

## § 30.25

## 40 CFR Ch. I (7–1–10 Edition)

from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See §§30.30 through 30.37).

(h) Unless EPA regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

### § 30.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. The budget shall include both the Federal and non-Federal share. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, unless EPA regulations provide otherwise, recipients shall request prior written approvals from:

(1) The EPA Award Official for the following:

(i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(ii) The need for additional Federal funding.

(iii) The inclusion of costs that require prior approval in accordance with OMB Circular A-21, "Cost Principles for Institutions of Higher Education," OMB Circular A-122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable.

(2) The technical program office for the following:

(i) Change in a key person specified in the application or award document.

(ii) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(iii) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

(iv) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(v) Unless described in the application and funded in the approved award, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

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

(e) Except for requirements listed in paragraphs (c)(1)(i) and (ii) of this section, the EPA Award Official may waive cost-related and administrative prior written approvals required by this part and OMB cost principles. For awards that support research, these prior approval requirements are automatically waived unless:

(1) EPA provides otherwise in the award or agency regulation or

(2) One of the conditions in paragraph (f)(2)(i) of this section applies.

(f) Recipients are authorized without prior approval or a waiver to:

(1) Incur pre-award costs 90 calendar days prior to award.

(i) Pre-award costs incurred more than 90 calendar days prior to award require the prior approval of the EPA Award Official.

(ii) The applicant must include all pre-award costs in its application.

(iii) The applicant incurs such costs at its own risk (i.e., EPA is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

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(iv) EPA will only allow pre-award costs without approval if there are sufficient programmatic reasons for incurring the expenditures prior to the award (e.g., time constraints, weather factors, etc.), they are in conformance with the appropriate cost principles, and any procurement complies with the requirements of this rule.

(2) Extend the expiration date of the award one time for up to 12 months.

(i) A one-time extension may not be initiated if:

(A) The terms and conditions of the award prohibit the extension;

(B) The extension requires additional Federal funds; or

(C) The extension involves any change in the approved objectives or scope of the project.

(ii) For one-time extensions, the recipient must notify the EPA Award Official in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award.

(iii) This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(3) Carry forward unobligated balances to subsequent funding periods providing the recipient notifies the EPA Award Official by means of the Financial Status Report.

(g) The EPA technical program office may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by EPA. Except as provided for at paragraph (c) of this section, for awards in which the Federal share is less than \$100,000 there are no restrictions on transfers of funds among direct cost categories. EPA shall not permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(h) All other changes to nonconstruction budgets, except for the changes described in paragraph (j) of this section, do not require prior approval.

(i) For construction awards, recipients shall request prior written approval promptly from EPA for budget revisions whenever paragraph (h)(1), (2) or (3) of this section applies.

(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.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in §30.27.

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

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

(l) For both construction and nonconstruction awards, EPA shall require recipients to notify the 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.

(m) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the EPA indicates that a letter clearly describing the details of the request will suffice.

(n) Within 30 calendar days from the date of receipt of the request for budget revisions, EPA shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, EPA shall inform the recipient in writing of the date when the recipient may expect the decision.

### § 30.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or