

§ 97.24

to: federal laws regulating the possession of weapons, Federal Aviation Administration or Transportation Security Administration rules and regulations governing travel on commercial aircraft, and all applicable federal, State, or local motor carrier regulations. The regulations in this part in no way pre-empt, displace, or affect the authority of States, local governments, or other federal agencies to address these issues.

§ 97.24 No civil defense created.

The regulations in this part on private prisoner transport companies are not intended to create a defense to any civil action, whether initiated by a unit of government or any other party. Compliance with the regulations in this part is not intended to and does not establish a defense against an allegation of negligence or breach of contract. Regardless of whether a contractual agreement establishes minimum precautions, the companies affected by the regulations in this part will remain subject to the standards of care that are imposed by constitutional, statutory, and common law upon their activities (or other activities of a similarly hazardous nature).

§ 97.30 Enforcement.

Any person who is found in violation of the regulations in this part will:

- (a) Be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation;
- (b) Be liable to the United States for the costs of prosecution; and
- (c) Make restitution to any entity of the United States, of a State, or of an inferior political subdivision of a State, that expends funds for the purpose of apprehending any violent prisoner who escapes from a prisoner transport company as the result, in whole or in part, of a violation of the regulations in this part promulgated pursuant to the Act.

28 CFR Ch. I (7-1-03 Edition)

PART 100—COST RECOVERY REGULATIONS, COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT OF 1994

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AUTHORITY: 47 U.S.C. 1001-1010; 28 CFR 0.85(o).

SOURCE: 62 FR 13324, Mar. 20, 1997, unless otherwise noted.

§ 100.9 General.

These Cost Recovery Regulations were developed to define allowable costs and establish reimbursement procedures in accordance with section 109(e) of Communications Assistance for Law Enforcement Act (CALEA) (Public Law 103-414, 108 Stat. 4279, 47 U.S.C. 1001-1010). Reimbursement of costs is subject to the availability of funds, the reasonableness of costs, and an agreement by the Attorney General or designee to reimburse costs prior to the carrier's incurrence of said costs.

§ 100.10 Definitions.

Allocable means chargeable to one or more cost objectives and can be distributed to them in reasonable proportion to the benefits received.

Business unit means any segment of an organization for which cost data are routinely accumulated by the carrier for tracking and measurement purposes.

Cooperative agreement means the legal instrument reflecting a relationship between the government and a party when—

- (1) The principal purpose of the relationship is to reimburse the carrier to carry out a public purpose of support

or stimulation authorized by a law of the United States; and

(2) Substantial involvement is expected between the government and carrier when carrying out the activity contemplated in the agreement.

Cost element means a distinct component or category of costs (e.g. materials, direct labor, allocable direct costs, subcontracting costs, other costs) which is assigned to a cost objective.

Cost objective means a function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

Cost pool means groupings of incurred costs identified with two or more cost objectives, but not identified specifically with any final cost objective.

Direct supervision means immediate or first-level supervision.

Directly allocable cost means any cost that is directly chargeable to one or more cost objectives and can be distributed to them in reasonable proportion to the benefits received.

Directly assignable cost means any cost that can be wholly attributed to a cost objective.

Directly associated cost means any directly assignable cost or directly allocable cost which is generated solely as a result of incurring another cost, and which would not have been incurred had the said cost not been incurred.

Final cost objective means a cost objective that has allocated to it, both assignable and allocable costs and, in the carrier's accumulation system, is one of the final accumulation points.

Installed or deployed means that, on a specific switching system, equipment, facilities, or services are operable and available for use by the carrier's customers.

Labor cost means the sum of the payroll cost, payroll taxes, and directly associated benefits.

Network operations costs means all directly associated costs related to the ongoing management and maintenance of a telecommunications carrier's network.

Plant costs means the directly associated costs related to the modifications

of specific kinds of telecommunications plants, such as switches, intelligent peripherals and other network elements. These costs shall include the costs of inspecting, testing and reporting on the condition of telecommunications plant to determine the need for replacements, rearranges and changes; rearranging and changing the location of plant not retired; inspecting after modifications have been made; the costs of modifying equipment records, such as administering trunking and circuit layout work; modifying operating procedures; property held for future telecommunications use; provisioning costs; network operations costs; and receiving training to perform plant work. Also included are the costs of direct supervision and office support of this work.

Provisioning costs means all costs directly associated with the resources expended within a telecommunications carrier's network to provide a connection and/or service to an end user of the telecommunications service.

Trade secrets/proprietary information means information which is in the possession of a carrier but not generally available to the public, which that carrier desires to protect against unrestricted disclosure or competitive use, and which is clearly identified as such at the time of its disclosure to the government.

Unit cost means the directly associated cost of a single unit of a good or service which is included in a cost element.

§ 100.11 Allowable costs.

(a) Costs that are eligible for reimbursement under section 109(e) CALEA are:

(1) All reasonable plant costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103 of CALEA, until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modifications;

(2) Additional reasonable plant costs directly associated with making the assistance capability requirements found