P.L. 106-107
PROPOSED CHANGES TO CIRCULAR A-21

Gary Talesnik
KPMG Consulting, Inc.
PROPOSED CHANGES TO A-21

- Changes Proposed Under Auspices of P.L.106-107
- Part of Overall Package of Changes to All Three OMB Circulars on Cost Principles – A-21, A-122, A-87
- Announced in Federal Register August 12, 2002
- Main Objective – Simplify Cost Principles by Making Descriptions of Similar Cost Items Consistent, Where Possible
  - Not Intended to Change Policies, But FR Notice Recognizes Some Unintended Policy Changes May Have Been Made
Federal Register Notice Refers to OMB Web Site for Specific Changes:

- [http://www.whitehouse.gov/omb/grants/grants_docs.html](http://www.whitehouse.gov/omb/grants/grants_docs.html)

Comments on Proposal Due By October 11, 2002

- OMB Also Requests Comments on Rewriting the Cost Principles in “Plain Language”
- Comments Do Not Need to Be limited to the Specific Changes Proposed; Can Also Recommend Other Changes
No “Major” Policy Changes, But Some Substantive Changes Have Been Proposed

No Changes to:

- 26% Cap on Administrative Costs
- Indirect Cost Process
- Effort Reporting
- CAS or Disclosure Statement Requirements
PROPOSED SUBSTANTIVE CHANGES

- Audit Costs
  - New Section in A-21
  - Allows Audit Costs for Audits “Performed in Accordance with” A-133
  - Specifies Formula for Allocating A-133 Audit Costs to Federal Programs
    - Percentage of Federal Funds Expended to Total Institutional Funds
    - Can Be Exceeded Only if Documentation Demonstrates Higher Costs
Audit Costs (Continued)

- Allows Other Audit Costs if Specifically Approved by Awarding or Cognizant Agency

- Allows Costs of “Agreed-Upon Procedures Engagements” to Monitor Subrecipients Exempt from A-133, If:
  - The Institution Arranges and Pays for the Work
  - “The Scope of the Work is Limited to the Types of Compliance Requirements Listed in Paragraph 230 (b) (2) of Circular A-133”
EQUIPMENT AND OTHER CAPITAL EXPENDITURES

- Requires that “Original Complement of Low Cost Equipment” be capitalized

- Prior approval of direct charges for special purpose equipment required only if cost is $5,000 or more
PROPOSED CHANGES TO A-21

Idle Facilities and Idle Capacity

- New Section in A-21

  - “Idle Facilities” Means Completely Unused Facilities

  - “Idle Capacity” Means Unused Capacity of Partially Used Facilities

- Idle Facilities – Unallowable, Except Under Specified Conditions (e.g., Needed to Meet Workload Fluctuations). Allowability Under Exceptional Conditions Generally Limited to One Year.

- Idle Capacity – Allowable as a Normal Cost of Doing Business, If Capacity Is Reasonably Anticipated to be Necessary
**Interest Expense**

- Drops Limitation on Interest Related to Acquisition of Equipment that Allowed Interest Only for Equipment Costing $10,000 or More "if Agreed to by the Federal Government"

- Eliminates May 8, 1996 Effective Date for Certain Requirements Related to Interest Allowability (e.g., Lease-Purchase Analysis)
  
  - Uses Original Interest Allowability Date (July 1, 1982) for Application of these Requirements

- Strict Reading of Wording Would Require Compliance with These Requirements for Interest on Facilities Acquired After July 1, 1982, Rather Than May 8, 1996
Interest Expense (Continued)

- Adds Restriction that Interest on Fully Depreciated Assets is Unallowable

- Apparent Wording Glitch in One Paragraph

  - Says That “Interest on Debt Incurred to Finance or Refinance Assets Acquired Before or Reacquired after **May 8, 1996** is not Allowable” (Emphasis Added)

  - Correct Date Should Be July 1, 1982
Overtime Premiums

- New Section in A-21
- Requires Prior approval of Overtime Premiums, Except Under Certain Conditions (e.g., Emergencies)
PROPOSED CHANGES TO A-21

- Participant Support Costs
  - New Section In A-21
  - Covers Stipends, Travel Allowances, Registration Fees of Participants/Trainees (Not Employees) in Conferences and Training Projects
  - Costs Are Allowable with Prior Approval of Awarding Agency
Patent Costs


  - Current A-21 Language Allows Patent Costs Only Where Government Receives Title

- New Wording Also Explicitly Allows General Counseling Services On Patent and Copyright Matters

- Costs of Filing Foreign Patent Applications are Unallowable

- No Changes on Allowability of Costs of Preparing Disclosures, Reports, etc., Required by Sponsored Agreements
Pre-Award Costs

- Drops Current Prior Approval Requirement for Pre-Award Costs, Unless Required by Awarding Agency
- Must Notify Agency of Pre-Award Costs Before Award Is Made
- Costs Must be Necessary to Comply with Proposed Delivery Schedule or Period of Performance
PROPOSED CHANGES TO A-21

- Professional Services Costs
  - Adds Several New Factors For Determining Allowability of Professional Services Costs:
    - Necessity of Contracting
    - Whether the Work Can Be Done More Economically By Direct Employment
    - Qualifications of the Individual or Concern Providing the Service
    - Adequacy of the Contractual Agreement
PROPOSED CHANGES TO A-21

- Publication and Printing Costs
  - New Section in A-21
  - Direct Charges for Publication and Printing Costs Requires Prior Approval of Awarding Agency
  - Pages Charges in Professional Journals Are Allowable if:
    - The Research Papers Report Work Supported by the Government
    - Charges Are Levied Impartially on All Research Papers Published by the Journal, Whether or Not By Federally-Sponsored Authors
PROPOSED CHANGES TO A-21

- Recruitment and Relocation Costs
  - Extensive New Rules on Relocation Costs for Current and New Employees
  - Specific Limitations on Relocation Costs of Current Employees, e.g.:
    - Costs of Finding New Home, Limited to 30 Days
    - Selling/Closing Costs on Former Home, and Continuing Costs of Ownership of Vacant Former Home, Limited to 8% of Sales Price
  - Allowable Relocation Costs of New Employees Limited to Transportation Costs and Costs of Finding New Home
  - Makes Certain Relocation Cost Unallowable for Current and New Employees (e.g., Fees Associated with Acquiring a New Home)
PROPOSED CHANGES TO A-21

- Rental Costs
  
  - New Wording Expands Criteria for Reasonableness of Rental Costs (e.g., Rental Costs of Comparable Property, Market Conditions, Alternatives Available)
  
  - Also Expands Definition of “Less-Than- Arms-Length Leases” (e.g., Organizations Under Common Control Through Common Officers, Directors, etc.)
  
  - Updates Rules on “Material Equity Leases” to Reference Capital Lease Criteria in FASB 13
PROPOSED CHANGES TO A-21

- Scholarships and Student Aid
  - Incorporates OMB’s January 2001 Clarification on Tuition Remission; Tax Status Not Relevant to Allowability of Costs
  - Retains Requirement that Charges Must be Reasonable Compensation for Necessary Work
  - Drops Requirement for “Bona Fide Employer-Employee Relationship”
  - Adds language from January 2001 OMB Memo:
    - Student is Conducting Activities Necessary to Federal Award
    - Tuition Remission and Other Support is Provided Under Established Policies, Consistently Applied
    - Student is Enrolled in an Advanced Degree Program and the Activities are Related to the Degree Program
PROPOSED CHANGES TO A-21

Specialized Service Facilities

- Adds “Motor Pools” to Examples of Specialized Service Facilities
- Drops Concept of “Long-term Breakeven” for Specialized Service Facilities
- Requires Rate Adjustments at Least Bi-Annually
  - Rate Adjustments Must Take Into Account Over/Under-Recoveries of Previous Periods
- Drops Provision Allowing Alternative Costing Arrangements Worked Out With Cognizant agency
Travel Costs

- Reinstates Requirement For Agency Prior Approval of Foreign Travel (Each Foreign Trip)
Other Proposals Under P.L. 106-107

- Also Published In Federal Register August 12, 2002

- Revision of Circular A-133 to Raise Threshold for Required Audits from $300,000 to $500,000

- Standard Format for Grant Announcements

- Standard Data Elements for Grant Announcement Summaries in Electronic Grants System

- Notice on Pooled Grant Payments (Vs. Grant-by-Grant Payments); OMB Decided Not To Change Current Policy