

PART 13
COST PRINCIPLES AND AUDIT CONSIDERATIONS

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13.1 FIXED-PRICE CONTRACTS.

POLICY: When the CO deems it necessary to use cost data as described in 12.5.2, or for other purposes, the applicable subpart of Part 13 shall be used as a basis for evaluation of those costs. However, application of cost principles to fixed-price contracts and subcontracts shall not be construed as a requirement to negotiate agreements on individual elements of cost in arriving at agreement on the total price. The final price accepted by the parties reflects agreement on the total price. Further, notwithstanding the mandatory use of cost principles, the objective will continue to be the negotiation of prices that are fair and reasonable, cost and other factors considered.

13.2 COST PRINCIPLES.

POLICY: BPA will generally follow Federal contract cost principles as a matter of policy. However, those cost principles may be modified by the HCA on a class or individual basis if necessary for valid business purposes. Class deviations will be documented in the BPI; individual deviations will be documented in the contract file.

13.2.1 Contracts With Commercial Organizations.

(a) **INFORMATION:** This category includes all contracts and contract modifications for supplies, services or experimental, developmental or research work on the basis of costs negotiated with organizations other than educational institutions (see 13.2.3), State and local governments (see 13.2.3), and nonprofit organizations (see 13.2.4).

(b) **POLICY:**

(1) The cost principles and procedures in Appendix 13-A, Contract Cost Principles for Commercial Organizations, shall be used in pricing negotiated supply, service, construction, experimental, developmental, and research contracts and contract modifications with commercial organizations whenever cost analysis is performed.

(2) In addition, the CO shall incorporate the cost principles and procedures in Appendix 13-A by reference in contracts with commercial organizations as the basis for:

- (A) Determining reimbursable costs under cost-reimbursement contracts (and cost reimbursement subcontracts under these contracts) performed by commercial organizations, and the cost-reimbursement portion of time and materials contracts, except when material is priced on a basis other than at cost;
- (B) Negotiating indirect cost rates;
- (C) Proposing, negotiating, or determining costs under terminated contracts;
- (D) Pricing changes and other contract modifications.

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13.2.2 Contracts With Educational Institutions.

POLICY: 2 CFR Part 220, Cost Principles for Educational Institutions (OMB Circular A-21), provides principles for determining the costs applicable to research and development, training, and other work performed by educational institutions under contracts with the Government. The CO shall incorporate the cost principles and procedures in 2 CFR Part 220 by reference in cost-reimbursement contracts with educational institutions as the basis for --

- (a) Determining reimbursable costs under the contract and cost-reimbursement subcontracts thereunder performed by educational institutions;
- (b) Negotiating indirect cost rates;
- (c) Settling costs of terminated contracts; and
- (d) Evaluating costs when negotiating fixed-price contracts.

13.2.3 Contracts With State and Local Governmental Organizations.

POLICY: 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87), sets forth the principles for determining the allowable costs of contracts and subcontracts with State, local and federally-recognized Indian tribal governments. These principles are for cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in financing a particular contract. The CO shall incorporate the cost principles and procedures of 2 CFR Part 225 by reference in cost-reimbursement contracts with State, local and federally-recognized Indian tribal governments.

13.2.4 Contracts With Nonprofit Organizations.

POLICY: 2 CFR Part 230, Cost Principles for Non-Profit Organization (OMB Circular A-122), sets forth principles for determining the costs applicable to work performed by nonprofit organizations under contracts (also applies to grants and other agreements) with the Government. A nonprofit organization is defined as a business entity organized and operated exclusively for charitable, scientific, or educational purposes, of which no part of the net earnings inure to the benefit of any private shareholder or individual, and which are exempt from Federal income taxation under section 501 of the Internal Revenue Code. The CO shall incorporate the cost principles and procedures of 2 CFR Part 230 by reference in cost reimbursement contracts with nonprofit- organizations.

13.3 CONTRACT AUDIT SERVICES.

INFORMATION:

- (a) Effective purchasing and contract management sometimes requires that the CO seek the services of professional auditors. Such services are available primarily from BPA's Internal Audit office. However, audit services for a non-Federal contractor (entity) is typically provided by the audit office of the Federal agency assigned single audit responsibilities, as per the Single Audit Act of 1984 (as amended). Audit services may also be provided by the DOE Inspector General and through cross-servicing agreements with the Defense Contract Audit Agency and the Health and Human Services Inspector General.
- (b) The primary areas of potential audit support include:
 - (1) Accounting system reviews (12.5.5).
 - (2) Evaluation of costs or prices of proposed contracts or contract modifications (12.5.2)

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- (3) Review of contractor invoices where necessary to support cost allowability determinations.
- (4) Interim and close-out audits of costs incurred on cost-type contracts (cost-reimbursement, time-and-materials, and labor-hours contracts) (4.2.2)
- (5) Reviews to establish billing rates for indirect costs and final indirect cost rates.
- (6) Review of claims for contract price or other relief (20.4.4), or of contractor settlement proposals in terminations (20.4.4.2).

13.4 AUDIT OF NON-FEDERAL ORGANIZATIONS.

INFORMATION:

(a) OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," is the implementation of the Single Audit Act of 1984 (Pub. L. 98-502), as amended. It applies to contracts and intergovernmental contracts entered into by BPA with all non-Federal organizations (state and local governments, institutions of higher education, federally recognized Indian tribes, and other nonprofit organizations), whether they are direct recipients of BPA awards, or are subrecipients expending BPA awards received from a pass-through entity (a recipient or another subrecipient). The circular does not apply to non-U.S. based organizations, either directly as a recipient or indirectly as a subrecipient. This circular rescinds Circular A-128, "Audits of State and Local Governments," dated April 12, 1985, and supersedes the prior Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," dated April 22, 1996. This amended circular is effective for all audits of fiscal years beginning after June 30, 1996, except for allowances to minimize disruption in existing contracts for audit services, the effective date for which is June 30, 1998.

(b) Under A-133, non-Federal organizations that expend \$500,000 or more in a year in Federal awards are required to have a single or program-specific audit for that year. Recipients receiving less than \$500,000 a year in Federal awards are exempt from the Federal audit requirement for that year, with some exceptions noted in the circular. However, the organization must make its records available for review or audit by appropriate officials of the Federal agency, pass-through entity, and the Government Accountability Office (GAO).

(c) The description of "state" in A-133 includes multi-state, regional or interstate entities that have governmental functions and any Indian Tribe that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) OMB Circular A-133 implements the The Single Audit Act (as amended) to provides that an audit made in accordance with the circular shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibility, they shall rely upon and use such information. The circular retains the concept of a cognizant Federal agency to oversee the audits performed. The circular does not limit the authority of Federal agencies to make or contract for additional audits and evaluations of Federal financial assistance programs. Any additional audits required to carry out responsibilities under Federal law and regulation should be planned and carried out in such a way as to avoid duplication.

13.5 AUDIT RESOLUTION, FOLLOW-UP AND SETTLEMENT.

(a) ***INFORMATION:*** The CO may request that an audit be performed in order to administer the financial aspects of contract. Audit reports pertaining to a specific contract may also be received as a result of program audits initiated by the Office of the Inspector General or other cognizant

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audit activity. Based on a review of the audit findings and recommendations, the CO generally reviews the amount of contract costs questioned, recommends costs to be disallowed, the corrective actions required, then settles such determinations with the contractor. The audit resolution and implementation policies and procedures contained herein are in consonance with the independent decision-making of the CO and the advisory role of the auditor.

(b) **POLICY:** The CO shall determine the action to be taken on each audit recommendation within two months of the receipt of the audit report. Disposition in this context means that the CO has determined what action is to be taken, and has initiated that action. The action need not be completed within the six-month period; however the accepted audit recommendations shall be implemented expeditiously. Audit resolution decisions, actions and settlements shall be documented in the official file.