



Special Attention of:

## Notice 02-01-ADM

Offices of Community Planning and Development, Housing, Public and Indian Housing, Policy Development and Research, Fair Housing and Equal Opportunity, Healthy Homes and Lead Hazard Control, and Public Housing Agencies, Indian Housing Agencies, CDBG Grantees/Funding Recipients and all other HUD Grantees/Funding Recipients.

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Cross References:

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**Subject: Cost Principles for Grantee/Funding Recipients Contracts with Profit Making Entities**

This notice provides guidance on cost principles applicable to contracts that HUD grantees/funding recipients enter into with for-profit entities (i.e., business concerns). This direction applies to all types of grant recipients (e.g., non-profits, Housing Authorities, municipalities, etc.) whenever they contract with for-profit entities and those non-profits listed in Attachment C of Office of Management and Budget (OMB) Circular A-122.

These cost principles are prescribed by HUD's regulations at 24 CFR Part 85, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" (specifically, section 85.22, "Allowable costs"), and 24 CFR Part 84, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (specifically, section 84.27, "Allowable costs"). The cost principles are found in Subpart 31.2 of the Federal Acquisition Regulation (FAR; 48 CFR Chapter 1), which is accessible on line at the [Office of Management and Budget's Acquisition Reform Net](#).

HUD grantees/funding recipients shall use the Federal cost principles applicable to commercial organizations to determine the allowability of proposed costs under contracts with for-profit contractors and those non-profits listed in Attachment C of OMB Circular A-122.

Unless otherwise stated herein, all grantees/funding recipients are required to perform a cost or price analysis in connection with every procurement action. Non-profit grantees/funding recipients and other grantees/funding recipients subject to 24 CFR Part 84 should review the regulations at 24 CFR 84.45 for an explanation of the analysis requirement.

Unlike non-profit grantees/funding recipients that have the option of choosing the type of analysis to perform, 24 CFR 85.36(f)(1) specifies that State, local, and Indian tribal government grantees/funding recipients must perform a cost analysis when any of the following circumstances apply:

- The offeror is required to submit the elements of his estimated cost (e.g., under professional, consulting, and architectural engineering services contracts);
- There is inadequate price competition; or
- The grantee is awarding sole source procurements, including contract modifications or change orders.

When none of the above circumstances are applicable, 24 CFR 85.36(f)(1) requires that State, local, and

Indian tribal government grantees perform a price analysis.

See also 24 CFR 84.45 and 24 CFR 85.36 for the requirements for the use of cost analysis. HUD also provides [guidance on cost and price analysis](#).

When a cost principle is inconsistent with any program statute, the program statute shall govern. Grantees/funding recipients should consult their own legal counsel whenever a cost principle is inconsistent with State or local statutes governing their operations.

In applying the cost principles, the following terms shall be read to refer to the HUD grantee/funding recipient: "Government," "agency," "contracting officer" and "administrative contracting officer" ("ACO"). The term "contractor" shall refer to the grantee's/funding recipient's contractor.

The cost principles in 48 CFR Subpart 31.2 **only** apply when a HUD grantee/funding recipient contracts with either a commercial organization or a non-profit organization listed in Attachment C if OMB Circular A-122. The cost principles applicable to other organizations are set forth in the following documents and are incorporated by reference in 24 CFR 84.27 and 85.22:

- Office of Management and Budget (OMB) Circular A-87 for State, local or tribal governments
- OMB Circular A-122 for Private nonprofit organizations other than institutions of higher education or hospitals
- OMB Circular A-21 for Educational institutions

Except as otherwise provided by authorizing program regulations or specific grant terms and conditions this notice shall not apply to contracting actions taken under fixed amount type funding awards. Fixed amount awards provide for payment of a fixed amount of HUD funding regardless of the actual cost experience of the funding recipient, as prescribed in the award.

The purpose of this notice is not to announce new policy, it is intended to remind grantees/funding recipients and HUD grant administrators of existing policy as reflected in HUD's regulations.

This notice supersedes and replaces HUD Handbook 2210.18, "Cost Principles for For-Profit Organizations," which is obsolete.