

PREPARING THE APPLICATION BUDGET: WHAT COSTS CANNOT BE COVERED BY THE GRANT?

The first limitation has already been discussed: *No costs can be covered by the grant unless they are directly related to the purposes established by Congress in the appropriations language for your grant.*

Government-wide and Department of Education (ED) regulations also serve to limit the uses to which a Congressionally-directed grant can be put. The government-wide regulations come from the Office of Management and Budget (OMB). Explanations of OMB regulations are written in documents called “circulars.” The Department of Education’s regulations governing these awards are contained in the Education Department General Administrative Regulations (EDGAR).

The most relevant regulations and circulars include:

- Office of Management and Budget:
 - **OMB Circular A-21:** *Cost Principles for Educational Institutions*
 - **OMB Circular A-122:** *Cost Principles for Nonprofit Organizations*
 - **OMB Circular A-87:** *Cost Principles for State, Local and Indian Tribal Governments*
 - **OMB Circular A-133:** *Audits of States, Local Governments, and Non-Profit Organizations*
 - **Federal Acquisition Regulation (FAR) or 48 CFR Part 31.2:** *Cost Principles applicable to For-profit Institutions.*
- OMB Circulars can be accessed at:
<http://www.whitehouse.gov/OMB/circulars/index.html>
- Department of Education: The Education Department General Administrative Regulations (EDGAR) apply to all grants funded through the Department; a few are cited below along with their location in the Code of Federal Regulations (CFR) and include:
 - **34 CFR Part 74:** *Administration of Grants with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;*
 - **34 CFR Part 75:** *Direct Grant Programs*
 - **34 CFR Part 76:** *State-Administered Programs*
 - **34 CFR Part 77:** *Definitions That Apply to Department Regulations*
 - **34 CFR Part 79:** *Intergovernmental Review of Department of Education Programs and Activities*

- **34 CFR Part 80:** *Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments*
 - **34 CFR Part 81:** *General Education Provisions Act*
 - **34 CFR Part 82:** *New Restrictions on Lobbying*
 - **34 CFR Part 85:** *Government-wide Debarment and Suspension and Governmentwide Requirements for Drug-Free Workplace*
 - **34 CFR Part 86:** *Drug and Alcohol Abuse Prevention*
 - **34 CFR Part 97:** *Protection of Human Subjects*
 - **34 CFR Part 98:** *Student Rights in Research, Experimental Programs, and Testing*
 - **34 CFR Part 99:** *Family Educational Rights and Privacy*
- The EDGAR regulations and bulletins can be accessed at:
<http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html> and
<http://www.ed.gov/policy/fund/guid/gposbul/gposbul.html>

Prior Approval Requirements

As a condition of this award, as indicated by Attachment Z to the Grant Award Notification (GAN), **the grantee is required to obtain ED approval** (34 CFR Part 74-86) before undertaking any one of the following administrative actions during the budget period specified for this award:

1) Pre-award costs (EDGAR, 34 CFR Part 75.263):

- Project expenses incurred before Departmental approval of your application may be reimbursed from the grant award if incurred within 90 days before the beginning of your grant period with approval from your program officer. As noted above, recipients whose application materials are submitted by March 31, 2008, can expect a beginning date for their projects of approximately May 2008. In such a case, a program officer will have to approve the submitted pre-award expenses incurred during the months of February, March, and April before being reimbursed from the grant award. There is, however, no guarantee that a particular application will be processed within a certain length of time as processing speed will depend largely on the date of submission and how closely the application conforms to the requirements noted in these materials. *Applicant institutions therefore incur pre-award costs at their own risk.*

2) No-cost extensions

- All requests to extend the project period of the grant beyond the project period end date specified in the most recent Grant Award Notification (GAN).

3) Budget Transfers

For awards greater than \$100,000, grantees will seek prior approval for cumulative transfers among direct-cost budget categories that exceed 10 percent of the approved budget.

Other Restrictions

Without attempting to present an exhaustive list, the following sections identify some common restrictions:

- Acquisition of real property; construction (34 CFR Part 75.533): Recipients of Congressionally-directed grants may not use any portion of their awards to purchase real property or for construction. “Construction” has been held to include both design (e.g., architectural or engineering design fees) and actual construction or remodeling. The Department will make no distinction between “major” and “minor” construction or remodeling; both are considered unallowable costs. As a general example, in the case of re-wiring needed to support new technologies, the grant award can pay the electrician for the re-wiring work but not the persons who repair the wall that the electrician has damaged in the re-wiring process.
- Use of funds for religion prohibited (34 CFR Part 75.532)
- Entertainment costs (OMB Circular A-21): are not allowable.
- Fund raising (OMB Circular A-21) and Lobbying (34 CFR Part 82.100): Costs of organized fund raising incurred to raise capital or obtain contributions are not allowable. In addition, no portion of a Congressionally-directed grant may be used to pay anyone for “influencing or attempting to influence” a member of Congress or the Executive Branch to award funds for this project or any other project. Note that this prohibition includes not only paid outside lobbyists, but also employees of the recipient institution.
Examples: No project funds may be used for lobbyists’ fees or travel costs incurred in seeking this or a successor Congressionally-directed grant, or in other fund-raising activities. A person whose salary is 100 percent supported by the Congressional award may not spend *any* time on lobbying activities or fund-raising. A person whose salary is 75 percent supported by the Congressional award may spend the 25 percent of their time not supported with federal grant funds on lobbying activities or fund raising.
- Other regulations prohibit the use of grant funds for alcohol, international travel (prohibited unless the appropriations language specifically notes an international emphasis to the award), and other various and sundry items. The regulations also explain how organizations will be required to account for their expenses under the grant award, and should be reviewed by all parties responsible for preparing the application and conducting grant activities.

If in doubt about whether a particular expense can be covered by the grant, include it in your budget and offer reasons why that expense is needed for the successful accomplishment of the goals set by Congress for the award. A Department program officer will contact the project director if changes are necessary.