

§ 30.3

been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

(mm) Unobligated balance means the portion of the funds authorized by the Federal awarding agency that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

(nn) Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

(oo) Working capital advance means a procedure where by funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 30.3 Effect on other issuances.

For awards subject to Circular A-110, all administrative requirements of codified program regulations, program manuals, handbooks and other non-regulatory materials which are inconsistent with the requirements of Circular A-110 shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 30.4.

§ 30.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of Circular A-110 when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of Circular A-110 shall be permitted only in unusual circumstances. EPA may apply more restrictive requirements to a class of recipients when approved by OMB. EPA may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by EPA.

§ 30.5 Subawards.

Unless sections of Circular A-110 specifically exclude subrecipients from coverage, the provisions of Circular A-

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

110 shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of regulations in 40 CFR part 31 implementing the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,".

§ 30.6 Availability of OMB circulars.

OMB circulars cited in this part are available from the Office of Management and Budget (OMB) by writing to the Executive Office of the President, Publications Service, 725 17th Street, NW., Suite 200, Washington, DC 20503.

Subpart B—Pre-Award Requirements

§ 30.10 Purpose.

Sections 30.11 through 30.18 prescribe forms and instructions and other pre-award matters to be used in applying for Federal awards.

§ 30.11 Pre-award policies.

(a) *Use of grants and cooperative agreements, and contracts.* In each instance, EPA shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

Environmental Protection Agency

§ 30.16

(b) *Public notice and priority setting.* EPA shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

(c) By submitting an application to EPA, the applicant grants EPA permission to share the application with technical reviewers both within and outside the Agency.

§ 30.12 Forms for applying for Federal assistance.

(a) EPA shall comply with the applicable report clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used by EPA in place of or as a supplement to the Standard Form 424 (SF-424) series.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by EPA.

(c) For Federal programs covered by Executive Order 12372, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the SF-424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from EPA or the Catalog of Federal Domestic Assistance. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) If the SF-424 form is not used EPA should indicate whether the application is subject to review by the State under Executive Order 12372.

§ 30.13 Debarment and suspension.

EPA and recipients shall comply with the nonprocurement debarment and suspension regulations in 40 CFR part 32 implementing Executive Orders 12549 and 12689, "Debarment and Suspension." 40 CFR part 32 restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 30.14 Special award conditions.

If an applicant or recipient: has a history of poor performance, is not financially stable; has a management system that does not meet the standards prescribed in Circular A-110; has not conformed to the terms and conditions of a previous award; or is not otherwise responsible, EPA may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 30.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205), declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. EPA shall follow the provisions of Executive Order 12770, "Metric Usage in Federal Government Programs."

§ 30.16 Resource Conservation and Recovery Act (RCRA).

Resource Conservation and Recovery Act (RCRA) (Public Law 94-580 codified at 42 U.S.C. 6962). Under the Act, any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled