

3. Indirect cost allocations not using rates. In certain situations, a governmental unit, because of the nature of its awards, may be required to develop a cost allocation plan that distributes indirect (and, in some cases, direct) costs to the specific funding sources. In these cases, a narrative cost allocation methodology should be developed, documented, maintained for audit, or submitted, as appropriate, to the cognizant agency for review, negotiation, and approval.

4. Appeals. If a dispute arises in a negotiation of an indirect cost rate (or other rate) between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

5. Collection of unallowable costs and erroneous payments. Costs specifically identified as unallowable and charged to Federal awards either directly or indirectly will be refunded (including interest chargeable in accordance with applicable Federal agency regulations).

6. OMB assistance. To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

PARTS 226–229 [RESERVED]

PART 230—COST PRINCIPLES FOR NON-PROFIT ORGANIZATIONS (OMB CIRCULAR A–122)

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APPENDIX A TO PART 230—GENERAL PRINCIPLES

APPENDIX B TO PART 230—SELECTED ITEMS OF COST

APPENDIX C TO PART 230—NON-PROFIT ORGANIZATIONS NOT SUBJECT TO THIS PART

AUTHORITY: 31 U.S.C. 503; 31 U.S.C. 1111; 41 U.S.C. 405; Reorganization Plan No. 2 of 1970; E.O. 11541, 35 FR 10737, 3 CFR, 1966–1970, p. 939

SOURCE: 70 FR 51927, Aug. 31, 2005, unless otherwise noted.

§ 230.5 Purpose.

This part establishes principles for determining costs of grants, contracts and other agreements with non-profit organizations.

§ 230.10 Scope.

(a) This part does not apply to colleges and universities which are covered by 2 CFR part 220 Cost Principles for Educational Institutions (OMB Circular A–21); State, local, and federally-recognized Indian tribal governments which are covered by 2 CFR part 225 Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87); or hospitals.

(b) The principles deal with the subject of cost determination, and make no attempt to identify the circumstances or dictate the extent of agency and non-profit organization participation in the financing of a particular project. Provision for profit or other increment above cost is outside the scope of this part.

§ 230.15 Policy.

The principles are designed to provide that the Federal Government bear its fair share of costs except where restricted or prohibited by law. The principles do not attempt to prescribe the extent of cost sharing or matching on grants, contracts, or other agreements. However, such cost sharing or matching shall not be accomplished through arbitrary limitations on individual cost elements by Federal agencies.

§ 230.20 Applicability.

(a) These principles shall be used by all Federal agencies in determining the costs of work performed by non-profit organizations under grants, cooperative agreements, cost reimbursement contracts, and other contracts in which costs are used in pricing, administration, or settlement. All of these instruments are hereafter referred to as awards. The principles do not apply to awards under which an organization is not required to account to the Federal Government for actual costs incurred.

(b) All cost reimbursement sub-awards (subgrants, subcontracts, etc.)

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are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a non-profit organization, this part shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial concerns shall apply; if a subaward is to a college or university, 2 CFR part 220 shall apply; if a subaward is to a State, local, or federally-recognized Indian tribal government, 2 CFR part 225 shall apply.

(c) Exclusion of some non-profit organizations. Some non-profit organizations, because of their size and nature of operations, can be considered to be similar to commercial concerns for purpose of applicability of cost principles. Such non-profit organizations shall operate under Federal cost principles applicable to commercial concerns. A listing of these organizations is contained in Appendix C to this part. Other organizations may be added from time to time.

§ 230.25 Definitions.

(a) Non-profit organization means any corporation, trust, association, cooperative, or other organization which:

(1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(2) Is not organized primarily for profit; and

(3) Uses its net proceeds to maintain, improve, and/or expand its operations. For this purpose, the term "non-profit organization" excludes colleges and universities; hospitals; State, local, and federally-recognized Indian tribal governments; and those non-profit organizations which are excluded from coverage of this part in accordance with § 230.20(c).

(b) Prior approval means securing the awarding agency's permission in advance to incur cost for those items that are designated as requiring prior approval by the part and its Appendices. Generally this permission will be in writing. Where an item of cost requiring prior approval is specified in the budget of an award, approval of the budget constitutes approval of that cost.

§ 230.30 OMB responsibilities.

OMB may grant exceptions to the requirements of this part when permissible under existing law. However, in the interest of achieving maximum uniformity, exceptions will be permitted only in highly unusual circumstances.

§ 230.35 Federal agency responsibilities.

The head of each Federal agency that awards and administers grants and agreements subject to this part is responsible for requesting approval from and/or consulting with OMB (as applicable) for deviations from the guidance in the appendices to this part and performing the applicable functions specified in the appendices to this part.

§ 230.40 Effective date of changes.

The provisions of this part are effective August 31, 2005. Implementation shall be phased in by incorporating the provisions into new awards made after the start of the organization's next fiscal year. For existing awards, the new principles may be applied if an organization and the cognizant Federal agency agree. Earlier implementation, or a delay in implementation of individual provisions, is also permitted by mutual agreement between an organization and the cognizant Federal agency.

§ 230.45 Relationship to previous issuance.

(a) The guidance in this part previously was issued as OMB Circular A-122. Appendix A to this part contains the guidance that was in Attachment A (general principles) to the OMB circular; Appendix B contains the guidance that was in Attachment B (selected items of cost) to the OMB circular; and Appendix C contains the information that was in Attachment C (non-profit organizations not subject to the Circular) to the OMB circular.

(b) Historically, OMB Circular A-122 superseded cost principles issued by individual agencies for non-profit organizations.

§ 230.50 Information contact.

Further information concerning this part may be obtained by contacting the