

NIH Policy Manual

1201 - Fee for Service in Support of Facility Improvements

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Transmittal Notice

1. **Explanation of Material Transmitted:** This chapter establishes the National Institutes of Health (NIH) policy and controls for the use of Building and Facilities (B&F) and Institute, Center and Office (ICO) appropriations to fund the Fee for Service (FFS) that support planning, design, construction, alterations or renovations of NIH owned facilities and supporting assets.
2. **Filing Instructions:**
 - a. **Insert:** Manual Issuance 1201, dated 5/2/2019

PLEASE NOTE: For information on:

- For contents of this chapter, contact the issuing office listed above.
- NIH Policy Manual, contact the Division of Management Support, OMA on 301-496-4606, or enter this URL:
<https://oma.od.nih.gov/DMS/Pages/ManualChapters.aspx> .

A. Purpose

This chapter establishes the policies and controls for the use of Building and Facilities (B&F) and Institute, Center and Office (ICO) appropriations to fund the Fee for Service (FFS) associated with planning, designing, constructing, renovating and/or altering NIH-owned facilities and other supporting assets.

B. Scope

The policy in this chapter applies to all NIH Institutes, Centers and Offices (ICO) requiring and/or providing design and construction services in NIH-owned facilities.

C. Background

Project management within the Office of Research Facilities Development and Operations (ORFDO) is funded via a mechanism called Fee for Service, whereby the benefiting organization provides funding to ORFDO for the labor and contractual support needed to administer contracts, both in the pre-award and post-award phases. This concept, which is often utilized by other federal agencies, provides that consumer organizations pay for the costs. FFS is used for project management costs and is charged as a percentage of the cost of the underlying alterations, repairs, or improvements.

Each year, Congress provides a Building and Facilities (B&F) appropriation to NIH “[f]or the study of, construction of, demolition of, renovation of, and acquisition of equipment for, facilities of or used by NIH, including the acquisition of real property.” In addition, since 2007 Congress has authorized NIH to spend operating funds appropriated to ICO’s to cover costs associated with altering, repairing, or improving NIH facilities. For FY2019, Section 216 of the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act of 2019, H.R. 6157, 115th Cong., Div. B, Tit. II (2018) authorized not more than \$45,000,000 of funds appropriated to ICOs to be used for alterations, repairs, and improvements, not to exceed \$3,500,000 per project. This is referred to as “the special funding authority.” The special funding authority is provided in annual appropriations bills and is not permanent. Congress may change the funding limits or choose not to provide the authority in any given year. Contact the issuing office for the most up to date information on this authority.

Scientific and special purpose equipment such as Magnetic Resonance Imaging (MRI) systems, furniture, audio-visual (AV), and other such non-construction equipment are not included in the calculation.

Under the special funding authority, FFS is not counted against the \$3,500,000 funding limit designated for each project.

D. Policy

It is the policy of the NIH to streamline business practices where possible to enhance operations. B&F and ICO funds authorized and appropriated for use to construct, alter, renovate, or repair NIH facilities, must comply with appropriation, HHS project, and the ORFDO funding guidelines for effective facility stewardship. The amount charged as FFS is a function of the scope and complexity of a project and is charged as a percentage of the project cost. ORFDO establishes FFS rates annually after in depth analyses of its business practices.

For projects funded by ICO funds using the special funding authority, ICO funds are used to cover the FFS for design and construction.

For design and construction projects funded and constructed by a non-government entity such as an Office of Research Services (ORS) tenant (R&W, FAES, Children's Inn, Coffee Shop, etc.), or an organization that is providing a facility project as a gift to NIH, the entire FFS will be covered by ORFDO, since the Service and Supply Fund (SSF) is not authorized to charge nonfederal entities.

When the project in question is a turnkey project involving special purpose equipment such as a scanner with incidental construction, the fee will be based upon the value of the construction, excluding the cost of the special purpose equipment.

For NIH infrastructure projects to modify, maintain or upgrade campus utility distribution and supporting systems, B&F funds are used to fund the FFS for design and construction.

ORFDO also charges FFS for in-house design services, management of small alteration projects, and oversight of General Services Administration (GSA) managed projects in leased facilities. These fees are based solely on the services provided and are in addition to any other fees associated with the project.

Consistent with the requirements of Volume 1, Section 2-1 of the HHS Facilities Program Manual:

1. Contracted design, construction inspection and construction management services for construction projects must be funded from the B&F funding for that project;
2. The same source of funds used for repair, maintenance and improvement projects shall be used for the contracted design, construction inspection and construction management services; and
3. Annual operating funds are not to be used for contracted design, inspection or management services of any project funded by the B&F appropriations.

E. Responsibilities

5. **The NIH Office of Research Facilities Development and Operations (ORFDO)** has overall responsibility for the planning, design, construction, renovation, improvement, operations and maintenance of facilities to satisfy the NIH mission requirements.
6. **The NIH Buildings and Facilities (B&F) Board** consists of ORFDO's Division Directors and is responsible for:
 - a. Providing management oversight of the B&F Program
 - b. Reviewing the FFS process; and for
 - c. Meeting bi-weekly to address the overall health of the B&F Program.
7. **NIH Institute, Center and Office (ICO)** are responsible for:
 - a. Submitting a [Construction Request](#) using ORFDO's Intranet to identify the scope of work or the objective of the services desired, the building and room the work will be performed in, the ICO point of contact, and his/her phone number

- and the email address;
 - b. Funding FFS for alteration, construction, renovation, and alteration projects identified during the project planning and budgeting process; and
 - c. Funding FFS associated with facility renovations conducted to remediate contaminants (i.e., mercury, chromium or other chemicals specific to research and not normally found in facilities appurtenances) produced from research activities.
8. **The Division of Budget and Financial Management (DBFM), ORFDO** is responsible for:
- a. Formulating and executing ORFDO's Operating and Buildings and Facilities budgets;
 - b. Ensuring compliance with special authorities granted as part of construction appropriations;
 - c. Identifying the source of the Fee for Service (FFS) for project requests submitted to ORFDO;
 - d. Collecting FFS from the funding ICO; and
 - e. Establishing the Fee for Service (FFS) rate structure for direct costs associated with managing design and construction projects.
9. **The Division of Design and Construction Management (DDCM), ORFDO** is responsible for assigning a Contracting Officer Representative (COR) to manage ICOs' Construction Requests from conception to completion.
10. **The Division of Technical Resources (DTR), ORFDO** is responsible for:
- a. Providing consultation services, comprehensive review, and quality assurance of design and construction documents;
 - b. Managing the construction permitting process; and
 - c. Managing the Central Utility Plant (CUP) on the Bethesda campus, and other critical projects.
11. **The Office of Acquisitions (OA), ORFDO** is responsible for:
- a. Handling functions of the Contracting Officer;
 - b. Providing contracting solutions to secure required architectural, engineering, construction, and facility support services to satisfy the mission of the NIH;
 - c. Awarding any contracts for design and construction services; and
 - d. Conducting internal reviews of contract files based on the HHSAR, FAR and applicable NIH policies and guidelines.

F. Procedures

Cost reimbursement for direct services rendered in managing the planning, design and construction of NIH owned facilities and other assets to support the NIH mission must comply with statutory, regulatory, cost principles, and policy requirements.

4. **The Requester (ICO or Non-government Entity):**
- a. Submits a Request for Construction Project Service to ORFDO via the [Construction Request](#) site;

- b. Works with the ORFDO COR to identify the scope of work, operational constraints, and initial conceptual cost estimate for project;
 - c. Approves the total project cost, schedule, and documentation;
 - d. Authorizes ORFDO to proceed with design based on the approved package.
5. **The Contracting Officer Representative (COR), ORFDO:**
- a. Maintains FAC-COR and FAC-P/PM required training and certifications to provide high quality technical support;
 - b. Develops a conceptual estimate in collaboration with the Requestor and Subject Matter Experts as necessary;
 - c. Identifies and conducts special study(ies) as needed;
 - d. Obtains DBFM guidance on the source of funds to be used to cover the FFS;
 - e. Develops a statement of work, acquisition plan, cost estimate and schedule to support the request for design services;
 - f. Obtains the Requestor's approval of the project documentation;
 - g. Requests OA to obtain design services;
 - h. Requests technical reviews of design submissions to be conducted by DTR and other consistent with ORFDO's Permit Review Process;
 - i. Obtains the Requestor's approval to proceed with advertisement for a construction contract based on the final contract documents;
 - j. Prepares a Request for Contract Action (RFCA) package for construction services including a schedule, special requirements, independent government estimate, acquisition plan, site selection request, and RFCA for Construction Quality Management (CQM) services (if necessary).
 - k. Requests the OA to proceed with advertisement to permit award of a construction contract based on the final design documents;
 - l. Monitors the construction project for compliance with the contract documents;
 - m. Keeps customer informed of the project status;
 - n. Conducts final inspection(s) of the construction project in collaboration with Subject Matter Experts and the NIH Fire Marshal as necessary; and
 - o. Advises Requestor when beneficial and/or final occupancy of the space will be permitted.
6. **The DTR, ORFDO:**
- a. Conducts technical reviews of the contract documents to ensure compliance with NIH Design Requirements Manual and applicable codes and standards;
 - b. Issues Construction Work Permits;
 - c. Provides consultation to the COR during construction on an as needed basis;
 - d. Performs COR duties consistent with the procedures under Item 2 above; and
 - e. Provides in-house design and project oversight of specialized facilities.
7. **The OA, ORFDO:**
- a. Works collaboratively with the COR to develop acquisition plans to meet requester requirements;
 - b. Advertises and awards design and construction contracts; and
 - c. Addresses and resolves all contractual matters.

G. References

1. [FY2012 Omnibus Appropriation H.R. 2055, Section 216](#)
2. [Federal Acquisition Certification for Project and Program Managers \(FAC-P/PM\) Handbook](#)
3. [HHS Facilities Program Manual \(Volume I\)](#), Section 2-1 Funding Sources for Facilities Projects
4. [HHS Facilities Program Manual \(Volume II\)](#), Section 1-2: HHS Federal Facility Management Policy
5. [NIH Design Requirements Manual](#)
6. [NIH Facilities Development Manual](#), Section 5-7 Design Management and Design review
7. NIH Manual Chapter 1743 – Keeping and Destroying Records, Appendix 1, NIH Records Control Schedules (as amended): <https://policymanual.nih.gov/1743>
8. [ORFDO Funding and Budget for Construction, Alterations and Renovations](#) funding guidance.

Appendix 1: Definitions

1. **Alterations** – Improvements that consist of any betterment or change to an existing property to allow its use for a different purpose or function.
2. **Beneficial Occupancy** – Use of a building, structure, or facility by the owner for its intended purpose (functionally complete), although other contract work, non-essential to the function of the occupied section, remains to be completed.
3. **Construction** – The erection or expansion of a building, structure or facility, including the installation of equipment, site preparation, landscaping, associated roads, parking, environmental mitigation and utilities, which provides space not previously available.
4. **Contracting Officer (CO)** – The individual with the authority to execute contracts on behalf of the Government. This individual is the sole authorized agent in dealing with a contractor. The CO has the authority to negotiate and execute contracts on behalf of the Government and to make changes, amendments, approve payments, terminate contracts, and close out contracts upon satisfactory completion.
5. **Contracting Officer Representative (COR)** – The government representative legally designated by the Contracting Officer as the authorized technical representative for administering Architect/Engineering (A/E), construction and/or service contracts on behalf of the Contracting Officer, exclusive of contractual matters. The PO is not authorized to issue instructions or directions effecting an increase or decrease in the scope of work that would impact the project cost or schedule.
6. **Federal Acquisition Certification (FAC-P/PM)** – An HHS established program for certifying employees as Program (P) or Project Managers (PM).
7. **Fee for Service (FFS)** – A funding mechanisms used to charge NIH Institutes, Centers and Offices (ICO) for services rendered.

8. **ICO Benefited** – The completed project results in laboratory, animal, clinical, office, support or other space for the ICO.
9. **Improvements (Renovations/Alterations)** – Any betterment or change to an existing property to allow its continued or more efficient use within its designated purpose (Renovation), or for use for a different purpose or function (Alteration).
10. **Minor Renovations** – Renovations that are directly related to the installation of special purpose equipment, as well as related design and inspection services. These renovations may include extending utility services, providing suitable safety and environmental conditions for proper operations, and making structural changes such as cutting walls and floors, and new partitions, provided such improvements are proximately incident to the installation, operation and use of special purpose equipment and necessary to conduct the functions of the program(s).
11. **Pre-project Planning** – Process for developing sufficient strategic information to address risk and determine resources for successful construction projects.
12. **Project** – Includes the design and construction work associated with renovating, repairing, or altering NIH owned facilities and space.
13. **Project Cost** – The expenditure associated with the completion of design and construction activities related to NIH projects including contingency.
14. **Repair** – The restoration of a failed or failing primary building system or real property facility component to a condition that restores its effective use for its designated purpose.
15. **Request for Contract Action (RFCA)** – Includes the project Statement of Work (SOW), independent government estimate, project schedule, and other required documentation to support a procurement action.
16. **Turnkey^[1]** – A variation of design-build project delivery in which one entity is responsible to the owner for design, construction plus designated real estate services that may include project financing and site/selection/purchase.

^[1] Section 1-2, HHS Facilities Program Manual (Volume I)