CHAPTER 3-130
LEASED FACILITIES OR EQUIPMENT

3-130-00 What does this chapter do?

This chapter explains how to charge the costs of leased facilities and equipment to any assistance agreement awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

3-130-10 Where do these policies come from?

The Office of Management and Budget (OMB) has established principles for determining allowable costs for Federal assistance agreements. We include the appropriate cost principles by reference as conditions for each assistance agreement we award.   You can find this in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR Part 200.

3-130-20 When can you lease facilities or equipment?

Generally, you own your facilities and equipment and charge the costs of them to your assistance agreement through depreciation or use charges. However, in some cases leasing facilities or equipment is necessary or more economical. In the following examples, leasing may be appropriate, and allowable depending on the specific circumstances:

A. Leasing will reduce expenses charged to the assistance agreement for direct or indirect costs.

B. Your project has a short duration. No owned space or equipment is available.

C. You cannot meet specific program objectives or requirements with facilities you own.

D. You cannot efficiently accommodate an increase in workload volume by modifying or augmenting facilities you own.

3-130-30 What types of leases can you use?

You can use the following types of leases:

A. In a short-term lease, the cumulative term is two years or less for the use of the equipment, or five years, or less for occupancy of the facilities.

B. In a long-term lease, the cumulative term of the use or occupancy is two years, or more for equipment, and five years or more for facilities. If you lease equipment or facilities as a short-term lease but then extend past the two or five year threshold, then the lease would become a long term. In this case, you would treat the lease as short-term until after the two or five-year point is reached.

C. In a sale and leaseback arrangement, your organization sells the property you own, and then leases it back from the purchasing organization.

D. In a less-than-arms-length lease, one party to the lease agreement is able to control, or substantially influences the actions of the other. The following are examples of such leases:

1. Agreements between divisions of an organization.

2. Agreements between organizations under common control through common officers, directors, or members.

3. Agreements between an organization and a director, trustee, officer or key employee of the organization or his immediate family. This may also be through corporations, trusts or similar arrangements in which they hold a controlling interest.