AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(e) The HHS awarding agencies may not permit any budget changes in a recipient's award that would cause any Federal appropriation to be used for purposes other then those consistent with the original purpose of the authorization and appropriation under which the award was funded.

(f) For construction awards, recipients shall obtain prior written approval promptly from the HHS awarding agency for budget revisions whenever:

(1) The revision results from changes in the scope or the objective of the project or program;

(2) The need arises for additional Federal funds to complete the project; or

(3) A revision is desired which involves specific costs for which prior written approval requirements apply in keeping with the applicable cost principles listed in § 74.27.

(g) When an HHS awarding agency makes an award that provides support for both construction and nonconstruction work, it may require the recipient to obtain prior approval before making any fund or budget transfers between the two types of work supported.

(h) For both construction and nonconstruction awards, recipients shall notify the HHS awarding agency in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(i) Within 30 calendar days from the date of receipt of the request for budget revisions, HHS awarding agencies shall notify the recipient whether its requested budget revisions have been approved. If the requested revision is still under consideration at the end of 30 calendar days, the HHS awarding agency must inform the recipient in writing of the date when the recipient may expect a decision.

(j) When requesting approval for budget changes, recipients shall make their requests in writing.

(k) All approvals granted in keeping with the provisions of this section shall not be valid unless they are in writing, and signed by at least one of the following HHS officials:

(1) The Head of the HHS Operating or Staff Division that made the award or subordinate official with proper delegated authority from the Head, including the Head of the Regional Office of the HHS Operating or Staff Division that made the award; or

(2) The responsible Grants Officer of the HHS Operating or Staff Division that made the award or an individual duly authorized by the Grants Officer.

(l) No other prior approval requirements for specific items may be imposed unless a class deviation has been approved by OMB.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996]

§ 74.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A–133 shall be subject to the audit requirements of the Federal awarding agencies.

(d)(1) Recipients and subrecipients that are commercial organizations (including for-profit hospitals) have two options regarding audits:

(i) A financial related audit (as defined in the Government Auditing Standards, GPO Stock #020–000–00–265–4) of a particular award in accordance with Government Auditing Standards, in those cases where the recipient receives awards under only one HHS program; or, if awards are received under

multiple HHS programs, a financial related audit of all HHS awards in accordance with Government Auditing Standards; or

(ii) An audit that meets the requirements contained in OMB Circular A–133.

(2) Commercial organizations that receive annual HHS awards totaling less than OMB Circular A–133's audit requirement threshold are exempt from requirements for a non-Federal audit for that year, but records must be available for review by appropriate officials of Federal agencies.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996; 61 FR 15564, Apr. 8, 1996; 62 FR 41878, Aug. 4, 1997; 62 FR 45939, 45945, Aug. 29, 1997]

§ 74.27 Allowable costs.

(a) For each kind of recipient, there is a particular set of Federal principles that applies in determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of 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 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).