

4 FAH-3 H-620

FINANCIAL TERMS AND CONDITIONS FOR AWARDS

(TL:FMP-13; 09-06-2002)

4 FAH-3 H-621 FINANCIAL TERMS AND CONDITIONS FOR OTHER THAN COST- REIMBURSEMENT TYPE ASSISTANCE

(TL:FMP-13; 09-06-2002)

For other than cost reimbursement awards, financial terms and conditions shall be at the discretion of the awarding bureau. However, when the Department's relationship permits, the following terms and conditions shall be included in the agreement. In addition, the Department strongly encourages the awarding bureaus to incorporate the terms and conditions in 4 FAH-3 H-622 in other than cost-reimbursement assistance agreements, whenever possible.

(1) The recipient, or the embassy for a bilateral agreement, shall maintain at its principal offices complete records and books of accounts covering financial details applicable to the activities funded under the agreement.

(2) The Department of State, the Inspector General of the Department of State, the Comptroller General of the United States, and any of their authorized representatives shall have the right to examine, audit, and copy, at any reasonable time, all records and books of accounts referred to in this section.

(3) Financial reports showing amounts expended by the recipients in fulfilling the purposes of the agreement shall be submitted annually. A final financial report shall be submitted 90 days after the expiration of the agreement period.

4 FAH-3 H-622 FINANCIAL TERMS AND CONDITIONS FOR COST REIMBURSEMENT ASSISTANCE

(TL:FMP-13; 09-06-2002)

a. Slightly different basic guidelines for determining allowable costs that are eligible for reimbursement are presented by the three OMB cost principles circulars: A-21 *For Educational Institution*; A-87 for *State and Local Governments* and A-122, for *Non-Profit Organizations*. All three require that such costs must be:

(1) Allowable under Federal regulations and the terms and conditions of the award

(2) Reasonable;

(3) Accorded consistent treatment; and

(4) In accordance with generally accepted accounting principles (GAAP). (Circular A87 notes that its provisions, when different, take precedent over GAAP.)

b. Cost reimbursement awards must have, at a minimum, terms that provide for the following sections that address eligible costs and other financial-related matters.

4 FAH-3 H-622.1 Recipient's Direct Costs

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Awards must either identify specifically the types of costs that may be incurred or be predicated on a budget plan submitted by the recipient during the application process. In the latter case the award must define allowable costs by reference to the applicable OMB circular. Allowable cost provisions for Department awards will reference OMB Circular A-122, *Cost Principles for Non-Profit Organizations*; OMB Circular A-21, *Cost Principles for Educational Institutions*; OMB Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*; or for profit organizations, *Federal Acquisition Regulation (FAR)*, Subpart 31.2, *Contracts with Commercial Organizations*.

4 FAH-3 H-622.2 Recipient's Indirect Costs

(TL:FMP-13; 09-06-2002)

a. Indirect costs are the costs of an organization that cannot be specifically identified as having been incurred in support of a particular award. OMB Circular A-122, attachment A, paragraph D, recognizes two broad categories of indirect costs:

(1) Facilities—depreciation and use allowances on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses.

(2) Administration—general administration and general expenses such as the director's office, accounting, personnel, library expenses and all other types of expenditures not listed specifically under one of the subcategories in subparagraph (1) above.

b. OMB Circular A-21 also identifies indirect costs as having "Facilities" and "Administration" components. The A-21 definitions of the two components tracks closely with those contained in A-122.

c. OMB Circular A-87 makes no reference to the "Facilities" and "Administration" components. Instead, it provides that "Indirect costs are those incurred for a common or joint purpose benefiting more than one cost objective, and readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved."

d. FAR 31.2 provides requirements for indirect costs for contracts with commercial organizations.

(1) An indirect cost is any cost not directly identified with a single, final cost objective, but identified with two or more final cost objectives or an intermediate cost objective. It is not subject to treatment as a direct cost. After direct costs have been determined and charged directly to the contract or other work, indirect costs are those remaining to be allocated to the several cost objectives. An indirect cost shall not be allocated to a final cost objective if other costs incurred for the same purpose in like circumstances have been included as a direct cost of that or any other final cost objective.

(2) Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring such costs. Each grouping should be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives. Commonly, manufacturing overhead, selling expenses, and general and administrative (G&A) expenses are separately grouped. Similarly, the particular case may require subdivision of these groupings, *e.g.*, building occupancy costs might be separable from those of personnel administration within the manufacturing overhead group. This necessitates selecting a distribution base common to all cost objectives to which the grouping is to be allocated. The base should be selected so as to permit allocation of the grouping on the basis of the benefits accruing to the several cost objectives. When substantially the same results can be achieved through less precise methods, the number and composition of cost groupings should be governed by practical considerations and should not unduly complicate the allocation.

(3) Once an appropriate base for distributing indirect costs has been accepted, removing individual elements shall not fragment it. All items properly included in an indirect cost base should bear a pro rata share of indirect costs irrespective of their acceptance as U.S. Government contract costs. For example, when a cost input base is used for the distribution of G&A costs, all items that would properly be part of the cost input base, whether allowable or unallowable, shall be included in the base and bear their pro rata share of G&A costs.

e. Awards must state whether the recipient is entitled to recovery of indirect costs, and, if so, the award must state the basis for recovery of indirect costs. Allowable indirect costs are expressed as a percentage (rate) of a specified base. The base may be all allowable direct costs, or some subset of direct costs such as salaries and wages. An agency responsible for negotiating indirect rates is identified as "a cognizant agency". Indirect cost rates may be firm rates established through negotiation, or rates established on the basis of actual indirect costs incurred by the recipient for a period of time. The recovery of actual indirect costs frequently involves making periodic payments based on provisional rates with later adjustments when the "actual" or final rates become known. (Existing provisional rates may be used as final rates by the adoption of them as negotiated rates.)

f. For educational institutions, the cognizant agency is either the Department of Health and Human Services (HHS) or the Department of Defense's (DOD) Office of Naval Research. State and local governments must submit cost allocation plans or indirect cost proposals to be eligible to recover indirect costs. Such submissions are reviewed, negotiated and approved by the cognizant agency as provided in a listing published by the OMB. For non-profit organizations, generally the Federal agency with the largest dollar value of awards with an organization is designated as the cognizant agency for that organization. However, different arrangements can be made.

4 FAH-3 H-622.3 Payment Terms

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The statutory prohibition on the advance payment of public funds, 31 U.S.C. 3324, does not apply to grants and the terms and conditions may allow for advances. Terms and conditions shall provide that recipients who make electronic drawdowns of funds will limit such drawdowns to amounts needed for expenditure within 10 days of the receipt of Federal funds. Except in rare instances, recipients whose payment requests will be manually processed will limit requests to no more than the expenditure needs of one month. Such requests will be presented on Form SF-270, *Request for Advance or Reimbursement*, signed by an authorized official of the recipient. When circumstances warrant, terms and conditions may permit recipients to draw advances for amounts greater than the needs of one month. Instructions to such recipients will provide that whenever the period covered by a payment request is for more than 30 days, block 12 of Form SF-270 will be completed.

4 FAH-3 H-622.4 Property and Equipment

(TL:FMP-13; 09-06-2002)

a. Personal property acquired by the recipient at a cost of less than \$5,000 shall be classified as "supplies" without regard to its useful life. Property having a useful life of more than one year, and an acquisition of cost of \$5,000 or more, shall be classified as Nonexpendable Furniture and Equipment (NEF&E). The Department may permit or prohibit recipients from acquiring nonexpendable furniture and equipment with award funds.

b. Terms and Conditions should include provisions calling for one of the following:

(1) No funds shall be used by the recipient to acquire nonexpendable furniture and equipment (NEF&E);

(2) All NEF&E procured by the recipient with award funds shall remain with the recipient after completion of the award period; or

(3) Prior to completion of the award period, the recipient shall furnish the Bureau with a listing of all NEF&E with an acquisition cost of \$5,000 or greater purchased with award funds. The awarding bureau will decide what disposition is to be made of the property.

4 FAH-3 H-622.5 Financial Reporting

(TL:FMP-13; 09-06-2002)

Generally Terms and Conditions shall require recipients to submit a Form SF-269, *Financial Status Report* 30 days after the end of each fiscal quarter during the period of the award. Payments will be suspended if reporting is delinquent. When a recipient has been determined to be delinquent in filing reports, notices shall be sent every 30 days indicating the delinquency. After the third notice has been sent, the Bureau will suspend all payments until the overdue reports are filed. If the recipient is paid through PMS, the Bureau will contact HHS and request that all payments be held until further notice. A final Form SF-269 shall be submitted within 90 days after the expiration of the award period. When appropriate, bureaus may require a financial report annually instead of quarterly and may prescribe a format other than that of the Form SF-269.

4 FAH-3 H-622.6 Financial Records and Federal Audits

(TL:FMP-13; 09-06-2002)

All cost reimbursement awards shall contain provisions calling for the following:

(1) The recipient shall maintain at its principal offices in the United States and/or abroad, full and complete records and books of accounts in accordance with accounting principles generally accepted in the United States or agreed to in the terms and conditions covering financial details applicable to the activities funded under this agreement.

(2) All records required to be kept, including bid solicitations, evidence of shipment for commodities procured in the United States and procurement and service contracts, shall be maintained for a period of three years from the date of the submission of the final expenditure report, in a manner that will permit verification of the recipient's compliance with its representations, warranties, and obligations contained in this agreement. If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all open matters have been resolved.

(3) The Department of State, the Inspector General of the Department of State, the Comptroller General of the United States, and any of their authorized representatives, shall have the right to examine, audit, and copy, at any reasonable time, all records and books of accounts referred to in this section.

4 FAH-3 H-622.7 OMB Circular A-133 Audit Provisions

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Awards to domestic organizations will, in addition to the records and audit provisions above, also contain provisions indicating the recipient is subject to the audit requirements found in OMB Circular A-133. Recipients should be advised that a single or program-specific audit must be obtained when they expend \$300,000 or more in a year in Federal funds. For audits performed in accordance with the Circular, "completed audit packages" must be submitted to the Federal Audit Clearinghouse (FAC). Completed audit packages must consist of:

(1) A "reporting package" as specified in OMB Circular A-133 which includes financial statements and a schedule of expenditures of federal awards; a summary schedule of prior audit findings; the auditor's report; and a corrective action plan.

(2) A completed Form SF-SAC, *Data Collection Form for Reporting on Audits of States, Local Governments and Non-Profit Organizations*. This form is based on information in the reporting package, signed by both the auditor and auditee, and used by the FAC as the basis for developing and maintaining the government wide audit database.

4 FAH-3 H-622.8 Provisions for Refunds

(TL:FMP-13; 09-06-2002)

Terms and conditions shall include provisions addressing the following:

(1) Interest in excess of \$250 annually, earned by non-state agencies and instrumentalities on Federal advances shall be remitted annually to the Department of Health and Human Services (DHHS), Payment Management System, Rockville, MD 20852. Interest on Federal advances to state agencies and instrumentalities is governed by the Cash Management Improvement Act (CMIA) of 1996, Public Law 101-453.

(2) Funds obligated by a bureau but not disbursed to the recipient at the time the award expires or is terminated shall revert to the bureau, except for such funds encumbered by the recipient by a legally binding transaction applicable to this award. Any funds advanced to but not expended by the recipient within 90 days after the time of expiration or termination of the award shall be refunded to the bureau.

(3) If at any time during the life of the award, or as a result of final audit, it is determined that the bureau's funds provided under this award have been expended for purposes not in accordance with the terms and conditions of the agreement, the recipient shall refund such amounts to the bureau.

4 FAH-3 H-622.9 Project Income

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If the possibility exists that the project being funded may generate income, provisions consistent with the provisions of Subpart 25 of OMB Circular A-102 or Subpart C. 24 of OMB Circular A-110 shall be included in the agreement.

4 FAH-3 H-622.10 Period of Availability of Funds

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Each award shall specify a funding period and provide that 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 Department.

4 FAH-3 H-623 THROUGH 4 FAH-3 H-629 UNASSIGNED