiscal year.

(n) The timing stated under (l) of this section for the commissioner's final decision on a proposal for a grant 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 a grant agency's recommendations for grant awards after the relevant appropriation for the state fiscal year has been enacted into law; or

(3) the request for proposals with respect to a particular grant specified a different timeline for award of the grant. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

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 and if the commissioner finds that

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

(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 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; a determination of emergency for purposes of this paragraph must be made by the director of the grant agency or the director's agency head's designee, must set out the facts justifying the emergency, and must be submitted to the commissioner.

(b) If a grant agency requests the commissioner to permit the agency to use a request for letters of interest or another method to solicit grant applications under (a)(2) or (a)(3) of this section, the grant agency must submit to the commissioner the supporting facts and relevant grant project goals upon which the grant agency requests the commissioner to waive the requirements of 7 AAC 78.050.

(c) Subject to (d) of this section, in lieu of requesting a finding by the commissioner under (a)(2) of this section, a grant agency may issue a request for letters of interest to potential grantees to determine if 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. If, based on the responses to a request for letters of interest, the grant agency determines that only a single potential grantee or only a limited number of potential grantees have that knowledge, capability, or expertise, the agency may evaluate those responses under the provisions of 7 AAC 78.090(b) - (f), and the commissioner will then proceed to a final grant award under 7 AAC 78.090(h) - (k).

(d) If, based on the responses received to a request for letters of interest issued under (b) or (c) of this section, the grant agency determines that the number of potential grantees is sufficient to provide competition for a proposed grant, the grant agency shall

(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 the provisions of 7 AAC 78.090 based on the responses to the request for letters of interest; if the commissioner denies the grant agency's request under this paragraph, the agency shall proceed under (1) of this subsection.

(e) A request for letters of interest issued under (b) or (c) of this section must include at least 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 permitted under this section, the grant agency shall solicit from an applicant documents and other information that the agency considers necessary to determine an award, including the level of financing, potential modifications, and special compliance conditions. The grant agency shall review the documents and other information submitted and make recommendations to the commissioner for approval or disapproval under 7 AAC 78.090(i) and (j) that take into account the review criteria set out in 7AAC 78.100, requirements under applicable state and federal statutes or regulations, and program policy, goals, and objectives and that are in the best interests of the state. (Eff. 6/23/85, Register 94; am 1/14/2000, Register 153; am 7/21/2002, Register 163)

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

7 AAC 78.100. CRITERIA FOR REVIEW OF PROPOSALS. Unless the grant administrator approves an exception from a criterion that is not relevant to the grant project or grantee, in addition to criteria established by applicable state and federal statutes or regulations, a grant agency shall use the following criteria in the review of a grant application under 7 AAC 78.090 or 7 AAC 78.095:

- (1) criteria relating to grant program strategies, objectives, and budgets, including
 - (A) demonstration of a thorough understanding of grant program goals, objectives, and desired outcomes;
 - (B) a description of the strategies to be employed to obtain the grant program goals as outlined in the request for proposals, requests for letters of intent, or other solicitation;
 - (C) identification of the target population, service delivery areas, or communities to be served;
 - (D) clearly stated performance measures, intermediate measures, and process measures that the applicant will use to evaluate the progress of the grant toward achieving the goals, objectives, and desired outcomes of the grant program;
 - (E) compatibility of the applicant's objectives with the grant agency's objectives and planning documents; and
 - (F) a clearly stated budget that documents the costs associated with the goals, strategies, and, if applicable, allocation of resources among target populations, geographic areas, or communities;
- (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 a summary of audits and the resolution of audit exceptions, if any, for an applicant that has previously received a grant;
 - (C) competency of the staff that will provide services to the recipients of those services; a demonstration of the staff's competency must include documentation of necessary professional credentials, training, and staffing levels;
 - (D) adequacy of administrative support, including qualified personnel and capacity to comply with grant reporting requirements;
 - (E) confidentiality with respect to recipients of services; and
 - (F) adequacy of facilities, including assurance of adequate physical access by recipients of services;
- (3) criteria relating to community support and collaboration, including
 - (A) documentation of support for the applicant from each community in which the applicant proposes to provide services;
 - (B) a demonstration that the applicant has made a significant effort to involve potential recipients of services and the public in planning for and providing services; and
 - (C) participation in community associations, partnerships, or collaborative arrangements that will enhance the applicant's ability to achieve the stated goals and objectives of the grant; and

(4) program-specific criteria other than criteria in (1)-(3) of this subsection, and included in the grant agency's request for proposals, request for letters of interest, or other solicitation. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.110. NOTIFICATION OF AWARD. (a) After the commissioner makes a final grant award decision under 7 AAC 78.090, the grant agency shall send to the applicant

- (1) a grant agreement under (b) of this section;
- (2) notice of intent to award the grant contingent upon necessary revisions under 7 AAC 78.090(k); or
- (3) a notice of rejection of the proposal.

(b) The grant agency shall send a grant to a grantee whose proposal the commissioner makes a final decision to approve under 7 AAC 78.090(i) and (j) after the grant agency determines that

- (1) money is available for the grant; and
- (2) any necessary revisions have been made under 7 AAC 78.090(k).

(c) The grantee must sign the grant agreement to indicate acceptance of the terms set out in the agreement, as revised under 7 AAC 78.090(k) and this chapter. The signed grant agreement is a contract between the department and the grantee.

(d) The grant agency shall send a notice of rejection under (a)(3) of this section to the applicant within 15 days after the commissioner's final decision not to approve the grant award under 7 AAC 78.090(j)(4).

(e) Repealed 7/21/2002. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

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. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

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 concurrence of the grant agency, 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. (Eff. 4/11/81, Register 78; am 6/23/85, Register 94; am 7/21/2002, Register 163)

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

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.

(b) Each year of the grant, the grant agency shall require an applicant to submit a budget for that one-year period and a one-year plan specifying the service to be delivered and the measures to be used to evaluate the performance of the grantee during that year. 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 program money, the grantee's satisfactory performance during the previous grant year and whether continuation of the financing is consistent with public health and welfare. The grant agency shall notify the grantee of the grant agency's intent to continue financing the grant for an additional grant year before the beginning of that year by sending a grant agreement for signature by the grantee. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.150. ACCOUNTING REQUIREMENTS. A grantee shall maintain the financial records and accounts of the grantee's grant project using generally accepted accounting principles in a manner that permits those records and accounts to be audited as prescribed in 2 AAC 45.010. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

Authority:	AS 18.05.040	AS 44.29.020	AS 47.30.477
	AS 18.08.010	[AS 44.29.150]	AS 47.30.530
	AS 18.08.080	AS 47.05.010	AS 47.37.030
	AS 18.25.100	AS 47.20.075	AS 47.37.045
	AS 18.28.010	AS 47.20.110	AS 47.40.041
	AS 18.28.050	AS 47.27.005	AS 47.40.120
	AS 29.60.600	AS 47.27.050	AS 47.80.130

7 AAC 78.160. COSTS. (a) This section applies to a grantee's use of money received under a grant.

(b) A grantee may use money received under a grant 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 pay the following costs for operating grants:

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

(2) the cost of insurance, including

(A) insurance for employee health,

- (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 an employee training in support of the grant project, if the grantee obtains pre-approval of the grantee's written training plan from the grant agency;
 - (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 and 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;
 - (C) for purposes of the grant project other than those set out in (A) and (B) of this paragraph; and
 - (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 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 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. 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.

(f) The relocation costs paid by a grantee under (e) of this section may only include transportation of the employee and of the employee's family, dependents, and household goods to the new location. The grantee shall credit the grant account for money received by the grantee under (e)(3) of this section.

(g) A grantee may, subject to prior approval from the grant agency, 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 approval from the grant agency for a proposed payment under this subsection, the grantee must show to the grant agency 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 money from the grantee's grant;

(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 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 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 pay tax expenses. However, these expenses may not include taxes from which the grantee is exempt.

(k) Depreciation on buildings, renovations, and non-expendable personal property not purchased with state money is allowable under this section. The useful life of assets must be determined by using the numbers that the grantee reported, for purposes of calculating federal income tax, to the United States Internal Revenue Service, and that the grantee obtained by using the most recent applicable Internal Revenue Service table. The grantee must maintain depreciation money in a separate reserve account designed for the replacement of the asset when

fully depreciated, or for other assets in support of the grant project and approved by the grant agency.

(l) A grantee may pay the following costs in support of the grant project only after receiving approval from the grant agency 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 satisfaction of the grant agency 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 grant agency shall 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 approval from the grant agency.

(p) Except for capital grant projects, a grantee may pay indirect costs of the grant 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 in a grant is considered part of the grant and not an addition to it. An increase or decrease in the indirect cost rate made after the award for the grant does not affect the amount of the grant. A grant applicant desiring approval in a grant agreement of payment of indirect costs in accordance with this subsection must include in the grant application, or have on file with the grant administrator, a copy of the most recent approved federal indirect cost rate and other relevant documentation as the grant agency 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 an appropriate municipal government, if any, 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 grant agency shall 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 solicitation, and in the grant agreement.

(s) A grantee may pay for costs in support of the grant project other than those costs described in this section only after receiving approval from the grant agency.

(t) A grantee may not use grant money to pay for lobbying or fund raising activities. (Eff. 4/11/81, Register 78; am 6/23/85, Register 98; am 7/21/2002, Register 163)

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

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.

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. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7AAC 78.180. SUBCONTRACTS. The grantee may enter into a subcontract for the performance of an activity required by the grant only if the grantee

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

(2) obtains the approval of the grant agency before entering into the subcontract and demonstrates to the satisfaction of the grant agency as part of the approval process that the method of procurement to be used to identify the subcontractor will be reasonably competitive. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.190. PAYMENT. (a) Subject to 7 AAC 78.200 and as specified by the grant agency in the request for proposals, request for letters of interest, or other solicitation, as applicable, and in the grant agreement, the grant agency may not make payments to a grantee as advances or reimbursements more often than monthly.

(b) The grant agency shall make advances against first quarter expenditures within 15 days after the grantee signs the grant agreement.

(c) Other than advances under (b) of this section, the grant agency shall 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 grant agency 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 notify the grant agency in writing no later than 30 days after the end of the grant period of any outstanding encumbrance made under the grant. To be eligible for reimbursement by the grant agency 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. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.200. REPORTS. (a) In order for a grantee to receive money under this chapter, the grantee must

(1) submit financial reports to the grant agency in accordance with the requirements of the grant agreement;

(2) submit progress reports to the grant agency in accordance with the requirements of the grant agreement; and

(3) 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 or federal statutes and 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 or 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 grant agency.

(c) If a grantee fails to meet the requirements of (a) of this section after a grant award, the commissioner may

(1) withhold payment under 7 AAC 78.190 until the grantee meets those requirements; or

(2) suspend or terminate the grant for non-compliance with the terms of the grant agreement under 7 AAC 78.290. (Eff. 4/11/81, Register 78; am 7/1/2002, Register 163)

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

7 AAC 78.210. GRANT INCOME. (a) A grantee shall report grant income to the grant agency in a format prescribed by the grant agency.

(b) Subject to the approval of the grant agency under (c) of this section, a grantee shall use grant income to further the objectives of the grant project, including uses that will

- (1) increase the number of persons served by the grant project;
- (2) increase the services provided by the grant project;
- (3) improve the quality of the services provided by the grant project;
- (4) establish a reserve fund, by action of the grantee's governing body and with the grant agency's approval, for use in off-setting underestimates of financing needs for the grant project; that reserve fund must be shown as restricted in the fund balance;

(5) improve the capabilities of the grant project to generate reimbursement for services from a source other than the grant agency or the recipients of services of the grant project;

(6) establish a fund, by action of the grantee's governing body and with the grant agency's approval, to generate income for the program; that fund may not exceed the amount of the grant and must be shown as restricted in the fund balance; or

(7) satisfy requirements under the grant program for matching contributions from the grantee.

(c) Except for grant income placed in a fund under (b)(6) of this section, the grantee must spend grant income in the grant period in which it is earned or during the succeeding 12 months. A grantee may use grant income only

(1) as specified in the grant project service plan or amended service plan or by the terms of the grant agreement; or

(2) as authorized under the budget or budget amendment involving a change in the grant amount approved by the commissioner, for the grant.

(d) The provisions of (b) and (c) of this section do not apply to a grantee if, in the grantee's application for the grant, the grantee reduced the total anticipated cost of the grant project by the anticipated grant income to be received during the grant period and used the remaining net anticipated cost of the grant project to determine the amount of the grant required to operate the grant project. However, to the extent that actual grant income during the grant period exceeds the anticipated grant income, the provisions of (b) and (c) of this section apply to the grantee.

(e) Except for grant income used in accordance with (b), (c), or (d) of this section, the grantee must pay grant income to the grant agency. (Eff. 4/11/81, Register 78; am 6/28/84, Register 90; am 7/21/2002, Register 163)

Authority:	AS 18.05.040	AS 44.29.024	AS 47.37.030
	AS 18.08.010	AS 47.05.010	AS 47.37.045
	AS 18.08.080	AS 47.20.075	AS 47.40.041
	AS 18.25.100	AS 47.20.110	AS 47.40.120
	AS 18.28.010	AS 47.27.005	AS 47.80.130
	AS 18.28.050	AS 47.27.050	
	AS 29.60.600	AS 47.30.477	
	AS 44.29.020	AS 47.30.530	

7 AAC 78.220. CONFIDENTIALITY. (a) If a federal or state statute or regulation requires confidentiality in a grant program, the grant agency shall establish procedures for preserving that confidentiality before the commissioner awards the grant. The grant agency shall 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). (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

Authority:	AS 18.05.040	AS 44.29.020	AS 47.30.530
	AS 18.08.010	AS 47.05.010	AS 47.30.845
	AS 18.08.080	AS 47.20.075	AS 47.37.030
	AS 18.25.100	AS 47.20.110	AS 47.37.045
	AS 18.28.010	AS 47.27.005	AS 47.40.041
	AS 18.28.050	AS 47.27.050	AS 47.40.120
	AS 29.60.600	AS 47.30.477	AS 47.80.130

7 AAC 78.230. AUDIT REQUIREMENTS. (a) For an audit conducted by the department or an audit conducted under 2 AAC 45.010, the grantee and a subcontractor of the grantee under 7 AAC 78.180, except a subcontractor who is an individual, shall provide the auditor with reasonable access to the books, documents, papers, and records of the grantee or subcontractor. The auditor may be a representative of the department or, if the grant includes money provided by the federal government or a municipal government, a representative of the federal government or the local government, as applicable.

(b) Within 30 days after receiving written notice of an audit report prepared under (a) of this section, the grantee shall respond to the grant agency if the audit report questions a cost incurred by the grantee or subcontractor or otherwise notes an audit exception. If the grantee fails to respond to the audit report or if the grant agency determines that the response does not adequately explain or justify the questioned cost or other audit exception, the grant agency may require the grantee to refund to the grant agency the amount of money paid under the grant on the questioned cost or other audit exception, as applicable. The grantee shall refund the amount in accordance with procedures specified by the grant agency in the grant agreement.

(c) In addition to an audit conducted under (a) of this section, a grantee and each subcontractor of the grantee under 7 AAC 78.180, except a subcontractor who is an individual, shall have a fiscal audit of the grantee's or subcontractor's operations, as applicable, under the

grant program performed at least once every two years. However, the department may accept a state or federal audit as a substitute for an audit required by this subsection.

(d) A subcontractor under 7 AAC 78.180 must provide the grantee or a representative of the grantee with reasonable access to the books, documents, papers, and records of the subcontractor if the grantee determines that access to this information is necessary for the purposes of an audit. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.240. MONITORING AND EVALUATION. (a) A representative of the grant agency may monitor and evaluate the performance and progress of the grant project.

(b) The grant agency may enter into a contract with a third party to provide for monitoring and evaluation of grantees under (a) of this section. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.250. RETENTION OF RECORDS. (a) The grantee and a subcontractor of a grantee under 7 AAC 78.180 shall retain financial and administrative grant and subcontract records, including records of the receipt and disposition of grant income, for at least three years, subject to the following:

(1) the grantee or the subcontractor 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 or the subcontractor shall retain records for non-expendable 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 grant agency of the grantee's or subcontractor's annual or final financial status report or its equivalent.

(b) The grantee and each subcontractor of a grantee under 7 AAC 78.180 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 or subcontractor shall retain the records in accordance with AS 18.20.085;

(2) if the grantee is not a hospital subject to AS 18.20.085 and if a recipient of services is under the age of majority, the records shall 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.

(c) The provisions of (a) and (b) of this section do not apply to records transferred to or maintained by the department. The department may request a transfer of the records described in (a) or (b) of this section from the grantee to the custody of the department at any time during the retention period established under (a) or (b) of this section, as applicable, if the department determines that the records possess long-term retention value. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

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 to the grant agency for approval. The grant agency shall 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 to the grant agency for approval a written request for the change. Within 30 days after receipt of the request, the grant agency shall review the request and notify the grantee of the agency's 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 grant agency.

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

(d) If the grantee wishes to terminate a grant project, the grantee must immediately notify the grant agency. The grant agency and the grantee shall develop a transition plan to mitigate disruption of service to recipients of services.

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

(f) Subject to (g) of this section, a grantee may reallocate money between budget categories within the total budget of the grant project to meet unanticipated expenditures necessary to the successful continuation or completion of the grant project, if the expenditures are authorized under the terms of the grant. A reallocation under this subsection between a direct cost budget category and an indirect cost budget category is permissible.

- (g) The grantee must
 - (1) receive approval from the grant agency before reallocating an amount under (f) of this section that exceeds 15 percent of a budget category affected by the reallocation or \$25,000, whichever is less; and
 - (2) notify the grant agency within 30 days after reallocating an amount not subject to (1) of this subsection.
- (h) Except for additional money awarded by the commissioner, the grantee shall notify the grant agency of an increase or decrease in the total amount of the budget of the grant project.
- (i) The grantee must submit to the grant agency 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. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.270. PURCHASING PRACTICES AND PROCEDURES. A grantee shall establish uniform purchasing practices and procedures that are approved by the grant agency for the procurement of goods and services. The practices and procedures must provide that

- (1) for purchases of non-expendable personal property, or for the award of a contract 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 7AAC 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.
- (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.280. PROPERTY MANAGEMENT. (a) If the grantee acquires an interest in real property with money received from the grant, the grantee must negotiate property management terms with the grant agency before acquiring the property.

(b) Before the grantee may use money received from a grant to purchase non-expendable 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 grant agency. In this subsection, "acquisition cost" means

(1) the cost of the non-expendable 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 grant agency to require the grantee to transfer title to the property to the state or to another person or legal entity if

(1) the grant agency 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 grant agency 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 grant agency reimburses the grantee for the property in accordance with (d) of this section.

(d) The grant agency shall compute the amount of reimbursement under (c)(4) of this section by

(1) calculating the amount that the grant project contributed to the purchase of the property, as a percentage of the total cost of that property;

(2) applying the percentage calculated under (1) of this subsection to the current fair market value of the property; and

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

(e) Except when the grant agency 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 with financial assistance from the state as long as this use does not interfere with the grant project. Among the other activities, the grantee will give priority to the use of the property in an activity receiving financial assistance from the department.

(f) 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. If the grantee

(1) wishes to retain the property, the grant agency shall compute the amount of compensation

(A) calculating the amount that the grant project contributed to the purchase of the property, as a the percentage of the total cost of that property; and

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

(2) does not wish to retain the property, the grantee shall request disposition instructions from the grant agency; the grant agency may instruct the grantee to

(A) ship the property elsewhere; or

(B) sell the property in accordance with procedures specified by the grant agency.

(g) The grant agency will reimburse the grantee for a disposition of property under (f)(1) of this section in an amount determined in accordance with (d) of this section.

(h) The grantee shall reimburse the grant agency for a disposition of property under (f)(2) of this section in an amount determined in accordance with the procedure described in (f) of this section for the retention of property by a grantee. However, the grantee may deduct from the amount of compensation \$100 or 10 percent of the proceeds of the sale, whichever is greater.

(i) A grantee shall maintain accurate property records as well as effective inventory, control, and maintenance procedures for non-expendable personal property purchased under (b) of this section and valued at more than \$1,000. The grant agency may require a property inventory of items valued at less than \$1,000 by listing those items in the grant agreement. These records shall 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 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.

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

(k) A grantee shall maintain a control system to insure adequate safeguards to prevent loss, damage, or theft of non-expendable personal property of the grant project. A grantee shall provide for the investigation and full documentation of a

(1) loss, damage, or theft of non-expendable personal property of the grant project; or

(2) disposed under (1) of this section of non-expendable personal property of the grant project.

(l) A grantee may dispose of property acquired under (a) or (b) of this section that is unserviceable or unsafe. A grantee may also dispose of property acquired under (a) or (b) of this section if it is no longer useful to the program and the grant agency approves the disposal. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

Authority:	AS 18.05.040	AS 44.29.020	AS 47.30.530
	AS 18.08.010	AS 47.05.010	AS 47.37.030

AS 18.08.080	AS 47.20.075	AS 47.37.045
AS 18.25.100	AS 47.20.110	AS 47.40.041
AS 18.28.010	AS 47.27.005	AS 47.40.120
AS 18.28.050	AS 47.27.050	AS 47.80.130
AS 29.60.600	AS 47.30.477	

7 AAC 78.290. SUSPENSION AND TERMINATION. (a) If a grantee fails to comply with the terms of a grant or 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 pay an obligation incurred before the period of suspension, if the grantee obtains the approval of the grant agency 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 the grantee takes corrective action and gives assurance of the corrective action the grant agency considers satisfactory, until the grantee successfully appeals the suspension, or until the grant agency 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 of this chapter. The commissioner will notify the grantee in writing at least 15 days before the termination. In the notice, the commissioner 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 grant agency 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 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 money from the grant. To the extent that the grantee cannot cancel a properly incurred obligation, the grant agency may provide for payment to the grantee to satisfy that part of an obligation that, but for the termination, would be payable with money from the grant. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

AS 29.60.600 AS 47.30.477

7 AAC 78.300. STATE LIABILITY. Repealed. (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 78.090(i) AND (j) 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 78.200(c)(1);

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

(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.

(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, in which case the commissioner will schedule a hearing for the earliest practicable time, but not later than 20 days after accepting the appeal. (Eff. 7/21/2002, Register 163)

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

7 AAC 78.310. APPEAL PROCEDURES. (a) The commissioner will appoint a hearing officer under 7 AAC 78.305(d) to hear an appeal.

(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 grant agency, 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. (Eff. 4/11/81, Register 78; am 7/21/2002, Register 163)

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

7 AAC 78.315. LIMITATION OF APPROPRIATIONS. (a) During each state fiscal year, a grant agency may 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) A grant agency may 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, a grant agency shall prioritize which individuals will receive services. (Eff. 7/21//2002, Register 163)

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

7 AAC 78.320. DEFINITIONS. Repealed. (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) "applicant" means the individual, organization, or other entity that responds to a request for proposals, request for letters of interest, or other solicitation issued by a grant agency under this chapter, as applicable;
 - (2) "application" means the response submitted by an applicant to a request for proposals, request for letters of interest, or other solicitation issued by a grant agency under this chapter, as applicable;
 - (3) "approve" means to issue an approval;
 - (4) "approval" means a written agreement or permission to proceed, signed by an authorized representative of the commissioner or grant agency, as applicable, in response to a written request from the grantee or applicant for approval of a proposed action;
 - (5) "budget" means the financial expenditure plan of a grant project approved by the grant agency; "budget" includes money awarded by the commissioner as a grant under the grant program and any other financing used for the grant project;
 - (6) "capital grant" means a grant that is financed by a capital appropriation;
 - (7) "commissioner" means the commissioner 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 outcome" means expected results from the specific grant program and strategies employed;
 - (12) "direct cost" means a cost that can be identified with a particular cost objective that is identified specifically with the grant;
 - (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 by the commissioner to an eligible applicant under this chapter;
 - (16) "grant administrator" means the department employee designated by the commissioner to supervise the administration of all grants made under this chapter;
 - (17) "grant agency" means the division within the department that administers the grant program;
 - (18) "grant income" means income earned by a grant project during the grant period; grant income includes
 - (A) interest earned on grant project money;
 - (B) Medicaid reimbursements and other third-party payments;

- (C) proceeds from the sale of products or services, including laboratory tests and computer time;
 - (D) payments received for medical or hospital services;
 - (E) fees received for personal services;
 - (F) proceeds from the sale of assets of the grant project; and
 - (G) royalties from copyrights or publications;
- (19) "grant period" means the time period for which the grantee has been awarded a grant;
- (20) "grant program" means a program under which the commissioner awards a grant for the services or activities the applicant or grantee provides or proposes to provide;
- (21) "grant project" means a project for which a grant is awarded;
- (22) "grantee" means the person or other legally accountable entity that receives a grant;
- (23) "indirect cost" means a cost that, because it is incurred for common or joint objectives, is not readily subject to treatment as a direct cost;
- (24) "intermediate measure" means data that reflects progress toward the performance measure;
- (25) "minimum responsiveness criteria" means technical requirements, expressed as conditions set out in a request for proposal, request for letters of interest, or other solicitation that a grant applicant must comply with in the submission of a grant proposal in order to be considered for a grant by the grant agency;
- (26) "native entity" has the meaning given "tribal organization" in 25 U.S.C. 450b(l);
- (27) "non-expendable 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 \$1,000 or more; or
 - (B) intangible personal property, including patents, inventions, and copyrights;
- (28) "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);
- (29) "performance measure" means data that reflects conditions after a service has been provided;
- (30) "personal property" means property other than real property;
- (31) "political subdivision of the state" means
- (A) municipality; or
 - (B) regional educational attendance area organized under AS 14.08 and AS 29.03.020;

(32) "process measure" means data that reflects improvements in the progress of a recipient of services of a grant project toward the recipient's final objectives;

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

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

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

(36) "sovereign immunity" means the legal doctrine that protects the functions of government from litigation and damages claims;

(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. (7/21/2002, Register 163)

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

CHAPTER 81. GRANT SERVICES FOR INDIVIDUALS.

Section

- 10. Scope of chapter
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- 180. Retention of records
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7 AAC 81.010. SCOPE OF CHAPTER. Except as provided in 7 AAC 81.020, this chapter applies to grant program services that a grant agency provides to an individual. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.020. 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. (Eff. 7/21/2002, Register 163)

Authority:	AS 18.05.040	AS 44.29.020	AS 47.30.530
	AS 18.08.010	AS 47.05.010	AS 47.37.030

AS 18.08.080	AS 47.20.075	AS 47.37.045
AS 18.25.100	AS 47.20.110	AS 47.40.041
AS 18.28.010	AS 47.27.005	AS 47.40.120
AS 18.28.050	AS 47.27.050	AS 47.80.130
AS 29.60.600	AS 47.30.477	

7 AAC 81.030. SERVICES ON BEHALF OF AN INDIVIDUAL. Upon approval of the commissioner, a grant agency may obtain grant program services from an individual, organization, or political subdivision of the state by means of a provider agreement if the services to be provided are restricted to an individual who the agency has determined is eligible to receive services under the grant program from which the money will be paid. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.040 ELIGIBILITY. (a) A provider may receive payment from a grant agency for services provided under a provider agreement if

- (1) the services are eligible for payment under the grant program;
- (2) the grant agency has determined the individual on whose behalf payment is being requested is eligible for the services based on the eligibility criteria for the grant program from which payment will be made;
- (3) the grant agency has authorized the amount of payment the provider can receive for services provided based on
 - (A) an individualized service plan;
 - (B) a schedule of fees specific to the grant program; or
 - (C) a periodic rate per individual;
- (4) the provider meets applicable eligibility requirements for service providers under the grant program from which payment will be made;
- (5) the provider has on file with the grant agency or the grant administrator a fully executed provider agreement for the grant program under which the provider wishes to provide services; and
- (6) the commissioner determines that use of a provider agreement
 - (A) is in the best interest of the target population of the grant program;
 - (B) may increase the accessibility of services to the target population of the grant program; or
 - (C) may reduce the cost of services to the department.

(b) A provider may not request payment for services under this section if the provider has a grant under 7 AAC 78 to provide the same service. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.050. NOTIFICATION OF POTENTIAL SERVICE PROVIDERS. (a)

At least once every two years, a grant agency shall give public notice to inform potential providers of grant services that the agency may enter provider agreements for the provision of those services by eligible providers.

(b) A public notice under (a) of this section must be published on at least one day in a newspaper of general circulation, must be posted for at least 30 consecutive days on the Alaska Online Public Notice System established under AS 44.62.175 must specify:

- (1) the name of the grant program;
- (2) a description of the services to be purchased;
- (3) eligibility requirements and the documentation required by the grant agency to verify eligibility of the potential provider;
- (4) the terms of the provider agreement for the specific grant program; and
- (5) the name and address of the grant agency and contact person for the grant agency. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.060. ISSUANCE OF A PROVIDER AGREEMENT. (a) If a potential provider is interested in entering into a provider agreement with a grant agency, the potential provider must send a letter to the grant agency contact person expressing interest, and must include the documentation required by the grant agency to verify eligibility for a provider agreement. A potential provider may send a letter expressing interest to a grant agency at any time.

(b) The grant agency shall verify the eligibility of the potential provider for a provider agreement. If the grant agency determines that the potential provider is eligible, the agency shall prepare a provider agreement and forward it to the commissioner for approval.

(c) If the grant agency determines that the potential provider is ineligible for a provider agreement, the grant agency shall notify the provider, in writing within 30 days, of the reasons the provider was determined to be ineligible. If the potential provider later becomes eligible for

a provider agreement, the provider may resubmit a letter expressing interest, at any time afterwards.

(d) Unless the commissioner determines approval to be necessary to protect public health and safety, the commissioner will disapprove an agreement regardless of eligibility if

- (1) the potential provider has a history of non-compliance with grant requirements under 7 AAC 78 or this chapter; or
- (2) monitoring and evaluation of the potential provider in the past has shown that the services provided did not meet applicable quality standards of the grant program.

(e) If the commissioner approves a provider agreement, the provider agreement will be sent to the provider for signature. The provider must sign the agreement to indicate acceptance of the terms set out in the agreement. The signed agreement is a contract between the department and the provider. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.070. PROVIDER AGREEMENTS. (a) In addition to any requirements specific to a grant program, a grant agency shall address the following in a provider agreement:

- (1) the services for which payment will be made;
- (2) that failure to meet the terms of the agreement, at any time, may result in termination of the agreement by the department;
- (3) provider eligibility requirements;
- (4) recipient eligibility requirements;
- (5) terms and conditions of payment, including
 - (A) the basis for payment, as described in 7 AAC 81.040(a)(3);
 - (B) that the provider must exercise reasonable efforts to obtain payment for the services provided to a recipient from other available sources of payment; and
 - (C) that the provider shall credit back to the grant agency other-source payments received by the provider for services for which the grant agency has paid the provider;
- (6) that the provider's provision of services to eligible recipients and billing the department for those services constitutes the provider's agreement
 - (A) to cooperate in reports, surveys, or audits conducted by the department or in audits conducted under 2 AAC 45.010; and
 - (B) to comply with applicable statutes and regulations applicable to the grant program from which the provider will be paid;
- (7) retention by the provider of records necessary to disclose fully to the department the extent of services provided to recipient, with information regarding any specific payment to be made available to the department upon request;

(8) on-site inspection by authorized representatives of the department of facilities used to provide services under the agreement;

(9) that endorsement of a warrant received from the department by a provider or the provider's agent constitutes certification that the claim for which the warrant is issued is true and accurate, unless written notice of an error is sent by the provider to the department within 30 days after the date that the warrant is cashed;

(10) that, except for good cause shown for the delay, the department will not pay a cost of service unless the provider of the service submits a bill for the service to the department within 30 days after the service was provided;

(11) immediate notification by the provider to the department and automatic termination of the agreement if the provider is no longer eligible to provide services based on applicable provider eligibility requirements;

(12) termination of the agreement by the department without prior notice if the provider fails to comply with the terms of the agreement;

(13) except as otherwise provided in the agreement, termination of the agreement by the department at any time on 30 days prior notice;

(14) termination of the agreement by the provider at any time on 30 days prior notice and assistance by the provider to the grant agency in making arrangements for transfer of the recipients of services under the agreement to other providers, if appropriate; and

(15) the effective date of the agreement.

(b) A provider agreement remains in force until the provider or the department terminates the agreement or a material term of the agreement is changed. If a material term of a provider agreement is changed, a new agreement must be executed. (Eff. 7/21/2002, Register)

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

7 AAC 81.080. SELECTION OF A PROVIDER. (a) A grant agency may refer eligible recipients to providers or may allow recipients to select providers.

(b) If a grant agency refers eligible recipients to providers, the grant agency must maintain a list of providers by service area. The grant agency shall refer a recipient to the first provider on the list in the recipient's service area and shall move that provider's name to the bottom of the list. The grant agency shall add new providers to the bottom of the list.

(c) If a recipient chooses an individual, organization, or political subdivision to provide services for which the individual, organization, or political subdivision does not have a provider agreement to provide those services, that individual, organization, or political subdivision of the state must enter a provider agreement before any costs incurred by the individual, organization, or political subdivision on behalf of the recipient are eligible for reimbursement. (Eff. 7/21/2002, Register 163)

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

7AAC 81.090. SUBCONTRACTS. A provider may enter into a subcontract for the performance of a service covered by the provider agreement only if the provider

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

(2) obtains the approval of the grant agency before entering into the subcontract and demonstrates to the satisfaction of the grant agency as part of the approval process that the method of procurement to be used to identify the subcontractor will be reasonably competitive. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.100. EQUAL EMPLOYMENT OPPORTUNITY. (a) The provider shall post in conspicuous places, accessible to employees and applicants for employment, at each location that services are provided under the provider agreement, notices setting out the provisions of AS 18.80.220.

(b) The provider shall state, in solicitations or advertisements for employees to work under a provider agreement, that the provider 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 condition or status described in AS 18.80.220(a)(1).

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

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

(e) The provider 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. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.110. CIVIL RIGHTS OF RECIPIENTS OF SERVICES. (a) The provider 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. 707-707 (Drug Free Workplace Act of 1988);
- (3) 42 U.S.C. 12101-12213 (Americans with Disabilities Act of 1990).

(b) The provider 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 provider may not exclude an eligible individual from receiving services under a provider agreement. However, with the concurrence of the grant agency, a provider 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. (Eff. 7/21/2002, Register 163)

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

7 AAC 81.120. CONFIDENTIALITY. (a) If a federal or state statute or regulation requires confidentiality in a grant program, the grant agency shall establish procedures for preserving confidentiality before the commissioner awards the provider agreement. The grant agency shall include the procedures as part of the terms of the provider agreement.

(b) Personally identifiable information obtained from a provider by the department relating to a recipient of services paid for, in whole or part, by the department remains confidential under AS 40.25.120(a). (Eff. 7/21/2002, Register 163)

Authority:	AS 18.05.040	AS 40.25.120	AS 47.30.477
	AS 18.08.010	AS 44.29.020	AS 47.30.530

AS 18.08.080	AS 47.05.010	AS 47.37.030
AS 18.25.100	AS 47.20.075	AS 47.37.045
AS 18.28.010	AS 47.20.110	AS 47.40.041
AS 18.28.050	AS 47.27.005	AS 47.40.120
AS 29.60.600	AS 47.27.050	AS 47.80.130

7 AAC 81.130. ADMINISTRATIVE POLICIES OF PROVIDERS. (a) A provider 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 provider shall apply these policies consistently in the administration of the provider agreement without regard to the source of the money used for the purposes to which the policies relate.

(b) A provider that is a nonprofit organization must establish and adhere to a written policy stating that an employee of the provider may not be a member of the provider's governing board. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.140. ACCOUNTING REQUIREMENTS. A provider shall maintain the financial records and accounts of the provider agreement using generally accepted accounting principles in a manner that permits those records and accounts to be audited as prescribed in 2 AAC 45.010. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.150. REPORTS. In order for a provider to receive money under this chapter, the provider must, if requested by the grant agency,

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

(2) provide other information the department considers necessary to evaluate the efficacy of service delivery or compliance with applicable state or federal statutes and regulations. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.160. AUDIT REQUIREMENTS. (a) For an audit conducted by the department or an audit conducted under 2 AAC 45.010, the provider and a subcontractor of the provider under 7 AAC 81.090, except a subcontractor who is an individual, shall provide the auditor with reasonable access to the books, documents, papers, and records of the provider or subcontractor. The auditor may be a representative of the department or, if the provider agreement is financed in part by money provided by the federal government or a municipal government, a representative of the federal government or the local government, as applicable.

(b) Within 30 days after receiving written notice of an audit report prepared under (a) of this section, the provider shall respond to the grant agency if the audit report questions a billing submitted by the provider or subcontractor or otherwise notes an audit exception. If the provider fails to respond to the audit report or if the grant agency determines that the response does not adequately explain or justify the questioned billing or other audit exception, the grant agency may require the provider to refund to the grant agency the amount of money paid under the provider agreement on the questioned billing or other audit exception, as applicable. The provider shall refund the amount in accordance with procedures specified by the grant agency in the provider agreement.

(c) In addition to an audit conducted under (a) of this section, a provider and each subcontractor of the grantee under 7 AAC 81.090, except a subcontractor who is an individual, shall have a fiscal audit of the provider's or subcontractor's operations, as applicable, under the provider agreement performed at least once every two years. However, the department may accept a state or federal audit as a substitute for an audit required by this subsection.

(d) A subcontractor under 7 AAC 81.090 must provide the provider or a representative of the provider with reasonable access to the books, documents, papers, and records of the subcontractor if the provider determines that access to this information is necessary for the purposes of an audit. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.170. MONITORING AND EVALUATION. (a) A representative of the department may monitor and evaluate the performance of providers.

(b) The department may enter into a contract with a third party to provide for monitoring and evaluation of provider performance under (a) of this section. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.180. RETENTION OF RECORDS. (a) A provider and a subcontractor of a provider under 7 AAC 81.090 shall retain financial and administrative provider agreement and subcontract records, including records of the receipt and disposition of other-source income, for at least three years, subject to the following:

(1) the provider or the subcontractor 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 retention period for each year's records begins on the date of submission to the grant agency of the provider's or subcontractor's annual or final financial status report or the equivalent report.

(b) The provider and each subcontractor of a provider under 7 AAC 81.090 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 provider or subcontractor is a hospital subject to AS 18.20.085, the provider or subcontractor shall retain the records in accordance with AS 18.20.085;

(2) if the provider is not a hospital subject to AS 18.20.085 and if a recipient of services is under the age of majority, the records shall 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.

(c) The provisions of (a) and (b) of this section do not apply to records transferred to or maintained by the department. The department may request a transfer of the records described in (a) or (b) of this section from the provider to the custody of the department at any time during the retention period established in (a) or (b) of this section, as applicable, if the department determines that the records possess long-term retention value. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.200. REQUEST FOR APPEAL. (a) A provider may appeal the following decisions under 7 AAC 81.210:

- (1) an ineligibility decision under 7 AAC 81.060(c);
- (2) disapproval of a provider agreement under 7 AAC 81.060(d); r
- (3) a decision to terminate an agreement under the provisions of the provider

agreement.

(b) The provider 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 provider 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 provider 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 81.210, in which case the commissioner will schedule a hearing for the earliest practicable time, but not later than 20 days after accepting the appeal. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.210. APPEAL PROCEDURES. (a) The commissioner will appoint a hearing officer under 7 AAC 81.200(d) to hear an appeal.

(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 appeal on the basis of the written submissions of the appellant and the grant agency, 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. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.220. LIMITATION OF APPROPRIATIONS. (a) During each state fiscal year, a grant agency may authorize the payment of costs under a provider agreement only to the extent of money allocated in the state budget for the grant program for that fiscal year.

(b) A grant agency may 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 applicable eligibility criteria and seek those services, a grant agency shall prioritize which individuals will receive services. (Eff. 7/21//2002, Register 163)

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

7 AAC 81.950. DEFINITIONS. Unless the context indicates otherwise, in this chapter

- (1) "approve" means to issue an approval;
- (2) "approval" means a written agreement or permission to proceed, signed by an authorized representative of the commissioner or a grant agency, in response to a written request from a provider for approval of a proposed action;
- (3) "commissioner" means the commissioner of health and social services;
- (4) "criminal background check" means a report of criminal justice information under 13 AAC 68.300 - 13 AAC 68.345;
- (5) "department" means the Department of Health and Social Services;
- (6) "grant administrator" means the department employee designated by the commissioner to supervise the administration of all provider agreements entered under this chapter;
- (7) "grant agency" means the division within the department that administers a grant program;
- (8) "grant program" means a program under which the commissioner awards a provider agreement for the services or activities the provider provides;
- (9) "individualized service plan" means the list of services to be provided to an individual determined according to the individual's strengths and needs without regard to the population as a whole;
- (10) "other-source payments" means payments received by a provider with respect to services provided under a provider agreement, including Medicaid reimbursements and other third-party payments and payments received from or on behalf of the recipient of the services;
- (11) "political subdivision of the state" means
 - (A) municipality; or
 - (B) regional educational attendance area organized under AS 14.08 and AS 29.03.020;
- (12) "provider" means an individual or legal entity, including a state agency or a political subdivision of the state, that provides services under a provider agreement;
- (13) "provider agreement" means an agreement that is entered between a grant agency and a provider for the provision of services under this chapter. (Eff. 7/21//2002, Register 163)

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