

## § 74.28

costs incurred by nonprofit organizations (except for those listed in Attachment C of Circular A-122) is determined in accordance with the provisions of OMB Circular A-122, "Cost Principles for Nonprofit Organizations" and paragraph (b) of this section. 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 hospitals is determined in accordance with the provisions of appendix E of this part, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals." The allowability of costs incurred by commercial organizations and those nonprofit 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, except that independent research and development costs are unallowable.

(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 nonprofit organizations subject to that 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 other agreements, including the development of scientific, cost, and other data needed to support the bids, proposals, and applications. Bid and proposal costs of the current accounting period are 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 include independent research and development costs covered by paragraph (b)(2) of this section, or pre-award costs covered by OMB Circular A-122, Attachment B, paragraph 33 and § 74.25(d)(1).

(2) *Independent Research and Development costs.* Independent research and

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development is research and development which is conducted by an organization, and which is not sponsored by Federal or non-Federal awards, contracts, or other agreements. Independent research and development shall be allocated its proportionate share of indirect costs on the same basis as the allocation of indirect costs to sponsored research and development. The cost of independent research and development, including their proportionate share of indirect costs, are unallowable.

### § 74.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the HHS awarding agency pursuant to § 74.25(d)(1).

## PROPERTY STANDARDS

### § 74.30 Purpose of property standards.

Sections 74.31 through 74.37 set forth uniform standards governing management and disposition of property furnished by HHS or whose cost was charged directly to a project supported by an HHS award. The HHS awarding agency may not impose additional requirements, unless specifically required to do so by Federal statute. The recipient may use its own property management standards and procedures provided they meet the provisions of §§ 74.31 through 74.37.

### § 74.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with HHS funds as provided to other property owned by the recipient.

### § 74.32 Real property.

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the HHS awarding agency.

(b) The recipient shall obtain written approval from the HHS awarding agency for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the HHS awarding agency.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from the HHS awarding agency or its successor. The HHS awarding agency must provide one or more of the following disposition instructions:

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal share in the project.

(2) The recipient may be directed to sell the property under guidelines provided by the HHS awarding agency and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal share in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

#### **§ 74.33 Federally-owned and exempt property.**

(a)(1) Title of federally-owned property remains vested in the Federal Government. Recipients shall submit

annually an inventory listing of federally-owned property in their custody to the HHS awarding agency. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the HHS awarding agency for further agency utilization.

(2) If the HHS awarding agency has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless the HHS awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act, 15 U.S.C. 3710(I), to donate research equipment to educational and nonprofit organizations in accordance with E.O. 12821, "Improving Mathematics and Science Education in Support of the National Education Goals"). Appropriate instructions shall be issued to the recipient by the HHS awarding agency.

(b) For research awards to certain types of recipients, 31 U.S.C. 6306 authorizes HHS to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal government and under conditions that HHS considers appropriate. Such property is "exempt property". Exempt property shall not be subject to the requirements of § 74.34, except that it shall be subject to paragraphs (h)(1), (2), and (4) of that section concerning the HHS awarding agency's right to require transfer.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11747, Mar. 22, 1996]

#### **§ 74.34 Equipment.**

(a) Title to equipment acquired by a recipient with HHS funds shall vest in the recipient, subject to the conditions of this section.

(b)(1) The recipient shall not use equipment acquired with HHS funds to provide services to non-Federal organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for so long as the Federal Government retains an interest in the equipment.

(2) If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal