

APPENDIX 3 - ADVANCE AGREEMENTS

- A. The extent of allowability of the costs covered in this part applies broadly to many accounting systems in varying contract situations. Thus, the reasonableness and allocability of certain costs may be difficult to determine, particularly for firms or their divisions that may not be under effective competitive restraints. To avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, you should seek advance agreement with contractors on the treatment of special or unusual costs. However, an advance agreement is not an absolute requirement and the absence of an advance agreement on any cost will not, in itself, affect the reasonableness or allocability of that cost.
- B. Examples of costs for which advance agreements may be particularly important are:
- (1) Compensation for personal services, including but not limited to allowances for off-site pay, incentive pay, location allowances, hardship pay, cost of living differential, and termination of defined benefit pension plans;
 - (2) Use charges for fully depreciated assets;
 - (3) Deferred maintenance costs;
 - (4) Precontract costs;
 - (5) Royalties and other costs for use of patents;
 - (6) Selling and distribution costs;
 - (7) Travel and relocation costs, as related to special or mass personnel movements, as related to travel via contractor-owned, -leased, or -chartered aircraft, or as related to maximum per diem rates;
 - (8) Costs of idle facilities and idle capacity;
 - (9) Costs of automatic data processing equipment;

- (10) Severance pay to employees on support service contracts;
- (11) Professional services (e.g., legal, accounting, and engineering);
- (12) General and administrative costs (e.g., corporate,

division, or branch allocations) attributable to the general management, supervision, and conduct of the contractor's business as a whole. These costs are particularly significant in construction, job-site, architect-engineer, and facilities contracts;

(13) Costs of construction plant and equipment;

(14) Costs of public relations and advertising; and

(15) Training and education costs (see FAR 31.205-44(h)).

C. Advance agreements may be negotiated either before or during a contract, but should be negotiated before incurrence of the costs involved. The agreements must be in writing, executed by both contracting parties, and incorporated into applicable current and future contracts. An advance agreement shall contain a statement of its applicability and duration.

D. You are not authorized to agree to a treatment of costs inconsistent with Subpart 31.2. For example, an advance agreement may not provide that interest is allowable. Interest is expressly unallowable by FAR 31.205-20.

E. Advance agreements may be negotiated with a particular contractor for a single contract, a group of contracts, or all the contracts of a grantee, or several grantees.

F. Before negotiating an advance agreement, the grantee's negotiator should:

(1) Determine if other contracting offices inside the agency or in other agencies have a significant unliquidated dollar balance in contracts with the same contractor;

(2) Inform any such office or agency of the matters under

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consideration for negotiation; and

(3) As appropriate, invite the office or agency and the independent public auditor (IPA) to participate in prenegotiation discussions and/or in the subsequent negotiations.

G. Upon completion of the negotiation, the negotiator shall prepare and distribute to other interested agencies and offices, including the IPA, copies of the executed agreement and a brief memorandum of the principal elements of the price negotiation, as applicable.

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