

**§ 70.26**

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

part 31, "Contract Cost Principles and Procedures," as applicable.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) The Department restricts the transfer of funds among direct cost categories or programs, functions and activities, without prior written approval for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed ten percent of the total budget as last approved by the Department. The Department will not permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(e) All other changes to nonconstruction budgets, except for the changes described in paragraph (g) of this section, do not require prior approval.

(f) For construction awards, recipients must request prior written approval promptly from the Department for budget revisions whenever paragraph (f) (1), (2) or (3) of this section apply.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Department funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in § 70.27.

(g) When the Department makes an award that provides support for both construction and nonconstruction work, the Department will require the recipient to request prior approval from the Department before making any fund or budget transfers between the two types of work supported.

(h) For both construction and nonconstruction awards, the Department

will require recipients to notify the Department in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than \$5000 or five percent of the award, whichever is greater. This notification will not be required if an application for additional funding is submitted for a continuation award.

(i) When requesting approval for budget revisions, recipients must use the budget forms that were used in the application unless the Department indicates a letter of request suffices.

(j) Within thirty calendar days from the date of receipt of the request for budget revisions, the Department will review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of thirty calendar days, the Department will inform the recipient in writing of the date when the recipient may expect the decision.

[Order No. 1980-95, 60 FR 38242, July 26, 1995; Order No. 1998-95, 60 FR 57931, Nov. 24, 1995]

**§ 70.26 Non-Federal audits.**

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A-133 shall be subject to the audit requirements of the Federal awarding agencies.

(d) Commercial organizations must follow the audit threshold in revised OMB Circular A-133 in determining

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whether to conduct an audit in accordance with Government Auditing Standards.

[62 FR 45939, 45942, Aug. 29, 1997]

### § 70.27 Allowable costs.

(a) For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs must be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or Federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A-87, "Cost Principles for State and Local Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A-122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A-21, "Cost Principles for Educational Institutions." The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

(b) OMB Circular A-122 does not cover the treatment of bid and proposal costs or independent research and development costs. The following rules apply to these costs for non-profit organizations subject to the Circular.

(1) *Bid and proposal costs.* Bid and proposal costs are the immediate costs of preparing bids, proposals, and applications for Federal and non-Federal awards, contracts, and agreements, including the development of scientific, costs, and other data needed to support the bids, proposals, and applications. Bid and proposal costs of the current accounting period are all allowable as indirect costs. Bid and proposal costs of past accounting periods are unallowable in the current period. However, if the recipient's established practice is to treat these costs by some other method, they may be accepted if they are found to be reasonable and equitable. Bid and proposal costs do not in-

clude independent research and development costs covered by paragraph (b)(2) of this section, or preaward costs covered by Attachment B, Paragraph 33 of OMB Circular A-122.

(2) *Independent Research and Development costs.* Independent research and development shall must be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development. The costs of independent research and development, including its proportionate share of indirect costs, are unallowable.

### § 70.28 Period of availability of funds.

Where a funding period is specified, a recipient must charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the Department.

## PROPERTY STANDARDS

### § 70.30 Purpose of property standards.

Sections 70.31 through 70.37 sets forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. The Department will require recipients to observe these standards under awards and will not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of §§ 70.31 through 70.37.

### § 70.31 Insurance coverage.

Recipients must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

### § 70.32 Real property.

(a) Title to real property will vest in the recipient subject to the condition that the recipient use the real property for the authorized purpose of the project as long as it is needed and will