

# Cost Principles for Educational Institutions, for State, Local, and Indian Tribal



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON D.C. 20503

## OFFICE OF MANAGEMENT AND BUDGET

Cost Principles for Educational Institutions, for State, Local, and Indian Tribal  
Governments and for Non-Profit Organizations

**AGENCY:** Office of Management and Budget

**ACTION:** Proposed revisions to Office of Management and Budget (OMB) cost principles' Circulars A-21, A-87, and A-122

**SUMMARY:** OMB proposes to amend OMB cost principles A-21, A-87, and A-122. These changes are intended to further the objectives of Public Law (P. L.) 106-107, the Federal Financial Assistance Management Improvement Act. On May 18, 2001, agencies working with OMB published a plan to implement P. L. 106-107. The plan included a proposal to simplify the cost principles to make the descriptions of similar cost items consistent with one another where possible, thus reducing the possibility of misinterpretation.

**DATES:** All comments on this proposal should be in writing and must be received by October 11, 2002.

**ADDRESSES:** Due to potential delays in OMB's receipt and processing of mail sent through the U. S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

Electronic comments may be submitted to: [hai\\_m.\\_tran@omb.eop.gov](mailto:hai_m._tran@omb.eop.gov). Please include "Cost Principles Revision Comments" in the subject line and put the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and E-mail address in the text of the message. Comments may also be submitted via facsimile to 202-395-4915.

Comments may be mailed to Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, Room 6025, New Executive Office Building, NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, (202) 395-3052 (direct) or (202) 395-3993 (main office) and E-mail: [hai\\_m.\\_tran@omb.eop.gov](mailto:hai_m._tran@omb.eop.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Federal Financial Assistance Management Improvement Act of 1999 (P.L.106-107) provides both a mandate and a challenge for the administration of Federal financial assistance programs and activities. The purposes of P. L. 106-107 are to (1) improve the effectiveness and performance of Federal financial assistance programs, (2) simplify Federal financial assistance application and reporting requirements, (3) improve the delivery of services to the public, and (4) facilitate greater coordination among those responsible for delivering the services. Federal financial assistance includes grants, cooperative agreements, loans, loan guarantees, scholarships, and other forms of assistance.

The grant and cooperative agreement portion of that enterprise, commonly referred to as "grants," involves more than 600 programs and their subprograms, with awards of more than \$325 billion a year administered by 26 Federal agencies. Grant programs stimulate or support public purposes in areas such as health, social services, law enforcement, agriculture, housing, community and regional development, economic development, education and training, and national security. Many of these programs require complex arrangements, such as intergovernmental coordination or public-private partnerships, to coordinate and deliver the needed services. Among the recipient constituencies are State, local, and Native American tribal governments, public housing authorities and resident organizations, and private, non-profit organizations, including institutions of higher education. The funding mechanisms for these programs include mandatory grants, such as formula and block grants, and discretionary grants and cooperative agreements in support of specific programs or projects.

P. L. 106-107 states that some Federal administrative requirements are duplicative, burdensome, and conflicting, sometimes impeding cost-effective delivery of services at the local level. Grant recipients deal with increasingly complex problems that require the delivery and coordination of many kinds of services. Their need to respond to numerous Federal grant administration requirements only adds to that complexity.

### **Implementation of P. L. 106-107**

The Director of OMB partnered with the Department of Health and Human Services (HHS) and the former Grants Management Committee (GMC) of the Chief Financial Officers Council to coordinate and

oversee the government-wide implementation of P. L. 106-107. Five interagency groups were established to implement the steps laid out in the plan that was submitted to Congress and OMB on May 18, 2001.

The General Policy and Oversight group provides detailed oversight of the other work groups' planning and implementation efforts and is examining broad issues. Three groups represent various parts of the grant life cycle: Pre-Award; Post-Award; and Audit Oversight. The Electronic Processing group supports the development of an electronic option for application for and reporting of grants.

The Post-Award group includes a cost consistency sub-group charged with reviewing the cost principles in OMB Circulars A-21, A-87, and A-122 to ensure they are current, consistent, and appropriate for covered recipients. The sub-group's objectives are to make the descriptions of similar cost items consistent, where possible, and reduce the possibility of misinterpretation by clarifying existing policies. The sub-group's mission did not include adding restrictions or modifying current requirements.

The three OMB's cost circulars established government-wide principles for costs incurred under Federal awards (Circulars A-21, "Cost Principles for Educational Institutions;" A-87, "Cost Principles for State, Local and Indian Tribal Governments;" and A-122, "Cost Principles for Non-Profit Organizations"). These cost principles specify allowable and unallowable costs. The three circulars apply to different types of recipient entities and were developed accordingly. As a result, in a number of cases, similar cost items are described in varying terms. This can cause inconsistent interpretations by Federal staff, recipients, and auditors. Public comments indicate the need for language that is more consistent and for clarification regarding some aspects of the cost principles. Many Federal assistance grant programs require organizations that are subject to different cost circulars to work together in consortia to achieve the objectives of a grant program. It is important in these situations that, to the greatest extent possible, all participants in a consortium be subject to the same treatment for the same kinds of transactions.

The groups' focused initially on the definitions in the circulars and the 30 cost items that appear in all three cost circulars. They drafted common descriptions for those cost items that should have similar treatment, but are currently described differently. Where different outcomes are intended, the language should definitely show the difference. Those cost items that are currently in one or more but not all of the circulars also have been reviewed to determine if it is appropriate and beneficial to include them in one or both of the other cost circulars. In those cases where the groups believe that a cost principle in one circular might be applicable to entities subject to the other circulars, they have tried to state the principle in such a way that it does not change the current policy in the circulars to which the principle is added. In all of the cases where a cost principle in one circular has been applied to one or both of the

other circulars, we have done that only to clarify that the outcome is the same under the circular(s) to which the principle is added.

The approach included:

- Reviewing the cost item descriptions in all the circulars;
- Noting the similarities and differences in the descriptions;
- Researching the history of the cost policies related to the cost item;
- Determining if the cost policies are consistent among the circulars;
- Preparing common language, where possible, for the descriptions of those cost items that have a consistent cost policy basis; and
- Restating the principles in simpler language, to the extent possible without changing the meaning of the principles.

### **Presentation of the Circulars**

Rather than include the revised language in the three cost principles separately, the team created a chart that allows side-by-side comparison of proposed changes to the language contained in the current circulars. In addition, the three circulars use different standard terminology to refer to "recipients" and "awards;" the groups adopted conventions for the circulars so they would all use the same standard terminology. The conventions are as follows:

Proposed change language	Existing terms in A-21, A-87, and A-122
"Non-Federal entity"	"Institution," "unit of government" and "organization"
"Federal award"	"Sponsored agreement," "Federal award" and "Sponsored award"

When the cost principles are published in final form, OMB will use the new conventions in the revised version. However, OMB plans to use the same words to describe the units of organization, i.e., A-21 would still be divided into "sections" and "subsections" while A-87 and A-122 would still use "paragraphs" and "subparagraphs."

### **Clarity of the Regulations**

Executive Order 12866, Regulatory Planning and Review, and the Presidential memorandum on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand. OMB invites comments on how to make these cost principles easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed circulars clearly stated?
- Do the cost principles contain technical terms or other wording that interferes with their clarity?
- Would the cost principles be easier to understand if divided into more (but shorter) paragraphs or sections; or used the question and answer format?
- What else would make the proposed circulars easier to understand?

To give commenters an idea about how a circular might appear in plain language, the groups provided at the end of the chart a plain language version of one cost item to show how it would look in a different style of drafting.

Send any comments that concern how we could make these proposed regulations easier to understand to the person listed in the ADDRESSES section of the preamble. If the comments generated by the plain language treatment indicate that the circulars could be written using this convention, OMB will publish any changes based on those comments for another round of comment.

### **Inadvertent Changes in Policy**

OMB has not attempted to change the policy in any of the circulars. However, in the effort to make the language more consistent, some unintended changes in policy may have been made. OMB encourages comments on any proposed changes that could be construed as changes to current policy.

Also, there are places where different language in the current circulars for a particular treatment could be viewed either as intending the same or intending different policies. When faced with this ambiguity, in most cases, OMB has not attempted to write a common treatment. However, OMB is interested in comments on the extent to which some of these treatments could be viewed as expressing the same policy in all three circulars.

### **Response to Public Bodies and Cost Shifting**

Where professional bodies such as the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB) have issued pronouncements that contradicted existing circular provisions or otherwise clarified "generally accepted accounting principles" (GAAP), the policy of the professional bodies has been reflected in this draft.

Lastly, in the process of reviewing the circulars for better consistency and clarity, we concluded that this provided another opportunity to address an area of much confusion concerning one of the general standards contained in A-87, Attachment A, C.3., Allocable costs. In attempting to recognize situations where two or more Federal programs might allow identical services or assistance and served the identical population, an effort was made to distinguish between 'funding allocations' vs. 'cost allocation'. Unfortunately, this section was phrased in a manner that could be interpreted as allowing cost shifting. Cost shifting has always been unallowable. The confusing language has been eliminated in this Notice and no change in policy is intended. The following reflects the proposed revision to OMB Circular A-87, Attachment A, C.3.c., where the last sentence in brackets would be deleted.

"Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of Federal awards, or for other reasons. [However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements.]"

### **Organization of the Chart**

In the chart, the first column lists the current A-21 item, the second column lists the similar item, if any, from A-87, the third column lists the similar item, if any, from A-122 and the fourth column lists any proposed change to the item and which of the circulars would include the revised item. In some cases one or more of the circulars do not have a cost item that is included in one or more of the other circulars. If a circular does not have an item equivalent to the other circulars, the column for that circular is blank. Also, given the separate development of the three circulars, some items contain more than one concept and some of those concepts are stated in different places in the other circulars. In some cases, we have moved a cost item in one circular to the place where that item appears in the other circulars. In every case where one circular handles an item in a different place than the others, we explain in the fourth column where we propose to treat a particular concept in the three circulars.

### **How to Obtain the Chart**

Due to its size, the chart is not printed in this Federal Register notice. It is displayed on the OMB website at: <http://www.omb.gov> under the "Grants Management/Current Documents" section. You can also request a hard copy by calling Gilbert Tran at (202) 395-3052.

**Mark W. Everson**

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