

Department of Defense

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certain types of costs as direct charges to awards. If a DoD Component elects to waive any of those prior approval requirements, it must add wording to paragraph B.1.d to identify the specific types of costs for which recipients need not obtain DoD Component prior approval (thereby leaving in place the other prior approval requirements in the cost principles).

(4) In accordance with paragraphs (f) and (g) of this section, a DoD Component's general terms and conditions for non-construction awards may include the wording that appendix D provides for paragraphs B.1.e, B.1.f, and B.1.h (except as noted for research awards in paragraph (f)(3) of this section) and Section C of FMS Article IV. A DoD Component may modify the wording as specified in paragraphs (f) and (g) of this section (*e.g.*, to limit the authorization for pre-award costs in non-construction awards other than research to a period of less than 90 calendar days prior to the beginning date of the period of performance).

(5) If no awards using a DoD Component's general terms and conditions will support non-construction activities, the DoD Component may reserve section B.1 of the wording that appendix D provides for FMS Article IV.

§ 1128.420 Prior approvals for construction activities.

(a) *OMB guidance.* OMB guidance in 2 CFR 200.308(g)(1) through (4) addresses prior approval requirements for revisions of a recipient's budget and program plans under a construction grant or cooperative agreement or construction activities under an award that supports both construction and non-construction activities.

(b) *DoD implementation of the guidance.* DoD implements the guidance in 2 CFR 200.308(g)(1) through (4) through terms and conditions of awards for construction. A DoD Component's general terms and conditions for construction awards may require additional prior approvals for budget and program revisions (*i.e.*, prior approvals other than those authorized by this subpart) only in accordance with the exceptions provisions of 2 CFR 1126.3.

(c) *Award terms and conditions.* In a DoD Component's general terms and

conditions for construction awards or awards supporting construction activities, the DoD Component:

(1) Must include the wording that appendix D to this part provides for paragraph B.2 of FMS Article IV.

(2) May reserve or remove the wording appendix D to this part provides for paragraph B.1 and Section C of FMS Article IV unless some awards using the general terms and conditions will also support non-construction activities (if the DoD Component elects to remove Section C, it should redesignate Section D in the article as Section C).

§ 1128.425 Additional prior approval for awards that support both non-construction and construction activities.

(a) *OMB guidance.* Guidance on an additional prior approval requirement for grants or cooperative agreements that support both construction and non-construction activities is contained in 2 CFR 200.308(g)(5).

(b) *DoD implementation of the guidance.* DoD implements the guidance in 2 CFR 200.308(g)(5) through terms and conditions for awards that support both non-construction and construction activities.

(c) *Award terms and conditions.* If a DoD Component establishes general terms and conditions for awards that support both non-construction and construction activities, the DoD Component may add the prior approval requirement for funding or budget transfers between construction and non-construction activities that is described in OMB guidance in 2 CFR 200.308(g)(5). The wording that appendix D to this part provides for Section B of FMS Article IV includes a reserved paragraph B.3 in which the DoD Component may add appropriate wording to include that prior approval requirement.

§ 1128.430 Procedures for prior approvals.

(a) *OMB guidance.* Guidance on procedures related to recipient requests for prior approval is contained in 2 CFR 200.308(h) and (i).

(b) *DoD implementation of the guidance.* DoD implements the guidance in

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2 CFR 200.308(h) and (i) for prior approval requests through award terms and conditions.

(c) *Award terms and conditions.* A DoD Component must:

(1) Include the wording appendix D to this part provides for paragraph D.1 of FMS Article IV of its general terms and conditions.

(2) Insert appropriate wording in lieu of the reserved paragraph D.2 that appendix D to this part includes in FMS Article IV to specify:

(i) The format the recipient must use when it requests approval for budget revisions. As described in 2 CFR 200.308(h), the award term may allow the recipient to submit a letter of request or otherwise must specify that the recipient use the same format it used for budget information in its application or proposal.

(ii) Any other procedural instructions related to requests for prior approvals for budget or program revisions (*e.g.*, to whom requests must be submitted) that are common to the awards using the general terms and conditions. For procedural instructions that will vary from one award to another, it is appropriate to include wording that points to the award-specific terms and conditions as the source of the information.

Subpart E—Non-Federal Audits (FMS Article V)

§ 1128.500 Purpose of FMS Article V.

FMS Article V of the general terms and conditions specifies requirements related to audits required under the Single Audit Act, as amended (31 U.S.C., chapter 75). The article thereby implements for grants and cooperative agreements the OMB guidance in Subpart F of 2 CFR part 200.

§ 1128.505 Content of FMS Article V.

(a) *Requirement.* A DoD Component's general terms and conditions must address audit requirements.

(b) *Award terms and conditions—(1) General.* A DoD Component's general terms and conditions must include the wording appendix E to this part provides for FMS Article V.

(2) *Exception.* A DoD Component may reserve Section B of the wording in ap-

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pendix E if there will be no subawards to for-profit entities under any award using those terms and conditions.

Subpart F—Cost Sharing or Matching (FMS Article VI)

§ 1128.600 Purpose of FMS Article VI.

FMS Article VI sets forth requirements concerning recipients' cost sharing or matching under awards. It thereby implements OMB guidance in:

(a) 2 CFR 200.306 and 200.308(c)(1)(vii); and

(b) 2 CFR 200.434, in conjunction with FMS Article III in appendix C to this part.

§ 1128.605 Content of FMS Article VI.

(a) *Requirement.* A DoD Component's general terms and conditions for awards under which there may be required cost sharing or matching must specify the criteria for determining allowability, methods for valuation, and requirements for documentation of cost sharing or matching.

(b) *Award terms and conditions—(1) General.* A DoD Component's general terms and conditions must include as FMS Article VI the wording appendix F to this part provides, with any revisions to the wording that are authorized by §§ 1128.610 through 1128.635.

(2) *Exception.* A DoD Component may reserve FMS Article VI of its general terms and conditions if it determines that there will be no cost sharing or matching required under any of the awards using those terms and conditions.

§ 1128.610 General requirement for cost sharing or matching.

(a) *Requirement.* (1) FMS Article VI of the general terms and conditions must tell a recipient that:

(i) It may find the amount or percentage of cost sharing or matching required under its award in the award cover pages.

(ii) The cost sharing or matching amount or percentage identified in the award includes all required (but not voluntary uncommitted) contributions to the project or program by the recipient and its subrecipients, including any that involve third-party contributions