

(4) The value of loaned equipment shall not exceed its fair rental value.

(i) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties:

(1) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(2) The basis for determining the valuation for personal service and program shall be documented.

#### **§ 32.24 Program income.**

(a) DoD Components shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with the terms and conditions of the award, shall be used in one or more of the following ways:

(1) Added to funds committed to the project by the DoD Component and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When a program regulation or award authorizes the disposition of program income as described in paragraphs (b)(1) or (b)(2) of this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) In the event that program regulations or the terms and conditions of the award do not specify how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless the terms and conditions specify another alternative or the recipient is subject to special award conditions, as indicated in § 32.14.

(e) Unless program regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by program regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (see §§ 32.30 through 32.37).

(h) Unless program regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. Note that the Patent and Trademark Amendments (35 U.S.C. chapter 18) apply to inventions made under an experimental, developmental, or research award.

#### **§ 32.25 Revision of budget and program plans.**

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the sum of the Federal and non-Federal shares, or only the Federal share, depending upon DoD Component requirements. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from the cognizant grants officer for one or more of the following program or budget related reasons.

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by the DoD Component. DoD Components should require this prior approval only in exceptional circumstances. The requirement in each such case must be stated in the award document.

(6) The inclusion, unless waived by the DoD Component, of costs that require prior approval in accordance with OMB Circular A-21,<sup>5</sup> "Cost Principles for Institutions of Higher Education," OMB Circular A-122,<sup>6</sup> "Cost Principles for Non-Profit Organizations," or Appendix E to 45 CFR part 74, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable. However, it should be noted that many of the prior approvals in these cost principles are appropriately waived only after consultation with the cognizant federal agency responsible for negotiating the recipient's indirect costs.

(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.

(9) If required by the DoD Component, the transfer of funds among direct cost categories that is described in paragraph (e) of this section.

(d) (1) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this

section, OMB Circular A-110 authorizes DoD Components, at their option, to waive cost-related and administrative prior written approvals required by this part and OMB Circulars A-21 and A-122 (but see cautionary note at end of paragraph (c)(5) of this section).

(2) The two prior approvals listed in paragraphs (d)(2)(i) and (ii) of this section are automatically waived unless the award document states otherwise. DoD Components should override this automatic waiver and require the prior approvals, especially for research awards, only in exceptional circumstances. Absent an override in the award terms and conditions, recipients need not obtain prior approvals before:

(i) Incurring pre-award costs 90 calendar days prior to award (incurring pre-award costs more than 90 calendar days prior to award would still require the prior approval of the DoD Component). All pre-award costs are incurred at the recipient's risk (i.e., the DoD Component is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(ii) Carrying forward unobligated balances to subsequent funding periods.

(3) Under certain conditions, a DoD Component may authorize a recipient to initiate, without prior approval, a one-time, no-cost extension (i.e., an extension in the expiration date of an award that does not require additional Federal funds) for a period of up to twelve months, as long as the no-cost extension does not involve a change in the approved objectives or scope of the project. The conditions for waiving this prior approval requirement are that the DoD Component must:

(i) Judge that the recipient's subsequently initiating a one-time, no-cost extension would not cause the DoD Component to fail to comply with DoD funding policies (for further information on the location of DoD funding policies, grants officers may refer to Appendix C to 32 CFR part 22).

(ii) Require a recipient that wishes to initiate a one-time, no-cost extension to so notify the office that made the award at least 10 calendar days before the original expiration date of the award.

<sup>5</sup> See footnote 1 to § 32.1(a).

<sup>6</sup> See footnote 1 to § 32.1(a).

<sup>7</sup> See footnote 1 to § 32.1(a).

(e) The DoD Component may, at its option, restrict the transfer of funds among direct cost categories, functions and activities 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 10 percent of the total budget as last approved by the DoD Component. As a matter of DoD policy, requiring prior approvals for such transfers generally is not appropriate for grants to support research. No DoD Component shall 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.

(f) For construction awards, recipients shall request prior written approval promptly from grants officers for budget revisions whenever:

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

(2) The need arises for additional Federal funds to complete the project; or

(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 § 32.27.

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

(h) No other prior approval requirements for specific items may be imposed unless a deviation has been approved, in accordance with the deviation procedures in § 32.4(c).

(i) For both construction and nonconstruction awards, DoD Components shall require recipients to notify the grants officer 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 Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(j) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the grants officer indicates a letter of request suffices.

(k) Within 30 calendar days from the date of receipt of the request for budget revisions, the grants officer shall 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 30 calendar days, the grants officer shall inform the recipient in writing of the date when the recipient may expect the decision.

#### § 32.26 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,<sup>7</sup> "Audits of States, Local Governments, and Non-Profit Organizations."

(b) State and local governments that are subrecipients 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) Hospitals that are subrecipients and are not covered by the audit provisions of revised OMB Circular A-133 shall be subject to the audit requirements specified in award terms and conditions.

(d) For-profit organizations that are subrecipients shall be subject to the audit requirements specified in 32 CFR 34.16.

#### § 32.27 Allowable costs.

(a) *General.* For each kind of recipient or subrecipient of a cost-type assistance award, or each contractor receiving a cost-type contract under an assistance award, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the

<sup>7</sup>See footnote 1 to § 32.1(a).