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Food and
Nutrition
Service

Indirect Costs

Guidance for State Agencies & School Food Authorities

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Introduction and Overview

Introduction

This guidance updates SP41 - 2011, *Child Nutrition Reauthorization 2010: Indirect Cost Guidance*, dated July 7, 2011 to reflect changes by the Office of Management and Budget (OMB) in 2 CFR 200 to streamline and consolidate prior regulations in 7 CFR 3016, 3019, and 3052; and the cost principles in 2 CFR 220 (A-21), 225 (A-87), and 260 (A-122). State agencies and school food authorities (SFAs) are encouraged to use this guidance to better understand the nature of direct and indirect costs and their role in the operation of the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) (collectively referred to as the School Meal Programs (SMPs) for the purposes of this guidance).¹

One of the major responsibilities that accompanies the decision to participate in the SMPs is the management of the nonprofit school food service account (NSFSA). Funds in the NSFSA must be spent solely on the SMPs. Program regulations at 7 CFR 210.14 and 220.13(i) require an SFA to establish a NSFSA, in which all reimbursements and other revenues from all food service operations conducted by the SFA, principally for the benefit of school children, are retained and used **only** for the operation or improvement of the nonprofit school food service. Therefore, the SFA must maintain a NSFSA to accomplish two goals:

- 1) To ensure that the school food service operates on a nonprofit basis, and
- 2) To safeguard assets of the school food service and ensure that they are used only for authorized purposes.

An SFA is the steward of the NSFSA and maintains the funds available for the SMPs. In that role, it is important for the SFA to monitor costs charged to this account. The SFA is charged with ensuring that only allowable costs are paid with NSFSA funds and costs are properly classified as direct or indirect.

There are many demands made on the limited resources of an SFA's NSFSA. It is imperative that SFAs adhere to the Federal regulations and determine whether a cost is allowable, allocable and charged appropriately as a direct or indirect cost in order to safeguard the financial integrity of the NSFSA. This guidance has been developed to describe the Federal requirements that State agencies and SFAs must comply with in the SMPs with respect to indirect costs. The responsibility for compliance with the Federal regulations is jointly shared by the State agency and the SFA.

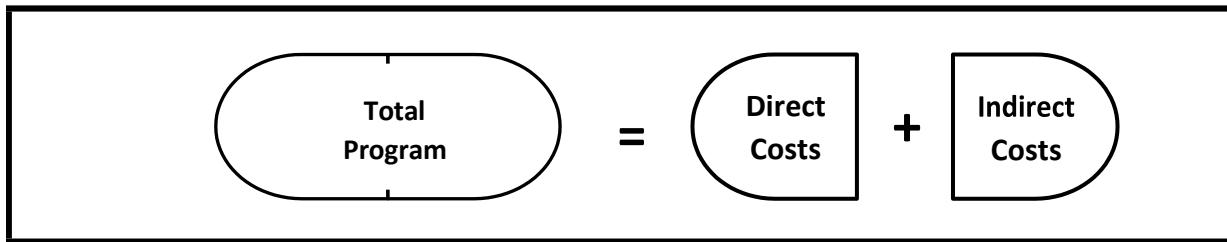
¹ This guidance primarily refers to the "school food authority or SFA" rather than the "local education agency or LEA." SMPs regulations at 7 CFR 210.2 and 220.2 define "school food authority" as the governing body responsible for administering one or more schools and with the legal authority to operate the SMPs. The "SFA" is usually the school district or the entity within the school district which operates school food service. However, the Child Nutrition and WIC Reauthorization Act of 2004, P.L. 108-265, used the term "local educational agency or LEA", a term commonly used by the U.S. Department of Education when referring to a school district and its operation of Federal education programs, in amendments to some SMPs statutory authorities. The terms "SFA" and "LEA" are not synonymous in definition or connotation. However, in order to make this guidance clear and simple, the term "SFA" is used primarily while LEA is used in discussing indirect cost rates. (See, e.g., page 21 and Appendices A-C.)

Before delving into in-depth information on direct and indirect costs in the section covering *Cost Allocation and Recovery in the School Food Service*, a basic overview will be provided in this section on such costs, the Federal cost principles, and program regulations as this material is necessary and useful background information.

Basic Overview of Direct and Indirect Costs

In general, the full cost of a program, function, or activity includes both direct and indirect costs. The determining factor in distinguishing a cost as direct or indirect, is the extent to which it can be identified with a specific program, function, or activity that benefits from the organization (i.e., SFA) that has incurred the cost rather than the nature of the goods and services themselves.

Total Program Cost



Direct costs are incurred specifically for a program or other cost objective², and can be readily identified to a particular objective such as school food service. Examples of direct costs in SMPs include, but are not limited to food, wages and salaries of the staff working in the school food service, and supplies specifically used in the school food service.

Indirect costs are incurred for the benefit of multiple programs, functions, or other cost objectives and therefore cannot be identified readily and specifically with a particular program or other cost objective. Indirect costs typically support administrative overhead functions such as fringe benefits, accounting, payroll, purchasing, facilities management, utilities, etc.

² "Cost objective" refers to a function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which costs are incurred.

Examples of Typical Direct and Indirect Costs for SMPs

Direct Costs	Indirect Costs
Wages and salaries of food service workers	Payroll services
Cost of purchased food	Human resources
Food service supplies	Workers' compensation
Media/promotional materials relating to the food service	Procurement
Capital expenditures relating to food service (e.g., food service equipment purchases)	Gas
	Electricity
	Sewer
	Water
	Trash
	Superintendent's Office

Indirect costs are necessary for the general operation of the SFA. Due to their generic nature, however, indirect costs are not readily assignable to SMPs specific functions or activities. Indirect costs must therefore be assigned to benefitting programs and other cost objectives through an allocation process.

Allocation is a mathematical exercise used to assign indirect costs to particular programs and other cost objectives, such that each program or other cost objective bears a portion of the indirect costs that is commensurate with the benefit received from such costs. This methodology normally entails applying a **calculated indirect cost rate to a direct cost base**. These terms are explained in detail later in this guidance in the section covering *Developing and Applying an Indirect Cost Rate*. Use of this methodology provides a shorthand approach to determining in a reasonable manner the proportion of indirect costs each program or other cost objective should bear.

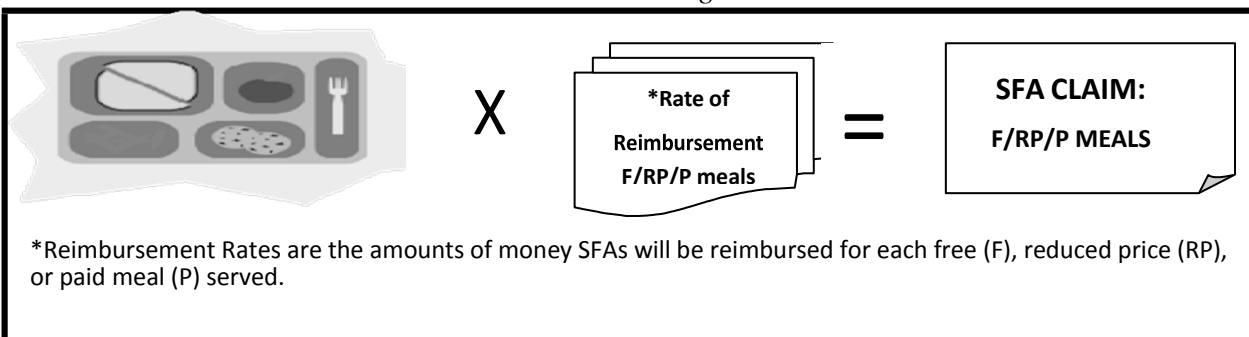
Basic Overview of Federal Cost Principles

Understanding direct and indirect costs requires not only a basic understanding of how the two terms are defined, but also requires a fundamental understanding of the Federal cost principles. The OMB establishes the principles for determining allowable costs for Federal assistance programs (e.g., SMPs). In order to be chargeable to a Federal grant or contract, a cost (whether a direct or indirect cost) must be allowable.

The overall objective of the Federal cost principles is to establish government-wide principles for determining allowable costs under contracts, grants, and other agreements with the various entities that operate Federal programs. Unlike operators of other Federal programs who report **program costs** for reimbursement, the SFAs operating the SMPs do not bill their Federal awarding agency (USDA) for reimbursement of allowable costs. This is because an SFA's

Federal funding reimbursement under the SMPs is determined solely by the **meals-times-rate funding formula**. In the SMPs, non-Federal entities such as SFAs report the number of paid, reduced-price, and free meals served (not program costs) to their State agencies. To be reimbursable under the SMPs, each meal served must meet all the requirements set by Program regulation.

Meals-times-Rate Funding Formula³



While the Federal cost principles do not apply to claiming meal reimbursement under the SMPs, they do have meaning with respect to costs charged to the SFA’s NSFSA. SMPs regulations at 7 CFR 210.14(a) and 220.13(i) require that any cost paid from the NSFSA account meet the standards for allowable costs set out in the Federal cost principles. In addition, the school food service may be subject to inter-fund billings for services rendered; such billings should be paid only if they conform to the cost principles. For these reasons, an understanding of the Federal cost principles, as well as USDA regulations implementing them, is critical to safeguarding the integrity of the NSFSA.

OMB’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for non-Federal entities (i.e., State agencies, SFAs, public schools, public Residential Child Care Institutions (RCCIs), public and nonprofit sponsors) is posted at 2 CFR 200 with the cost principles found in Subpart E –Cost Principles replacing OMB Circular A-87, 2 CFR 230 (*Cost Principles for Non-Profit Organizations*), and OMB Circular A-122.



This guidance will refer to the regulatory citations as:

- Cost Principles Basic Considerations, 2 CFR Part 200;
- Direct and Indirect (F&A) Costs; and,
- Special Considerations for States, Local Governments, and Indian Tribes.

³ An SFA’s Federal funding reimbursement under the SMPs cannot exceed the amount generated by the meals-times-rate formula. The per-meal reimbursement rates have been the basis for computing SFAs’ SMPs entitlement for decades, and are adjusted annually to reflect changes in the cost of living.

The OMB guidance provides general definitions regarding the applicability and allowability of different types of costs. The guidance also describes the different allocation methodologies that can be used by a particular entity and the general criteria for charging costs as direct or indirect. Some costs are allowable only in one category or the other. There is no universal rule as a cost may be direct with respect to some specific service or function or indirect with respect to the Federal award or other final cost objective. It is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double-charging of Federal awards. Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in 2 CFR 200 Subpart E.

Basic Overview of Program Regulations

The program regulations also place restrictions on the use of NSFSA funds. As stated in 7 CFR 210.14 and 220.7, **SFAs operating nonprofit food services must adhere to the following requirements:**

- 1) SFAs must observe the restrictions on the use of nonprofit food service revenue so that all revenue is used for operating the meal service and/or improving its quality and efficiency. Revenue sources include (but are not limited to) Federal meal reimbursement, State meal reimbursement, children's and adults' payments for SMPs meals and a la carte items and interest.
 - a. Revenue may be used for food, supplies, equipment and personnel to operate the meal service.
 - b. Revenue must not be used to purchase land and/or buildings unless approved by Food and Nutrition Service (FNS), or to construct buildings.
- 2) SFAs must limit the net cash resources in order not to exceed three months average expenditures.⁴
- 3) If SFAs have a surplus of over three months of average expenditures on hand they agree to:
 - a. Lower the price of paid lunches⁵
 - b. Improve food quality
 - c. Make other improvements to the school meals operations
 - d. If there are no opportunities for the above three options, the State agency can lower the rates of reimbursement to the SFA.

⁴ Net cash resources means all monies, as determined in accordance with the State agency's established accounting system that are available to or have accrued to an SFA's nonprofit school food service at any given time, less cash payable. Such monies may include, but are not limited to, cash on hand, cash receivable, earnings on investments, cash on deposit and the value of stocks, bonds or other negotiable securities.

⁵ Section 205 of the Healthy, Hunger-Free Kids Act of 2010, P.L. 111-296, amended Section 12 of the Richard B. Russell National School Lunch Act, 42 USC 1760, to require SFAs to establish minimum lunch prices for students not eligible for free or reduced price meals. The requirement of Section 205 became effective July 1, 2011.

Topics in Remainder of Guidance

The remainder of the guidance will be structured in the following manner:

- In-depth overview of the Federal cost circulars and allowable costs;
- Explanation of cost allocation and recovery in the school food service including direct and indirect costs;
- Information on the development and application of an indirect cost rate;
- Explanation of restricted and unrestricted indirect cost rates;
- Explanation of methods used to adjust indirect costs previously over-claimed or under-claimed; and,
- Considerations when assessing indirect costs charged to the NSFSA.

Key Principles

The key principles this guidance hopes to impart include:

- Understanding allowable costs;
- Understanding the compliance requirements that pertain to applying the Federal Cost Principles to the SMPs;
- Understanding how to appropriately charge direct or indirect costs to the NSFSA; and,
- Understanding how to safeguard the financial integrity of the NSFSA with respect to direct and indirect costs.



Note: The indirect cost guidance uses many examples to illustrate principles. **The examples provided in this guidance are not meant to imply that certain costs must be treated in the manner provided in the examples.** The treatment of a cost as direct or indirect is determined by the SFA's accounting system.

Determining Direct and Indirect Costs

As will be explained in *Determining Allowable Costs & OMB 2 CFR 200*, 2 CFR 200 Subpart E and Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals apply to all situations where State and local governments incur costs for Federal assistance programs. SEAs and SFAs must make careful considerations in determining whether certain types of costs should be categorized as a direct or indirect cost.

Direct Costs

2 CFR 200.413 describes direct costs as, “those that can be identified specifically with a particular final cost objective.” Many SFAs struggle with this description, especially when it comes to understanding the words “identified specifically.” A good way of understanding “identified specifically” is for the SFA to ask the following question: **Who benefitted from the SFA having incurred the cost (i.e., just school food service)?** Granted, the SMP regulations do not prescribe in detail every kind of cost that can be charged to the school food service. However, the SMP regulations do outline the purpose of each program, requirements that must be met and, in some cases, prescribes certain aspects of that program’s operations. The SMP objectives can be understood by reading and understanding authorizing statutes, program regulations, and FNS policy. **Moreover, costs that cannot be exclusively attributable to the SMPs should generally be treated as indirect costs.**



Direct costs are those that:

- Are exclusively attributable to the nonprofit school food service, and;
- Can be substantiated through written documentation such as time cards, invoices, receipts, etc.

2 CFR 200.420-.475 provides examples of many typical direct costs chargeable to the NSFSFA:

Compensation of employees for the time devoted and identified to the school food service

School food service employees whose job function is entirely to meet the objectives of the SMPs (e.g., kitchen cooks, the school food service director, dietitians, cashiers, servers)

- An SFA should ask the following questions to determine whether such a cost is exclusively attributable to the school food service:
 - What are the job functions of an employee? Does he/she work exclusively in the school food service?

- Does the employee also perform work not related to the school food service? Does the SFA have a process for documenting the distribution of that employee's time among cost objectives?
- Does a cashier working to ring up foods in the cafeteria also sell books at the bookstore? If so, does the SFA have a process for documenting the distribution of that employee's time between the cafeteria and the bookstore?

Cost of materials, acquired, consumed, or expended specifically to the performance of the school food service

- An SFA should ask the following questions to determine whether such a cost is exclusively attributable to the school food service:
 - Will the item be used only for the school food service?
 - Is this an item that is generally purchased for use in school food service?
 - Can the SFA operate the school food service without purchasing this item?
 - For example, the cost of food items used to prepare nutritious meals for the SMPs is exclusively attributable to school food service.

Equipment and other approved capital expenditures

- For example, a point of service (POS) system or software is used to record, track, and report on food/meal purchase transactions by many schools. The capital expenditures for a POS system may be allowed as a direct charge with prior State agency approval.

Travel expense incurred specifically to carry out the objectives of the SMPs

- For example, a school food service director may need to travel for a national conference on child nutrition in the SMPs. This cost could be charged as an allowable direct expense with prior State agency approval. (2 CFR 200.432 and .474)

Food for the school meals

- For example, the cost of food items that have been procured in accordance with the Federal regulations for the SMPs can be charged as a direct cost.

Indirect Costs

2 CFR 200.56 describes indirect costs as those “incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.” **Costs that can be allocated to multiple programs or other cost objectives are always classified as indirect costs.** Indirect costs are necessary to operate the school food service, even though a direct relationship to that activity cannot be shown.

In determining whether a cost should be charged as direct or indirect, the SFA is required to treat each item of cost in a **consistent manner** as a direct or indirect cost in accordance with the Federal cost principles. A cost may be assigned to the nonprofit school food service as a direct cost only if that cost item under the same circumstances has not been charged to other programs or cost objectives as an indirect cost (2 CFR 200.412). For example, it is appropriate for a SFA that has relocated its school food service and several other of its activities from the main school building to an annex, to charge rent on the annex to the NSFSFA only if the other activities relocated there are similarly charged.

Summary of Determining Direct and Indirect Costs

Questions to contemplate in determining whether a cost is direct or indirect include:

- Does the cost benefit multiple programs or other cost objectives, or solely the school food service?
- Does the cost have a direct relationship to the school food service?
- What guidance do the Federal cost principles provide for this cost?
- How are similar costs treated in other cost objectives of the SFA?
- How has this cost been treated historically by the SFA?

Examples of Various Costs

Guidance on various costs is provided to assist in determining whether a cost is properly classified as direct or indirect.

Custodial expenses

Custodial expenses generally include the costs of cleaning the entire school. The food service benefits from custodial services because the kitchen, food preparation, and food serving areas are also cleaned. However, the question arises of whether the custodial expense can be charged as a direct or indirect expense. As we stated earlier, for the custodial expense to be a direct cost, the cost must be identified specifically with a particular cost objective.

How would an SFA charge custodial expenses directly? Some SFAs document the hours that custodians work cleaning food service areas such as the kitchen, food preparation, and food serving areas through a time reporting system, such as that described in 2 CFR 200.430. The time reporting system provides the exact hours a custodian cleans the food service area and the rest of the school. The SFA then charges the custodial expenses for cleaning the school food service area as a direct expense.

Alternatively, the custodial expenses may be charged as an indirect cost to the school food service by including them in the indirect cost pool if a methodology or process for determining this item's direct relation to the school food service operations is not available. The key point to note is that the custodial expense may be charged as a direct or indirect cost, as long as it is treated consistently in all activities of the SFA. For example, this cost item may not be charged

as a direct cost to the NSFSA if custodial expenses that benefited other programs, functions, and activities of the SFA were charged to such cost objectives as indirect costs. The reasoning is that it would not be equitable for the custodial expenses to be charged through a time reporting system solely for the school food service and not similarly for other programs.



Custodial expenses may be charged as a direct or indirect cost, as long as it is treated consistently in all activities of the SFA. An SFA may not charge custodial expenses as a direct cost to the school food service (e.g., through a time reporting system) and as an indirect cost for other programs.

Utility Expenses

The SFA in general and school food service in particular, need utilities such as electricity and gas to operate. While utility costs are often treated as indirect costs, they may be charged as a direct cost if there is a methodology to quantify exactly how much energy was utilized to prepare and serve meals. For example, the use of a separate utility meter for school food service would provide such quantification. The main point to note is that charges like utilities can be allocated directly or indirectly, depending on whether a methodology exists to specifically identify the amount of utilities attributable to the school food service.

Post Retirement Health-Care Benefits

The indirect cost methodology applied to an SFA may call for allocating the cost of providing health-care benefits for retired SFA employees on the basis of numbers of employees. That is, this cost item may be allocated to a direct cost activity, such as the school food service, on the basis of its percentage of the SFA's total employees, or by applying a per-employee rate. However, if the school food service workforce is atypical of the SFA's workforce generally, this may not be an appropriate approach. Applying this methodology may actually overcharge the school food service if part-time employees, who are not eligible for post-retirement health-care benefits, comprise a disproportionate share of the school food service staff. The amount charged to the school food service for post-employment healthcare costs would then be unreasonable based on the benefit the school food service received from this cost item. Possible remedies include:

- 1) Changing the allocation basis for this cost item from "number of employees" to "number of full-time employees."
- 2) Shifting the SFA's overall indirect cost methodology to the multiple allocation base method. This method is preferred when different direct cost activities benefit to significantly differing degrees from the same indirect cost activity (human resources,

accounting, purchasing, payroll, audit, etc.). The SFA would first distribute the cost of each such administrative function or office to benefiting direct cost activities on a basis that fairly measures the benefit each direct cost activity received. For example, the cost of the purchasing function could be distributed on the basis of numbers of purchase orders issued. The total indirect costs allocated thereby to each direct cost activity are then totaled and a separate indirect cost rate calculated for each direct cost activity. The outcome would be one indirect cost rate for food service, another for instruction, etc. Indirect cost rate determination is covered in 2 CFR 200 and Appendices III and IV thereto; and in DHHS Publication ASMB C-10, section 6.2.4 (pages 6-8 through 6-12). https://www.dol.gov/oasam/boc/asmb_c-10.pdf.

Determining Allowable Costs



The cost principles, coupled with SMPs regulations and policy, provide guidance as to what types of costs are allowable charges to the NSFSFA, and whether these costs are allocable as direct or indirect charges.⁶ Regardless of whether a cost is allocable as indirect or direct, it must first be allowable.



Regardless of whether a cost is allocable as indirect or direct, it must be allowable based on the Federal cost principles in **2 CFR Part 200 Subpart E.**

2 CFR 200 was drafted in a manner to apply to all situations in which non-Federal entities (e.g., State agencies, SFAs of public schools, and public RCCIs) charge costs to grants provided by the Federal government. **2 CFR 200.403** provide basic guidelines to determine if a cost is allowable and **2 CFR 200.420-.475** provide principles to be applied in establishing the allowability of specific items of cost. However, because the guidance provided in 2 CFR 200 is generic in nature and subject to interpretation, many State agencies and SFAs struggle in determining whether certain costs concerning the nonprofit school food service are allowable.

2 CFR 200

SFAs should be familiar with 2 CFR 200 Subpart E in order to determine whether a cost is allowable. 2 CFR 200.403 provides factors affecting the allowability of costs and 2 CFR 200.404-.405 provide explanations of cost including reasonable costs and allocable costs. 2 CFR 200.407 lists those costs where prior written approval of the cognizant agency is required, and 2 CFR 200.421-.475 provides principles to be applied in establishing the allowability of selected items of costs.⁷ In summary, **two key points to remember are:**

- 1) 2 CFR 200.403 provides general criteria to determine if costs are allowable under Federal awards. These costs must also conform to any program-specific limitations on purposes for which SMPs funds are made available in order to be allowable.
- 2) Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be

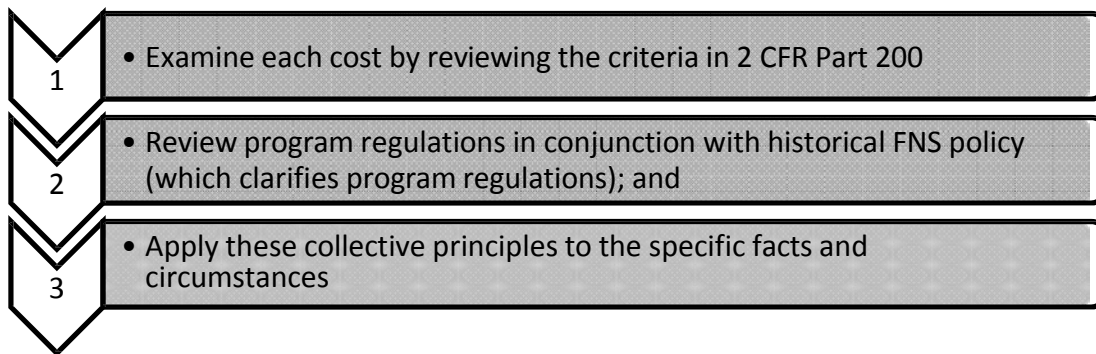
⁶ **2 CFR Part 200** applies to all non-Federal entities.

⁷ With respect to allowable costs with prior State agency approval, the State agency may contact FNS Regional Office for guidance as needed.

based on the treatment provided for similar or related items of cost, and based on the principles described in 2 CFR 200.402 *Composition of costs* through 2 CFR 200.411 *Adjustment of previously negotiated indirect (F&A) cost rates* containing unallowable costs. In case of a discrepancy between the provisions of a specific Federal award and the provisions below, the provisions of the Federal award governs. Criteria outlined in 2 CFR 200.403 *Factors affecting allowability of costs*, must be applied in determining allowability. See also 2 CFR 200.102 *Exceptions*.

A cost would not be deemed an allowable charge to the NSFSA by simply applying the general criteria outlined in 2 CFR 200 Subpart E because the cost must also conform to program-specific rules. For example, the NSLP regulations at 7 CFR 210.14(a) prohibit use of the SFA's NSFSA account to pay for the cost of purchasing land or buildings, unless otherwise approved by FNS. A cost must be incurred in accordance with all applicable terms and conditions.

SFAs follow a multi-step process to determine whether funds from the NSFSA may be used for a certain cost:



General Criteria for Allowable Costs

2 CFR 200.403 provides a list of criteria for allowable costs. The SFA should first determine whether a cost meets the following criteria:

- Necessary;
- Reasonable;
- Allocable;
- Consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-federal entity;
- Consistently treated as direct or indirect;
- Determined in accordance with Generally Accepted Accounting Principles (GAAP);⁸
- Not included as a cost or matching contribution of any other grant (except where allowed by Federal regulations);
- Adequately documented.

⁸ See Attachment E for more information on GAAP.

Below is additional guidance on several of these criteria as they relate to the SMPs.

Necessary and Reasonable (2 CFR 200.404)

In order to be allowable, a cost must be necessary for the performance or administration of the funds provided by FNS to the State agency for the SMPs. A cost is **necessary** if the SMPs' authorizing statutory provisions, resulting program regulations or applicable FNS policy establish that the nonprofit school food service cannot be operated without incurring the cost (e.g., a school food service cannot be operated without incurring the cost of appropriate food). A cost is **reasonable** if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.⁹ The cost must be the result of sound business practice and competitive prices. For example, the cost of food is a reasonable cost to operate the nonprofit school food service if incurred according to these conditions.

An SFA may ask the following questions to help determine whether a cost is necessary and reasonable:

- What are the particular objectives of the SMPs?
- How does the cost contribute to achieving an objective of the SMPs?
- Is the cost recognized as ordinary and necessary for the operation of the SMPs?
- Could the SMPs be carried out without incurring this cost?
- Would a prudent person find the cost to be reasonable under the circumstances?
- Would a taxpayer deem the cost to be reasonable in light of SMPs objectives?
- Is this cost charged at a fair rate, or do alternatives exist that may be more cost effective?
- Does the cost deviate significantly from the established practices of the SFA which may unjustifiably increase costs borne by the NSFSA?
- Could the SFA defend this purchase to the State agency, the media, auditors, etc.?

Allocable (2 CFR 200.405)

A cost must be assigned to the program(s), function(s), activity(ies) or other cost objective(s) that benefit from that cost and each cost objective must be charged commensurate with the benefit received. As already noted, cost allocation is the process of achieving that outcome. Depending on which program(s), function(s), and/or activity (ies) benefit from the cost, and the extent to which each benefited, a cost may be allocated to such cost objective(s) through direct or indirect cost allocation. For example, the salary of an employee whose duties consist solely of preparing and serving school meals is 100-percent allocable to the SFA's school food service, and is therefore treated as a direct cost. By contrast, the superintendent's salary benefits all programs, functions, and activities of the school district; the portion that benefits the school food service can be determined only through a mathematical allocation process which is the reason it is an

⁹ The prudent person standard requires each person to owe a duty to behave as a reasonable person would under the same or similar circumstances.

indirect cost. **A cost allocable to a particular Federal award or other cost objective under the Federal cost principles may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by regulations or terms of the Federal awards, or for other reasons;** to do so would assign the cost to a cost objective that did not benefit from it.

Adequately Documented

This criterion does not imply the existence of a one-size-fits-all definition of “adequately.” It means, rather, that the record of a SMPs’ operation must be able to stand on its own, without depending on augmentation, interpretation, or “spin” by the program operator.

Treated Consistently (2 CFR 200.412)

An SFA must conduct transactions using Federal program funds in the same way that it conducts transactions with its own non-Federal funds. A cost item must be treated consistently as direct or indirect in all activities of the SFA unless legislation, regulations, or guidance from an awarding agency dictates otherwise. A cost may not be assigned to a Federal award as a direct cost if that same cost, incurred for the same purpose in similar circumstances, has been allocated to other Federal awards as an indirect cost.

Two examples to illustrate “treated inconsistently” and “treated consistently”:

- 1) A School district requires its custodians to record the distribution of their work hours on time cards that capture only two categories: “Kitchen & Cafeteria,” and “Other.” The portion recorded under “Kitchen & Cafeteria” is billed to the food service as a direct cost. The “Other” portion is treated as an indirect cost, no portion of which is allocated to the school food service. This would be considered inconsistent treatment of the cost of custodial services because only school food service is charged directly.
- 2) School food service staff carries out particular functions, such as procurement, that are also carried out by the SFA for other programs. The question that arises is whether the school food service is treated consistently because the salary of food service workers is a direct expense to the NSFSA (e.g., food service staff conducts procurement for food products) and the SFA also bills the school food service for the cost of procurement services as an indirect cost (e.g., SFA conducts procurement for paper products). There is no inconsistent treatment if the school food service receives an additional benefit from the indirect cost charged to the NSFSA (e.g., food service staff conducts procurement for food products and the SFA conducts procurement for paper products).



The treatment of cost as direct or indirect is determined by its treatment in the SFA’s accounting system.

Net of Applicable Credits (2 CFR 200.406)

Applicable credits refer to reductions of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of applicable credits include, but are not limited to: purchase discounts, rebates, credits or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such crediting accruing to or received by the SFA relates to an allowable cost, they must be deducted from the cost charged to the SMPs. For example, SMPs regulations require that an SFA may only pay for costs in a cost-reimbursable contract that are net of all rebates, discounts, and other applicable credits. (7 CFR 210.21(f)(i) and 220.16(e)(i)) The SFA must also ensure receipt of adequate documentation prior to paying for such cost.

Examples of Specific Allowable and Unallowable Costs

Next, guidance is provided on how FNS has historically treated certain costs in regards to allowability, based upon SMPs-specific regulations and FNS policy.

Renovating a School Kitchen

2 CFR 200.452, *Maintenance and repair costs*, identifies costs of normal repairs and alterations as allowable so long as they: (1) keep property in an efficient operating condition; (2) do not add to the permanent value of the property or appreciably prolong its intended life; and (3) are not otherwise included in rental or other agreements. Based on these principles, FNS has allowed limited renovations within the inside perimeter of a kitchen/cafeteria space with the **required prior State agency approval (2 CFR 200.407 or FNS approval (7 CFR 210.14(a))**. For example, renovating a kitchen by cutting away a portion of the wall to allow room for a walk-in refrigerator and related electrical wiring would be an allowable expense if the renovation is necessary to accommodate increased participation of students in the SMPs. However, it would be an unallowable expense if renovation of the kitchen was purely an aesthetic matter. Finally, the SFA cannot charge normal maintenance costs directly to the NSFSA if such costs are included in the school district's indirect cost pool.

Building a School Kitchen

SMPs regulations at 7 CFR 210.14(a) and 220.7(e) require that revenues received by the nonprofit school food service are to be used only for the operation or improvement of such food service, *except that*, such revenue shall not be used to purchase land or buildings unless otherwise approved by the FNS, or to construct buildings. **Historically, FNS has not approved the cost of building purchases because program funds are made available to help support the costs of nutritional benefits for children in school settings and not to construct school related facilities.** The goal is to ensure that an SFA maintains the necessary funding to operate the program as required by the SMPs' authorizing legislation and regulations, and that the

NSFSA is not used to cover major expenses that should be borne by the school district's general funds (i.e., capital infrastructure costs).

The costs of building a kitchen are analogous to the costs of constructing school buildings, which historically have been borne by the school district with general or capital improvement funds. Similarly, such capital infrastructure costs should be borne by the school district just as the school building and its contents should be.

Nutrition Education Materials

A SFA should weigh the pros and cons in order to determine whether funds from the NSFSA used to purchase nutrition education materials would better serve the children in the SMPs than the purchase of more nutritious foods. Because FNS and other entities provide such nutritional material at no charge, an exceptional reason must exist to justify purchasing such material. An SFA must fully consider whether existing, available material can meet its need.

Wellness Programs for SFA Employees¹⁰

The objective of an employee wellness program is not employee entertainment or recreation, but for the purpose of greater productivity and reduced health care costs by enhancing the workforce's health and fitness. The U.S. Office of Personnel Management's (OPM) guidelines and physical fitness directives of Federal civilian agencies allow employees to use official duty time for one-time events or programs of relatively short duration. Therefore, the NSFSA can be used for one-time events or programs of short duration that promote employee health and physical fitness.

Additionally, the involvement of food service staff in activities of a wellness committee for SFA employees does not warrant charging the food service a disproportionate share of the cost of operating the committee. For example, the NSFSA can be directly charged for reasonable and necessary food service staff time devoted to the committee; however, it cannot be charged for time associated with other staff whose duties do not fall under the purview of the food service operations (e.g., nurse's time or a teacher's time). The cost associated with the time a nurse or teacher spends on a wellness committee, should never be allocable to the school food service operations as the cost is not allowable.

Internal versus External Maintenance Personnel

The school district's billings for basic services, such as replacing outlets or repairing water lines, must be reasonable. In some cases, internal maintenance department charges can cost more than the same service provided by an external service provider. There could be a variety of reasons

¹⁰ Wellness programs for SFA employees **must not be confused** with local wellness policies to promote health and wellness in each school district which will allow schools to take an active role in promoting student wellness and preventing obesity through establishment of a local school wellness policy, as required by Section 9A of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758b.

for such policy, for example, union issues or safety concerns of exposing children in a school setting to maintenance workers who have not been screened in accordance with school district requirements.

However, the school district must review its policy to ensure the effect would not result in a payment from the NSFSA that is not commensurate with the value of the services provided by the school district. As we stated earlier, any expenditure of the NSFSA must be supported by documentation and substantiation of all charges. The SFA, as a steward of the NSFSA, must ensure that the cost is in accordance with the Federal cost principles. **A cost cannot be charged that is grossly disproportionate to the benefit the school food service received from the services provided.** For example, a school district requiring internal maintenance service to change all of the light bulbs in a kitchen at a rate of \$600/hour appears to be grossly disproportionate to the benefit the food service receives for the services provided. Additionally, if the NSFSA is charged directly for the internal maintenance service, this cost cannot also be included as part of the indirect cost pool.

Cost Allocation and Recovery in the School Food Service

When a cost benefits two or more cost objectives, the cost must be allocated or distributed among them proportionately with the benefit each received from the cost. Allocation is necessary because it identifies the portion of the cost that has or will benefit the school food service. An allowable cost can be charged to the NSFSA as an indirect cost with appropriate documentation.

Actual indirect costs such as utility bills, janitorial services, trash services, etc., are often paid from the school district's general fund and then billed to the NSFSA. For example, unless the school district has separate meters or utility lines to serve the school food service, assigning the charges through indirect costs may be the only way to identify them as costs allocable to the nonprofit school food service. Additionally, a cost such as utilities that is typically an indirect cost could be charged as a direct cost if the SFA can substantiate through proper documentation the portion that is specifically attributed to the SMPs (e.g., if there was a separate meter for the kitchen and cafeteria). However, a cost item must be **treated consistently** as direct or indirect in all activities of the SFA unless legislation, regulations, or guidance from an awarding agency dictates otherwise. A cost may not be assigned to a Federal award as a direct cost if the same cost incurred for the same purpose, in similar circumstances, has been allocated to other awards as an indirect cost.



“Treated consistently”

A cost may not be assigned to a Federal award as a direct cost if the same cost incurred for the same purpose, in similar circumstances, has been allocated to other awards as an indirect cost.

For example, it is not consistent treatment to charge utilities as an indirect cost for all programs (e.g., separate meter for the kitchen and cafeteria) except the SMPs.

No matter how seemingly appropriate a cost appears to be (i.e., utilities, trash collection, janitorial services, etc.), costs may be charged to the NSFSA only with **appropriate documentation**.¹¹ Under the Federal cost principles, a cost is **allocable** to a Federal award (i.e., SMPs) if it is treated consistently with other costs incurred for the same purposes in like circumstances and if it meets the following criteria:

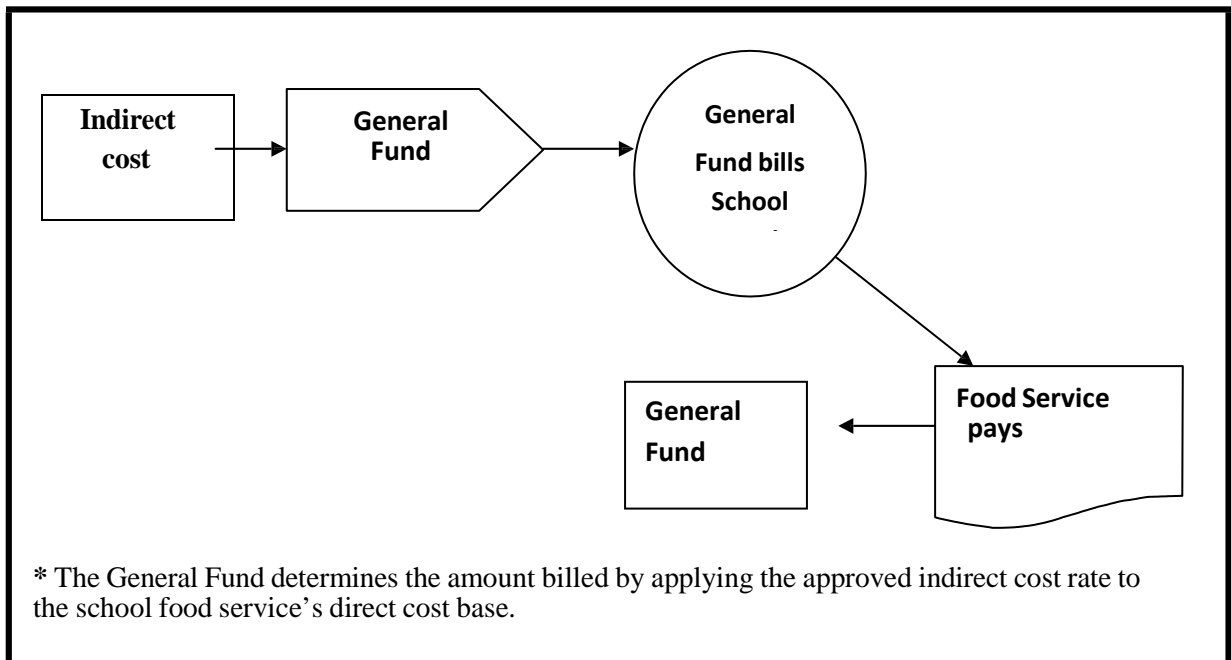
- It benefits both the Federal award and other work of the non-Federal entity, and can be distributed in proportions that may be approximated using reasonable methods; and,

¹¹ SMPs regulations at 7 CFR Parts 210.23(c) and 220.7(e)(13) require that records must be retained for 3 years; except that if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for resolution of the issues raised by the audit.

- It is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award, although a direct relationship to a particular cost objective cannot be shown.

A school district generally has two options to recover the indirect costs benefiting the school food service and other direct cost activities, yet paid from the general fund: (1) directing the general fund to rely on its own allotments, or (2) billing the program offices, such as the school food service, that claim Federal reimbursement from Federal and State awarding agencies.

Example: General Fund Recovers Indirect Costs Benefitting Nonprofit School Food Service



Developing and Applying an Indirect Cost Rate

This section provides a general and practical overview of how to develop and apply an indirect cost rate to ensure costs are allowable and properly classified as direct or indirect.



“SFA” vs. “Local Education Agency or LEA”

- The term “SFA” is used in this guidance to be more clear and simple. (Please see footnote 1 for detailed explanation.)
- U.S. Department of Education (USDE) requires each State educational agency (SEA) to negotiate an indirect cost methodology for any “LEA” under its jurisdiction that requests one. **Therefore, the term “LEA” will be used in this section.**

Allowable costs, direct and indirect, must be identified in a consistent manner. An LEA must identify indirect costs by using the same methodology to allocate certain shared costs across the entire spectrum of its Federal programs. An LEA generally participates in several Federal programs, not just SMPs; therefore, the SEA and LEA must determine how to allocate these indirect costs across several Federal programs. The Federal cost principles (described in detail in the next section), exist in part because an LEA or other program operator would find it burdensome to use a different method of allocating shared costs to grants from each of its Federal awarding agencies.

In order to avoid this burden, a single Federal agency, referred to as the *cognizant agency*, speaks for all the Federal awarding agencies in negotiating across-the-board allocation methodology with the program operator. The cognizant Federal agency for all SEAs is the USDE. Generally, the cognizant Federal agency negotiates a cost allocation document with the program operator; however, with respect to public school districts, USDE requires each SEA to negotiate an indirect cost methodology for any LEA under its jurisdiction that requests one. Therefore, the SEA is the *de facto* cognizant agency for this purpose for the LEAs under its jurisdiction.


The USDE negotiates an agreement with each SEA to establish the methodology the SEA will use in negotiating indirect cost methodologies for its LEAs. Once USDE approves the SEA’s LEA methodology, a Delegation Agreement is signed by the USDE and an SEA official. Under this agreement, the SEA generally distributes an indirect cost rate proposal (ICRP) form to its LEAs and uses the data collected to develop each LEA’s indirect cost rate. The ICRP is a schedule documenting the formulation of the LEA’s indirect cost rate and direct cost base; as such, it serves as the LEA’s request for the establishment of an indirect cost methodology. An LEA must prepare an ICRP, and the SEA must assign methodology based on it, before the LEA

can claim reimbursement for indirect costs.¹² An LEA must have an approved indirect cost rate proposal with an approved indirect cost rate that covers the period of time indirect costs were charged. The length of time for which the approved Indirect Cost Rate is valid may vary if the approved plan covers that time period at the approved rate, plus any one-time extensions, for a period of up to four years.¹³

In preparing the ICRP, all of the activities carried on by the school district and their accompanying costs must be identified. All activities must be included in the ICRP, whether their costs are allowable or unallowable and regardless of funding source. The starting point for developing the ICRP will be the LEA's most recently audited financial statements, chart of accounts, and accounting records supporting those documents after any adjustments resulting from the audit have been made.

The LEA develops its ICRP via the following steps:

- 1) Identify all the activities carried on by the school district and their accompanying costs;
- 2) Eliminate all capital expenditures and other excluded costs;
- 3) Classify the activities and their costs as direct or indirect;
- 4) Eliminate from indirect costs those costs stipulated as unallowable by OMB guidance or program regulation; and,
- 5) Compute the indirect cost rate by dividing the total remaining indirect costs (**indirect cost pool**) by the **direct cost base** selected for distribution of the indirect costs. **The indirect cost pool is the sum of allowable indirect costs. The direct cost base is the sum of allowable and unallowable costs that receives a benefit from the costs in the pool.**

 The end result of this process identifies all of the organization's direct costs, indirect costs, indirect cost rate(s), and the direct cost base(s) to which the rates are applied. The LEA should check with the SEA to learn more about how the indirect cost rate is developed, as the SEA may have additional requirements. *Please refer to Appendix A, at the end of this guidance, for an illustrative and detailed example on developing an ICRP.*

An ICRP requires substantiation and documentation, as set out in 2 CFR 200.57. Once the SEA approves the ICRP, the end result is an indirect cost rate agreement between the SEA and the LEA.¹⁴

A SFA may use funds from the NSFSA to pay only for allowable costs. Thus, the SFA must have two key pieces of information from the LEA regarding the indirect cost rate agreement: (1)

¹² While SMPs reimbursement is not cost-driven, most Federal assistance programs operated by LEAs are funded by reimbursing allowable costs.

¹³ Note, in FDPIR, this extension only applies to non-federal entities that have a final or predetermined rate. If a Tribe has a fixed rate with carry-forward, then they cannot apply for this extension unless the Tribe first negotiates a final or pre-determined rate with its cognizant agency -- Department of Interior.

¹⁴ The SEA may choose to not issue an indirect cost agreement in hard copy (i.e., paper version). This information is sometimes posted on the SEA's website.

the indirect cost rate (established for a specific fiscal year), and (2) the corresponding direct cost base. The direct cost base is necessary because the indirect cost rate can only be applied to items covered in the direct cost base.



Key Information in the Indirect Cost Rate Agreement:

The SEA may not issue an actual indirect cost rate agreement in hard copy (i.e., paper version); however, this information may be posted on the SEA's website.

The SFA will need the following information from the indirect cost agreement:

- Current and approved indirect cost rate (established for a specific fiscal year); and,
- Corresponding direct cost base

Remember: Indirect cost rate may only be applied to items in the direct cost base.

Consideration When Assessing Indirect Costs Charged to the NSFSA

To avoid erroneous indirect costs charged to the NSFSA resulting from mathematical error or user assessment, the stewards of the account must be provided the necessary tools to verify and validate costs when necessary. It is best practice for the SFA to compare the approved ICRP and the approved indirect cost rate agreement. If the approved indirect cost rate and direct cost base are used, the SFA should compute the amount of indirect costs chargeable to the school food service and compare this result with the actual amount of indirect costs billed to the school food service to ensure no mathematical errors have occurred. After obtaining satisfaction that the LEA's approved methodology has been properly applied, the SFA, if possible, should also review recent audits of the school district to determine if problems have been identified in the LEA's prior indirect cost rate calculations. The SFA should be alert to **the following red-flag areas when reviewing the ICRP and the indirect cost rate computations:**

- Use of an unapproved rate or methodology;
- The allowability of the indirect costs included in the indirect cost pool;
- The inclusion of the same cost in both the indirect cost pool and direct cost base;
- Treating a cost inconsistently (i.e., in some cases the cost is direct and in others the same cost is indirect);
- Using undocumented costs in the indirect cost pool or direct cost base;
- The composition of the direct cost base (i.e., is the base stable and consistent); and,
- The mathematical accuracy of the computation of the indirect cost rate.

If errors are discovered, the appropriate officials should be notified and the ICRP and the indirect cost methodology corrected as soon as possible. If the general fund has been shown to have inappropriately recovered indirect costs from the NSFSA, the SFA should document the amount of funds which must be restored to the NSFSA and make the appropriate accounting entries to the financial records of both the general fund and the NSFSA.



Steps a SFA should take if indirect costs charged to the NSFSA result from mathematical error or user assessment:

- The appropriate officials should be notified and the ICRP and indirect cost methodology corrected as soon as possible;
- If there is a disagreement between the SFA and the appropriate officials, the SA or SEA should be contacted to discuss the issue;** and
- The SFA should not pay for any costs resulting from the mathematical error or user assessment until the issue has been appropriately remedied.

**The State agency or SEA should seek FNS' guidance, if needed, by contacting the appropriate FNS Regional Office.

Many school districts have never billed indirect costs to the NSFSA, either as a method of supporting the school food service or because the general fund contained enough funds to cover such costs. **It is unallowable to bill the NSFSA for indirect costs that were paid from the general fund in prior years unless an agreement exists to show that the district had been**

“loaning” the NSFSA funds to cover the indirect costs in one or more prior years. This would require that an official “inter-fund” transaction had been posted to the accounting records of the general fund and of the NSFSA each year that such a “loan” had been made. Such entries would consist of a receivable (“Due from School Food Service”) in the general fund and an account payable (“Due to General Fund”) in the NSFSA. Without such documentation evidencing prior-year inter-fund loans, the NSFSA should not be charged for prior year indirect costs. **There is no Federal requirement that prohibits an SFA from changing its internal fiscal policy regarding the recovery of indirect costs by those organizational units within the SFA that actually incur the costs. Absent a documented “inter-fund loan” as outlined above, however, an SFA may only change its policy to charge the NSFSA for indirect costs prospectively (that is, going forward for the next school year).**



It is unallowable to bill the NSFSA for indirect costs that were previously paid from the general fund unless an agreement exists to show that the district had been “loaning” the NSFSA funds to cover the indirect costs in one or more prior years.

The SFA may only change its policy to charge the NSFSA for indirect costs prospectively.

Indirect Cost Rates & Adjustment Methods

The SEA generally assigns each LEA both an unrestricted rate and a restricted rate. Both types of indirect cost rates will be described below.

Unrestricted (Negotiated) Indirect Cost Rate

The SEA can approve the indirect cost rate that emerges from an LEA’s ICRP calculations. This rate is known as a **negotiated or unrestricted rate because it is not limited by Federal restrictions**. The unrestricted rate allows an LEA to recover the full cost of its Federal programs, including their fair share of the cost of its indirect cost activities.

Formula Prescribed for Calculating Unrestricted (Negotiated) Rates

$$\text{Unrestricted/Negotiated Indirect Cost Rate} = \frac{\text{Indirect Cost Pool}}{\text{Direct Cost Base (allowable + unallowable costs)}}$$

Restricted Indirect Cost Rate

The legislation that authorizes some Federal educational programs requires that Federal funds are made available for a program's enhancement but these federal funds are not to replace resources that SEAs and LEAs have already been spending on its education programs before the inception of the Federal programs. The intent is to assist SEAs and LEAs in achieving greater levels of benefits and services for its educational programs without withdrawing their previously dedicated resources in support of these activities. Federal funding for these programs must supplement, not supplant, dedicated non-Federal resources. In order to implement this "supplement-not-supplant" requirement, USDE requires SEAs and LEAs to recalculate their indirect cost rates using a formula described in 34 CFR 76.564-.569. This formula generates a lower rate known as a **restricted rate**. Most restricted rates are single-digit. Applying the restricted rate results in a marginal distribution of administrative overhead costs required to implement Federal assistance programs.

The formula entails purging certain cost items from an SEA's or LEA's unrestricted indirect cost pool, and reclassifying them as direct costs. By excluding otherwise allowable costs from the indirect cost pool and adding them to the direct cost base, this operation generates a smaller numerator and larger denominator. The resulting calculation generates the lower, restricted rate.

Formula Prescribed for Calculating Restricted Rate

$\text{Restricted Indirect Cost Rate} = \frac{\text{General Management Costs} + \text{Fixed Costs}}{\text{Other Expenditures}}$

As noted above, the LEA obtains the numerator of this formula by removing certain cost items from the indirect cost pool used in calculating the unrestricted rate, and reclassifying them as direct costs. These purged and reclassified costs are those for which an SEA or LEA remains responsible despite the availability of Federal funds. Examples include the salaries, fringe benefits, and other compensation of the Superintendent and Deputy or Associate Superintendents, and the cost of operating these officials' offices (such as travel, space occupancy, etc.). The costs that remain in the pool after this purge are classified as "General Management Costs" and "Fixed Costs."

General Management Costs are incurred for the direction and control of the organization as a whole. Examples include the costs of accounting, payroll, human resources, audit, and procurement offices. Occupancy and space maintenance costs associated with these services may also be included if justified by the results of a space allocation or use study.

Fixed Costs consist of the SEA's or LEA's contributions to fringe benefits associated with wages and salaries that are charged as indirect costs.

The denominator in the formula (“**Other Expenditures**”) is the sum of the original direct cost base used in calculating the unrestricted rate, and the cost items purged from the indirect cost pool and reclassified as direct costs.

The LEA must use the restricted rate to determine indirect costs allocable to those Federal educational programs whose authorizing statutes include the supplement-not-supplant language. This requirement thus prevents an LEA from recovering the full cost of those programs from the State. The LEA must absorb, from its own resources, the difference between indirect costs allocable to those programs under the restricted rate, and what those costs would have been if determined via the unrestricted rate. As already noted, States generally approve both an unrestricted rate and a restricted rate for each LEA under their jurisdiction.

Appropriate Use of Unrestricted and Restricted Rates

As we explained in *Cost Allocation and Recovery in the School Food Service*, an SFA does not claim reimbursement for allowable direct and indirect costs. However, the general fund often bills the school food service for its share of the indirect costs by applying the State-approved indirect cost rate to the school food service’s direct cost base. The billed amount generated thereby is the amount of indirect cost properly allocable to the school food service. Any billed amount in excess of that amount is properly allocable to other activities of the LEA, not to the school food service. Therefore, for the portion of such billing that exceeds the properly allocable amount and does not support the operation or improvement of the food service; charging it to the school food service would violate both the Federal Cost Principles and SMPs regulations at 7 CFR 210.2, 210.14(a), 220.2 and 220.13(a).



Properly billed indirect costs:

The food service’s share of indirect costs is determined by applying the approved indirect cost rate to the school food service’s direct cost base.

- School food service is allowed to pay properly billed indirect costs with funds from the NSFSA; and
- School food service is not allowed to pay **any amount in excess of the properly billed indirect costs** (the portion that does not support the operation or improvement of the food service) with funds from the NSFSA.

Whether the general fund bills a direct cost activity, such as the school food service, for indirect costs at the restricted or unrestricted rate depends on the Federal programs operated within that activity. If such programs’ authorizing legislation includes the “supplement-not-supplant”

language discussed earlier in this guidance, the restricted rate must be used. **The legislation authorizing the SMPs does not contain such a requirement; therefore, the general fund may bill the school food service at the unrestricted rate.** Some LEAs have nevertheless opted to support the food service by billing it at the restricted rate, which is lower. Once that choice has been made for a given fiscal year, the LEA must apply the selected rate consistently throughout that period.

If the general fund bills on the basis of an indirect cost rate, the LEA must have a current, negotiated indirect cost rate agreement in place and must bill in accordance with the methodology set out in such agreement. For example, an indirect cost rate agreement that sets an unrestricted rate of 12 percent of direct wages and salaries limits the general fund's billing to 12 percent of direct food service wages and salaries.

Capping Indirect Cost Rates

The legislation authorizing some Federal programs may impose caps on the indirect cost rates available to State and local agencies operating such programs. For example, the indirect costs chargeable to a program may be statutorily restricted to 5 percent of the Modified Total Direct Costs (MTDC) even though the program operator has an unrestricted indirect cost rate of 17 percent of MTDC. Such an indirect cost rate cap may not be arbitrarily imposed; rather, it must be required by legislation. As a practical matter, many LEAs cannot fully recoup all indirect costs allocable to programs in which the capping of indirect cost rates is required. However, as stated earlier, this does not justify reclassifying the unrecovered balance of the charges as a direct cost. Costs consistently treated as indirect may not be charged as direct in order to circumvent a statutory cap on the indirect cost rate, because doing so would violate the requirement to treat costs consistently as direct or indirect.

Adjustment Methods

An LEA may recover either more or less indirect cost in a fiscal year by applying its approved methodology than it actually incurred in that period. An LEA derives its indirect cost rate and direct cost base for use in each accounting period (fiscal year) from prior year audited financial statements. Consequently, the LEA identifies the indirect cost to be recovered in the current fiscal year by applying a rate derived from prior year costs to a base consisting of current year direct costs. Such "adding of apples to oranges" is unavoidable because audited financial statements are inherently retrospective; actual cost data for the 2014-2015 fiscal year, for example, are neither complete, final, nor validated by audit until well into the 2015-2016 fiscal year. By then, the LEA is formulating its ICRP for the next year. Therefore, there is a two-year time lag between the LEA actually incurring indirect costs and those costs becoming available for use in formulating an ICRP.



Please refer to Appendix B, at the end of this guidance, for more information on appropriate methods for making adjustments to indirect charges.

Cost Allocation Plan and Indirect Cost Rate Audit Findings

Past audit findings have identified the inclusion of unallowable costs. Some examples are:

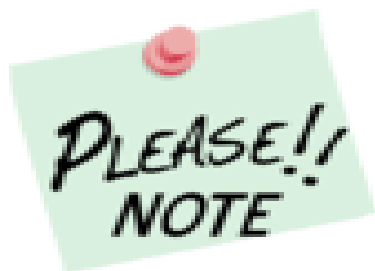
- Capital expenditures for an alarm and security system were included in the indirect cost pool. These costs were subsequently disallowed during the audit because capital expenditures can only be charged as a direct cost during the period in which the cost was incurred.
- Rental costs were questioned because the lease was not an arms-length transaction. These costs were allowed only up to the amount that would have been allowed had the title to the property been vested in the organization.
- Depreciation expenses were questioned because the computation of the expense incorrectly included the value of land. The depreciation expense was recalculated using the acquisition cost less the value of land.
- Lack of adequate documentation was provided to support charges to the indirect cost pool. Since indirect costs must be actual costs, an organization must have adequate documentation to support the costs included in the indirect cost pool. As always, only costs which are necessary, reasonable, allocable, or properly documented can be charged either directly or indirectly.
- Refunds were not properly credited to the indirect cost pool. Any reduction to a cost item included in the indirect cost pool must be credited to the pool.
- Cost of a recipient's automobile used for personal use was questioned. This cost required allocation between the allowable cost portion assignable to the grant and the portion that was not an allowable cost (i.e., personal use).
- A grantee paid the salary of an individual who worked exclusively on a direct function from the indirect cost pool. This cost was disallowed because it was a direct, not indirect cost.

Conclusion

This Indirect Cost guidance provides assistance to SFA business officials to ensure the NSFSA funds are limited to those expenses that are reasonable, necessary, and allocable to provide quality meals for the NSLP and SBP. Key principles in this guidance include:

- Understanding allowable costs,
- Understanding how to appropriately charge direct or indirect costs,
- Understanding SMPs' indirect cost compliance requirements, and
- Understanding how to safeguard the financial integrity of the NSFSA with respect to direct and indirect costs.

SFAs with questions should refer to their respective SEA. Additionally, the Appendices to this guidance may provide pertinent information to SFAs, SEAs and State agencies.



In accordance with Section 307(b) of the Healthy, Hunger-Free Kids Act of 2010, the USDA Food and Nutrition Service conducted an indirect cost study. The study is located at www.fns.usda.gov/school-foodservice-indirect-cost-study.

Appendix A: Illustrative and Detailed Example on Developing an ICRP

Step 1: Identify ALL Costs (allowable and unallowable)

NEW SCHOOL DISTRICT: EXPENDITURES BY FUNCTION		
<u>Function Code</u>	<u>Account Title</u>	<u>Expenditures (\$)</u>
1000	Instruction	900,000
2100	Student Services	75,000
2212	Curriculum Development	30,000
2213	Instructional Staff Training	20,000
2321	Office of the Superintendent	40,000
2510	Fiscal Services	10,000
2520	Procurement	10,000
2560	Public Relations	10,000
2570	Personnel (Human Resources)	15,000
2600	Plant Operation & Maintenance	125,000
2700	Student Transportation	165,000
3100	Food Services	100,000
TOTAL		\$1,500,000

The expenditures are determined from the LEA’s accounting system. The total cost, regardless of the funding source, must be identified for each function. This is confusing for many because costs not directly related to the school food service are accounted for in order to develop the indirect cost rate. However, an ICRP is the methodology that substantiates a resulting indirect cost rate. ICRP’s are required to identify all activities carried on within each LEA and their associated costs, regardless of funding source. The ICRP is based on the LEA’s total expenditures; therefore, all expenditures must be included in the ICRP.

Step 2: Remove All Excluded Costs

The next step is to exclude all costs that would distort the final result. “Distorting items” should be excluded because they do not generate or benefit from the administrative overhead in the same manner as wages, salaries, etc. Distorting items include (but are not limited to):

- Equipment purchases and other capital expenditures
- Payments to contractors beyond the first \$25,000
- Food costs in the school food service
- Renovations and alterations, and
- Certain unallowable costs (e.g., fines, penalties, bad debts).

NEW SCHOOL DISTRICT: EXPENDITURES BY FUNCTION				
<u>Function Code</u>	<u>Account Title</u>	<u>Old Total</u>	<u>Excluded Cost</u>	<u>New Total</u>
1000	Instruction	900,000	(100,000)	800,000
2100	Student Services	75,000		75,000
2212	Curriculum Development	30,000		30,000
2213	Instructional Staff Training	20,000		20,000
2321	Office of the Superintendent	40,000		40,000
2510	Fiscal Services	10,000		10,000
2520	Procurement	10,000		10,000
2560	Public Relations	10,000		10,000
2570	Personnel (Human Resources)	15,000		15,000
2600	Plant Operation & Maintenance	125,000		125,000
2700	Student Transportation	165,000	(90,000)	75,000
3100	Food Services	100,000	(90,000)	10,000
	TOTAL	1,500,000	(280,000)	1,220,000

In this example, the LEA excluded: (1) \$100,000 in contract costs from Function 1000 (Instruction), (2) \$90,000 expended to purchase school buses from Function 2700 (Student Transportation), and (3) \$90,000 in food purchases from Function 3100 (Food Services).

The following paragraphs explain why these items are considered distorting items:

Capital Expenditures: A capital expenditure is the cost of acquiring a capital asset (e.g., equipment, etc.). While purchasing equipment, for example, is a “cost,” it is not a current operating expense because the LEA does not realize the entire benefit of the equipment’s cost at the time of purchase; rather, the benefit is realized over a period of years that the equipment is used in operations. This benefit is measured by annual depreciation expense and is the reason why only a year’s depreciation expense can be included in indirect cost computation.

Contract Costs: The cost of administering a procurement contract is substantially the same, whether the value of the contract is \$100,000 or \$100 million. The cost is presumed not to exceed \$25,000 per contract. Therefore, the value of each contract beyond the first \$25,000 must be excluded.

Food Costs: Like capital expenditures and contract costs, food purchases require minimal administrative support; therefore, they are excluded.

Step 3: Classify Costs as Direct or Indirect

Next, the LEA/SFA determines whether each cost is a direct or indirect cost. The SFA makes this determination by following the accounting and reporting principles of the SEA which is in accordance with 2 CFR Part 200.

NEW SCHOOL DISTRICT: EXPENDITURES BY FUNCTION				
<u>Function Code</u>	<u>Account Title</u>	<u>Direct</u>	<u>Indirect</u>	<u>Total Costs</u>
1000	Instruction	800,000		800,000
2100	Student Services	75,000		75,000
2212	Curriculum Development	30,000		30,000
2213	Instructional Staff Training	20,000		20,000
2321	Office of the Superintendent		40,000	40,000
2510	Fiscal Services		10,000	10,000
2520	Procurement		10,000	10,000
2560	Public Relations		10,000	10,000
2570	Personnel (Human Resources)		15,000	15,000
2600	Plant Operation & Maintenance		125,000	125,000
2700	Student Transportation	75,000		75,000
3100	Food Services	10,000		10,000
	TOTAL	1,010,000	210,000	\$1,220,000

Step 4: Eliminate unallowable costs from the total indirect costs to obtain the Indirect Cost Pool

As we stated earlier, only allowable costs can be allocated to Federal assistance programs. Therefore, the next step is to remove all unallowable costs from the indirect cost pool. However, because the unallowable indirect costs remain part of the school district’s total costs and benefit from the administrative overhead, these costs are included in the direct cost base.¹⁵ The result is a **Modified Total Direct Costs (MTDC) base**. As already noted, the MTDC base excludes “distorting items.”

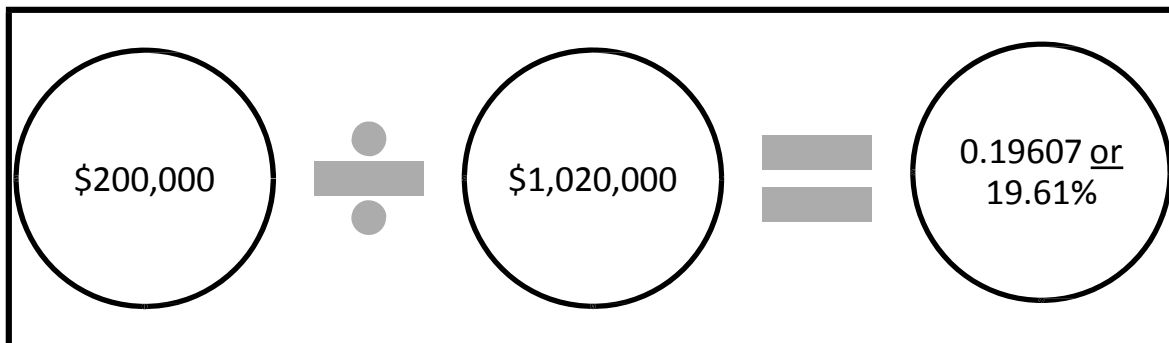
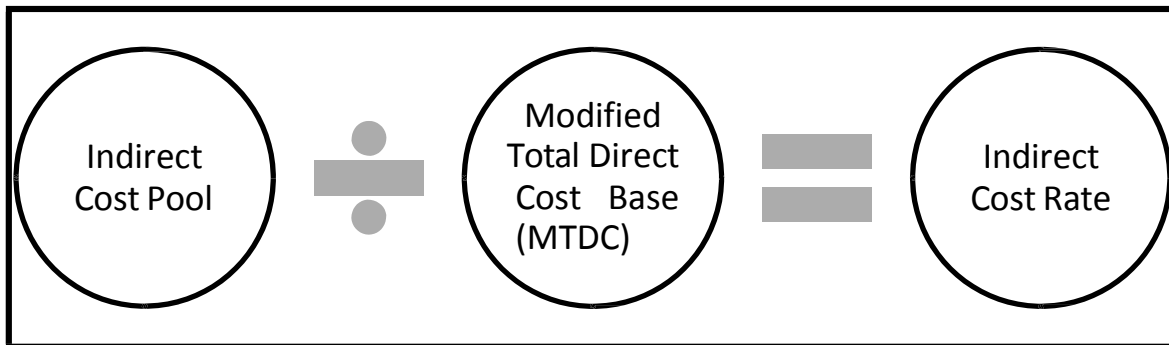
We will assume, for illustrative purposes that the New School District identified the following items as unallowable costs and consequently eliminated them from the indirect cost pool:

- \$2,000 in unallowable public relations costs from code 2560 (Public Relations). These costs were unallowable because they represented promotion of the district in general rather than specific program benefits or achievements.
- \$8,000 from code 2321 (Superintendent’s Office). These costs were unallowable because they represented travel by the Superintendent for purposes that did not benefit Federal assistance programs.

¹⁵ Please refer to Attachment 3 of this guidance for examples which explain when costs should be included in the direct cost base (denominator) or excluded.

<u>Function Code</u>	<u>Account Title</u>	<u>Indirect</u>	<u>Unallowable</u>	<u>Indirect Cost Pool</u>	<u>Direct Costs</u>
1000	Instruction				800,000
2100	Student Services				75,000
2212	Curriculum Development				30,000
2213	Instructional Staff Training				20,000
2321	Office of the Superintendent	40,000	(8,000)	32,000	8,000
2510	Fiscal Services	10,000		10,000	
2520	Procurement	10,000		10,000	
2560	Public Relations	10,000	(2,000)	8,000	2,000
2570	Personnel (Human Resources)	15,000		15,000	
2600	Plant Operation & Maintenance	125,000		125,000	
2700	Student Transportation				75,000
3100	Food Services				10,000
	TOTAL	\$210,000	(\$10,000)	\$200,000	\$1,020,000

Step 5: Calculate Indirect Cost Rate¹⁶



As seen in the Table for Step 4, the indirect cost pool is \$200,000 and the Modified Total Direct Cost (MTDC) is \$1,020,000.

¹⁶ The indirect cost methodology in this example uses MTDC as a direct cost base. Other bases, such as direct wages and salaries or direct wages, salaries, and benefits, are also often used.

The indirect cost rate is a ratio of the LEA's indirect costs to its direct costs. The indirect cost rate benefits the LEA because general management and administrative costs are necessary for any program to exist. Without the benefit of an indirect cost rate, there would be no standard way for each program to contribute its share of the general management and administrative costs without spending significant staff time accounting for each activity.

It is important to note that this methodology generates the unrestricted (negotiated) indirect cost rate. Additional operations are necessary to generate the restricted rate. Additionally, the LEAs cannot receive reimbursement for indirect costs under programs funded by reimbursing allowable costs unless they have both the prescribed rate and prescribed base; each is useless without the other. Also, if the SEA has notified an SFA of its indirect cost rate but not the base, then the SFA must contact the SEA to obtain it. An SFA must never pay for indirect costs without first reviewing an approved indirect cost rate agreement. In other words, an SFA must not pay for indirect costs solely on the basis of the district providing an indirect cost rate.



SFA must not pay for indirect costs without:

- Reviewing the indirect cost rate agreement,
- Ensuring the indirect cost rate agreement provides the indirect cost rate and direct cost base, and
- Ensuring that the approved indirect cost methodology was properly applied in the preparation of the bill.

Remember: *The indirect cost rate can only be applied to cost items in the base.*

Appendix B: Various Indirect Cost Rate Methods

The Federal cost principles provide remedies in the form of after-the-fact adjustments in cases where an LEA recovers either more or less indirect cost in a fiscal year by applying its approved methodology, than it actually incurred in that period. The following paragraphs summarize two commonly used adjustment methods: **Fixed Rate with Carry-Forward** and **Provisional-Final**. The Fixed Rate with Carry-Forward method is preferred.

Fixed Rate with Carry-Forward

In a **Fixed Rate with Carry-Forward** methodology, the indirect cost rate assigned for the upcoming fiscal year remains stable or fixed. After the fiscal year ends, the actual indirect costs incurred in that period are compared with the amount of indirect costs recovered by applying the rate approved for use in that period. During the computation of the next period's indirect cost rate, the amount of any difference between indirect costs charged and indirect costs recovered is carried forward by subtracting any over-recovery from, or adding any under-recovery to the indirect cost pool. The new rate thus takes into account the adjustment necessary so that over time the amount of indirect costs recovered equals the amount of indirect costs actually incurred.

Provisional - Final Methodology

Under the **Provisional-Final methodology**, the LEA and its SEA negotiate an estimate of indirect costs the LEA will incur in the upcoming fiscal year, and the SEA approves a temporary (provisional) rate, based on such estimates, for the LEA's use in that period. Similar to the Fixed Rate with Carry-Forward method, the results of using the provisional rate become subject to adjustment after the close of the applicable fiscal year. The amount of indirect costs actually incurred during the fiscal year is compared with the amount of indirect costs charged by applying the provisional indirect cost rate, after the former becomes available. If no differences exist, the provisional rate is finalized. When a difference does exist, a new indirect cost rate is computed.

This method differs from the Fixed Rate with Carry-Forward method in that required adjustments are made retroactively rather than rolled forward. The new, final rate is applied to the direct cost base and any differences between the final and provisional rates are charged or credited (as applicable) to the indirect cost account. Because the final rate must be computed using the final cost data for the fiscal year, there can be a significant time delay between the assignment of the provisional rate and the issuance of a final rate. Any adjustments that must be made will result in amending accounting records from the prior period. The LEA must maintain and keep these accounting period records open and available. A provisional-final rate methodology can create reporting problems when the LEA is required to submit final cost reports for a particular federally funded program before the final rate is assigned.

Table B-1: Example of Fixed-Rate with Carry-Forward Adjustments

Transactions	FY 2012	FY 2013	FY 2014	FY 2015
Indirect Cost Pool:				
Departmental		\$8,241,470	\$9,663,476	\$9,756,895 (113,139)
Carry-Forward		-0-	464,589	11/
Total		\$8,241,470	\$10,128,065	\$9,643,756
		2/	6/	12/
Direct Cost Base		\$174,674,112	\$195,720,60	\$199,895,960
		2/	7/	12/
Fixed Rate		4.7 %	5.17%	4.82% 12/
		2/	7/	
Actual Indirect Cost Incurred:				
Departmental	\$8,241,470 1/	\$9,663,476	\$9,756,895	
Carry-Forward	-0-	3/	464,589	
Total	\$8,241,470		\$10,221,484	
			8/	
Indirect Cost Recovered		\$9,198,887	\$10,334,623	
		4/	9/	
(Over)/Under Recovery		\$464,589	(113,139)	
		5/	10/	
Actual Direct Cost Incurred	\$174,674,112 1/	\$195,720,601	\$199,895,960	
		3/	8/	

NOTES:

- 1/ In Fiscal Year (FY) 2012, the LEA incurred actual direct and indirect costs of \$174,674,112 and \$8,241,470, respectively.
- 2/ The LEA used actual costs incurred in FY 2012 to calculate the indirect cost rate to be used in FY 2014 ($\$8,241,470 / \$174,674,112 = 0.047$ or 4.7%).
- 3/ In FY 2014, the LEA incurred actual direct and indirect costs of \$195,720,601 and \$9,663,476, respectively.
- 4/ In FY 2014, the LEA recovered (claimed reimbursement for) indirect costs of \$9,198,887 by applying the rate to its base of actual direct costs incurred ($\$195,720,601 * 0.047 = \$9,198,887$).

- 5/ Since the LEA recovered less in indirect costs than it actually incurred in FY 2014; the LEA has an under-recovery of \$464,589 (\$9,663,476 incurred minus \$9,198,887 recovered = \$464,589 not recovered). The LEA will recover this amount by making a \$464,589 carry-forward adjustment to its FY 2010 indirect cost pool.
- 6/ The LEA's FY 2016 carry-forward adjustment generates an indirect cost pool of \$10,128,065. This figure is the sum of the \$9,663,476 of indirect costs actually incurred in FY 2014, and the \$464,589 not recovered in that period.
- 7/ The LEA calculates an indirect cost rate of 5.17% for use in FY 2016.
 $(\$10,128,065 / \$195,720,601 = 0.0517 \text{ or } 5.17\%)$
- 8/ In FY 2016, the LEA incurred actual direct and indirect costs of \$199,895,960 and \$10,221,484, respectively. The indirect cost figure is the sum of \$9,756,895 actually incurred in FY 2016 and the \$464,589 carry-forward adjustment.
- 9/ In FY 2016, the LEA recovered (claimed reimbursement for) indirect costs of \$10,334,623 by applying the rate to its base of actual direct costs incurred ($\$199,895,960 * 0.0517 = \$10,334,623$).
- 10/ The LEA recovered reimbursement for more indirect costs in FY 2016 than it actually incurred. It therefore has a negative carry-forward adjustment of \$113,139 ($\$10,221,484 \text{ minus } \$10,334,623 = \$ (113,139)$). The LEA will subtract this amount from its indirect cost pool when calculating its indirect cost rate for use in FY 2018.
- 11/ The LEA deducts \$113,139 from its actual FY 2016 indirect costs in order to obtain the indirect cost pool it will use in calculating its indirect cost rate for FY 2018. The adjusted pool amounts to \$9,643,756 ($\$9,756,895 \text{ minus } \$113,139$).
- 12/ The LEA calculates an indirect cost rate of 4.82% for use in FY 2018.
 $(\$9,643,756 / \$199,895,960 = 0.0482 \text{ or } 4.82\%)$.

Appendix C: Indirect Cost Q&As

<p>1. Which entity is responsible for ensuring that direct and indirect costs are allocated properly?</p>	<p>A1. The responsibility for compliance with the Federal regulations is jointly shared by the State agency and the SFA.</p>
<p>2. Can we charge indirect costs to a Federal grant if we do not have an indirect cost rate?</p>	<p>A2. No. A non-Federal entity must have a current indirect cost rate agreement to charge indirect costs to a grant. In most instances, an indirect cost rate is approved annually.</p>
<p>3. How do I get an indirect cost rate for my organization?</p>	<p>A3. School districts should contact their SEA.</p>
<p>4. Who approves the indirect cost rate?</p>	<p>A4. The SEA performs the duties of a cognizant agency for LEAs in each State.</p>
<p>5. What is a “cognizant” agency?</p>	<p>A5. The agency tasked with negotiating indirect cost methodologies for non-Federal entities. The cognizant agency negotiates with the non-Federal entity on behalf of all the non-Federal entities’ awarding agencies in order to obtain one methodology that can be used consistently to assign indirect costs to the grantee’s Federal awards. As already noted, the SEA performs these duties for LEAs within its State.</p> <p>Once a rate is established by the cognizant agency (SEA), it will be honored by other Federal agencies and grantor agencies. However, many Federal programs have limitations on the amount of indirect costs that may be claimed on a grant, so the actual indirect cost rate may not always be able to be used.</p>
<p>6. Can indirect costs represent unallowable costs?</p>	<p>A6. No. A cost must be allowable in order to be allocated to Federal programs as an indirect cost. The Federal cost principles provide guidance on allowable costs.</p>
<p>7. Are there any examples which explain when costs should be included in the direct cost base (denominator) or excluded?</p>	<p>A7. <u>Example 1</u> The SEA receives a \$1,000,000 award from a Federal agency. The purpose of the award is to have specific school districts conduct seminars on a new Federal program. The State agency awards \$100,000 to each of 10 school districts. Each of the school districts is responsible for payroll, issuing contracts and purchase orders, acquiring and paying for supplies, reimbursement for travel, and other similar administrative costs. The only efforts the State agency spends on these awards are providing electronic payments and reviewing end-of-year financial reports. The \$1,000,000 award is a “pass-through” and therefore excluded. There is minimal benefit to the State agency from receipt of these funds. For each school district, the expenditures are part of the base for calculating the indirect cost rate.</p> <p><u>Example 2</u> The State agency receives a \$500,000 grant from a corporate endowment to improve mathematics instruction.</p>

	<p>The endowment does not allow indirect cost reimbursement under its grants. The State agency hires five full-time staff with the funds and pays the salaries, fringe benefits, local travel, supplies, and other staff expenses. All expenses incurred under this endowment grant are included in the State agency's base (except distorting items such as equipment purchases). It does not matter whether the endowment allows indirect costs or not. These costs benefit from the State agency's allowable indirect costs (payroll, personnel, procurement, data processing, etc.).</p> <p>Therefore, in accordance with 2 CFR 200, the costs are included in the base. If not, the State agency's other programs absorb an unfair portion of the costs of administering the endowment grant.</p>
<p>8. Are there instances that food purchases should be included (rather than excluded) in the indirect cost rate calculation? For example, a public school district operates a food service program and food is a significant direct cost to the program.</p>	<p>A8. Expenditures for food are generally referred to as "distorting items" since they do not generate administrative overhead or benefit from it, to the same degree as most other direct cost objects (such as wages and salaries). Such distorting items are excluded when calculating the rate and indirect cost reimbursement because the activities require minimal administrative support.</p>
<p>9. What does it mean that indirect costs must be treated consistently?</p>	<p>A9. The program operator must classify all similar costs in a consistent manner. The same cost item incurred under the same circumstances must be treated consistently as direct or indirect in all activities in which the program operator incurs that cost.</p>
<p>10. Is depreciation a direct or indirect cost?</p>	<p>A10. The classification of depreciation as a direct or indirect cost depends on the classification of the activity in which the depreciable property is being used. For example, depreciation expense on food service equipment can be specifically identified with the food service. Food service is a direct cost activity. Accordingly, depreciation expense on the equipment used in food service is also a direct cost. By contrast, depreciation expense on the school buildings and the buildings housing a SFA's administrative offices is an indirect cost because all activities of the SFA benefit from use of the buildings. The accounting policies of the SFA may also determine the classification of depreciation expense as direct or indirect.</p>
<p>11. Who should an SFA contact if it has questions on proper indirect cost charges or this indirect cost guidance?</p>	<p>A11. Contact the SEA. The SEA is responsible for LEA/SFA indirect cost oversight and provides guidance/instructions to LEAs/SFAs.</p>
<p>12. If the school district previously paid for indirect costs from the general fund, can it change its mind and retroactively charge the food service for indirect costs?</p>	<p>A12. It is unallowable to bill the NSFSA for indirect costs that were previously paid from the general fund unless an agreement exists to show that the district had been "loaning" the NSFSA funds to cover the indirect costs in one or more prior years.</p>
<p>13. Is it correct that school districts cannot recover the maximum indirect cost plus charge food service directly</p>	<p>A13. A consistency problem exists when the grantee does not treat "all" programs/activities in the same manner. The consistency principle applies "organization-wide," not just</p>

<p>for something that is an indirect cost for other programs?</p> <p>Scenario: The SEA calculates indirect cost rates (both restricted and unrestricted) for its LEAs. The unrestricted rate is applied to the child nutrition program. Some school districts want to recover the maximum amount of indirect cost from the food service (unrestricted rate times the qualifying expenditures), <u>and</u> charge the food service directly.</p>	<p>to particular programs or certain types of cost.</p> <p>Additionally, it is a concern that the practice described in the question, could result in over-charging of costs (an allocation of more than 100% of the total costs incurred). 2 CFR 200.416, Cost allocation plans and indirect cost proposals, provides guidance regarding consistency.</p>
<p>14. Would the following scenario violate the consistency principle?</p> <p>Scenario: An LEA is charging the NSFSA indirectly for the electricity costs, based on an allocation formula that uses square footage. The LEA is not charging any other Federal program for electricity. It is also recovering indirect costs from the NSFSA, but at a rate lower than its allowable rate.</p>	<p>A14. As the scenario describes, the school appears to be charging the child nutrition program for the electricity costs, based on an allocation formula that uses square footage and they are not charging any other Federal program directly for electricity. The school is also recovering indirect costs from the child nutrition program, but at a rate lower than their allowable rate. In the situation described, the non-Federal entity would be charging the same type of cost to different programs, using different allocation methods. This would violate the consistency principle. In accordance with 2 CFR 200.412, each item of cost must be treated consistently, in like circumstances, either as a direct or an indirect cost. With respect to the reduced rate, a non-Federal entity may choose to take a reduced rate.</p>
<p>15. Can an LEA decide that certifications in March and May for employees who are charged 100% to a single cost objective meet the requirement to provide “semi-annual” certifications?</p>	<p>A15. In the situation described, reasonableness and prudence must be exercised when using periodic time certifications. If the certification is signed in March and May, then it would cover 10 months and 2 months, respectively. The phrase "periodic" is interpreted as referring to regular intervals and the provision in 2 CFR 200 which states in part "...will be prepared at least semi-annually..." means at least every 6 months.</p>

Appendix D: Typical Costs and their Classification as Direct or Indirect¹⁷

Category USDE	Description	Supporting Documentation	Allowable or unallowable Cost	Direct or Indirect Cost
Food/ Food Supplies	Items used to prepare meals for enrolled children	Vendor invoices and receipts	Allowable	Direct
Labor for food service	Wages & salaries of persons employed (full or part time) in operating the food service. May include such position titles as food service worker, food service supervisor, food service stock worker, etc.	Time cards; Multi-Fund Time Reports for employees whose duties benefit two or more funds	Allowable	Direct
Custodial Services	Clean kitchen/serving areas only	Time cards that identify the number of hours spent cleaning the kitchen, prep & serving areas	Allowable	Direct
Custodial Services	Cleans entire school, including kitchen/serving area	Time cards that do not break down time by area served	Allowable	Indirect
Maintenance Charges	Kitchen/serving area equipment/materials repaired or replaced by in-house personnel	Job cost ticket or similar documentation that details labor costs incurred based on actual labor hours expended	Allowable	Direct*
Maintenance Charges	Equipment/materials in kitchen/serving areas repaired or replaced by external vendor	Vendor invoice	Allowable	Direct ¹⁸
Trash Collection	Picks up trash for school and kitchen/serving areas	Itemized vendor invoice that specifies cost for picking up trash in kitchen/serving areas	Allowable	Direct
Trash Collection	Picks up trash for school and kitchen/serving area	Vendor invoice is not itemized	Allowable	Indirect
Utilities (gas, electricity, water, etc.)	Meter for kitchen/serving area	Utility provider invoice or statement for utilities used in kitchen/serving area	Allowable	Direct

¹⁷ The treatment of a cost as direct or indirect is almost always driven by its treatment in the program operator's accounting system. Also, the SEA performs the duties of a cognizant agency for school districts; and the indirect cost methodology the SEA prescribes for a school district may call for direct-indirect distinctions other than those set out in this matrix. The SFA must defer to such instructions from the SEA, since their authority to issue them is based on Federal regulations published by the U.S. Department of Education.

¹⁸ Both of these maintenance examples are identified as direct costs because the billings for maintenance services are specifically identifiable to the cost objectives (i.e., food service) that received the services.

Category USDE	Description	Supporting Documentation	Allowable or unallowable Cost	Direct or Indirect Cost
Utilities (gas, electricity, water, etc.)	One meter for the entire school	Utility provider invoice or statement for entire school	Allowable	Indirect
School accounting services	School front office personnel may be called upon to provide change, verify daily receipts, perform banking duties, etc.	Time card indicates specifically how much time was spent providing services to food service unit	Allowable	Direct
School accounting services	School front office personnel may be called upon to provide change, verify receipts, perform banking duties, etc.	Time distribution not documented	Allowable	Indirect
Payroll Services	Services that provide LEA-wide benefit	Time reports	Allowable	Indirect
Workers' Compensation	LEA provided benefits to workers who are injured during the course of their employment	Periodic contributions to an LEA-wide reserve or self-insurance fund for workers' compensation and other benefits. Claims paid from the fund as they arise.	Allowable	Indirect
Workers' Compensation	LEA provided benefits to workers who are injured during the course of their employment	Actual payments of Worker's Compensation claims to current or former employees (i.e., pay as you go)	Allowable	Direct ¹⁹
Post-Retirement Health Benefits	LEA provided benefits to its retirees (medical, dental, and vision insurance)	Periodic contributions to an LEA-wide reserve or self-insurance fund for retirees' post-employment health care and other benefits; fund contributions determined on actuarial basis. Claims paid from the fund as they arise	Allowable	Indirect ²⁰

¹⁹ Treated as a direct cost because it is specifically identifiable to a cost objective (i.e., food service) in which the employee was working when s/he was injured.

²⁰ Both of these post-retirement health benefits are treated as indirect costs because allocating individual payments to retirees based on the cost objectives in which they worked in the course of their careers would be oppressively burdensome and therefore they are typically treated as an indirect cost.

Category USDE	Description	Supporting Documentation	Allowable or unallowable Cost	Direct or Indirect Cost
Post-Retirement Health Benefits	LEA provided benefits to its retirees (medical, dental, and vision insurance)	Payments of health benefits claims to retirees or their health care providers	Allowable	Indirect
Information Technology Support	Services that provide LEA-wide benefits	LEA expenses are pooled	Allowable	Indirect
Pest Control	Separate invoice for kitchen/serving/food storage areas	Itemized vendor invoice	Allowable	Direct
Pest Control	Invoice for services provided not itemized by area serviced, with separate charges for each	Vendor invoice (not itemized)	Allowable	Indirect
Transportation	To deliver food/prepared meals to schools (trucks deliver food and food supplies only)	Time cards, activity reports, job cost tickets	Allowable	Direct
Transportation	To deliver food/prepared meals and general school supplies to schools	Time cards, activity reports, job cost tickets	Allowable	Direct

Appendix E: Overview of Generally Accepted Accounting Principles (GAAP) for School Districts

General. The criteria for an allowable cost set by the Federal Cost Principles include a requirement that costs be determined in accordance with GAAP (except where the principles provide otherwise). This appendix provides an overview of GAAP as it relates to school districts.

What is GAAP? Accounting is the art of capturing, analyzing, recording, summarizing, interpreting, and reporting financial information about an entity, such as a school district. GAAP consist of the accounting profession's rules for doing these things. If followed, GAAP enable users of financial information to rely on that information and, if necessary, compare the financial information reported by multiple entities.

How is GAAP established? To be considered "generally accepted," an accounting principle must be widely used and have authoritative support. That support is provided by professional standard-setting bodies. The Financial Accounting Standards Board (FASB) sets standards for private-sector accounting, while the Governmental Accounting Standards Board (GASB) sets them for State, local, and tribal governments. Both boards conduct research on accounting issues, publish draft pronouncements based on their research, consider comments received on these drafts, and issue final statements of accounting principles. As governmental entities, school districts are under the GASB. The Association of School Business Officials (ASBO) publishes literature on applying GASB pronouncements to school districts.

How is financial information about a school district organized? Financial information is recorded in accounts that break down into the following five categories:

Assets. An asset is something of value that the school district owns. Examples include cash, accounts receivable, inventories, pre-paid expenses, plant & equipment (often called "fixed assets"), etc.

Liabilities. A liability is a legally-enforceable debt that the school district owes. Liabilities may arise from operations (such as purchasing supplies on credit) or from borrowing for major projects (such as issuing bonds to raise cash for a new school building).

Equity. Equity is the difference between what the district owns (assets) and what it owes (liabilities). In the private sector, it bears such titles as Stockholders' Equity and Net Assets; in governmental accounting, it is called Fund Balance.

Revenues. Revenue is the inflow of assets without the creation of liabilities or the reduction of other assets. Examples of school district revenues include taxes, fees for participation in school activities, sales of food items in school cafeterias, donations, Federal and State grants, etc. Revenues are classified by source: Federal, State, Intermediate, and Local. Borrowing is not a revenue source; it is considered an "other financing source."

Expenditures. Expenditures are outflows of assets and/or the creation of liabilities to support school district operations. For example, the district must pay out cash to compensate its employees and contractors for their services. Expenditures are classified by object class, function, fund, etc. "Object class" refers to what they bought (goods or services); "function" refers to the purpose for which they

bought it (instruction, student services, food service, etc.); and “fund” is explained below. Expenditures may support current operating expenses, or “other financing uses” such as the acquisition of land, buildings, equipment, or other capital assets. The acquisition of a capital asset is called a capital expenditure.

Every transaction affects at least two of these accounts. For example:

1. Sales of school meals and a la carte items to children and adults generate “Revenue from Local Sources” and increase the asset “Cash.”
2. Claiming NSLP and SBP reimbursement from the State agency generates “Revenue from Federal Sources” and increases the asset “Due from State Agency” (a receivable). When the State agency pays the claim, the school district records an increase in the asset “Cash” and an offsetting decrease in the asset “Due from State Agency.”
3. The acceptance of goods from a vendor increases the liability “Accounts Payable” and the expenditure object class “Supplies.” Paying the vendor’s invoice reduces both the asset “Cash” and the liability “Accounts Payable.”

What is fund accounting? A “fund” is a subdivision of a school district’s accounts, which the district establishes for purposes of accounting control. A district establishes the number of funds it needs to achieve control. Every district has its General Fund. In addition, a district may establish: (1) special revenue funds to ensure that revenues that come with special conditions are used according to those conditions; (2) capital projects funds to control major projects, such as the construction of a new school building; (3) debt service funds to control the payment of principal and interest on borrowed money; (4) enterprise funds to control transactions of business-like activities, such as the school food service; (5) internal service funds to control services provided to the district’s own offices and units; and (6) pension funds to manage the district’s pension liabilities. Each fund is a discrete accounting entity and uses a complete chart of accounts. One may conceptualize a district’s fund structure as follows:

FUNDS

ACCOUNTS	General Fund	Special Revenue Funds	Capital Projects Funds	Debt Service Funds	Enterprise Funds	Internal Service Funds	Pension Trust Funds
ASSETS	x	x	x	x	x	x	x
LIABILITIES	x	x	x	x	x	x	x
EQUITY	x	x	x	x	x	x	x
REVENUES	x	x	x	x	x	x	x
EXPENDITURES	x	x	x	x	x	x	x

As accounting entities, funds can engage in transactions with each other. For example, the General Fund or an internal service fund may bill other funds for services rendered. Funds may also transfer assets to each other or borrow from each other. The lending fund records a receivable, “Due from _____ Fund,” and the borrowing fund records a liability, “Due to _____ Fund.” This reciprocal accounting maintains the integrity of the district’s accounting system as a whole.

School food service is generally accounted for in an enterprise fund because it operates much like a business. Like a restaurant, a school food service serves meals to members of the public and charges for them according to a set fee schedule.

How does a school district publish financial information about itself? A school district issues annual financial statements. Users of the financial information reported thereby include the School Board, bond underwriters, taxpayers’ groups, advocacy groups, and the general public.

How does all this relate to the Federal Cost Principles? As noted above, a cost charged to a Federal program must be determined according to GAAP unless the Federal Cost Principles provide otherwise. For example, consider the treatment of capital expenditures in 2 CFR 200.436

1. GAAP call for an accounting entity to record the full acquisition cost of a capital asset as an asset, and allocate the cost over the asset’s service life through a process called depreciation. The portion of the asset’s cost allocated to each year of operations is an operating expense (depreciation expense) of that year. Since the entity’s operations benefit from the asset’s use over a multi-year period, recording its entire cost as an operating expense of the year it was acquired (that is, “expensing” the cost) would be misleading. 2 CFR 200.436 sets rules for charging depreciation expense to Federal programs.

Appendix F: Indirect Cost Proposals

Appendix VII to 2 CFR 200—States and Local Government and Indian Tribe Indirect Cost Proposals

A. GENERAL

1. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefitted cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

2. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (b) the costs of central governmental services distributed through the central service cost allocation plan (as described in Appendix V to Part 200—State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans) and not otherwise treated as direct costs.

3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each department or agency of the governmental unit claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled “*A Guide for States and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government.*” A copy of this brochure may be obtained from HHS Cost Allocation Services or at their Web site at <https://rates.psc.gov>.

4. Because of the diverse characteristics and accounting practices of governmental units, the types of costs which may be classified as indirect costs cannot be specified in all situations. However, typical examples of indirect costs may include certain state/local-wide central service costs, general administration of the non-Federal entity accounting and personnel services performed within the non-Federal entity, depreciation on buildings and equipment, the costs of operating and maintaining facilities.

5. This Appendix does not apply to state public assistance agencies. These agencies should refer instead to Appendix VI to 2 CFR 200—Public Assistance Cost Allocation Plans.

B. DEFINITIONS

1. *Base* means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to

individual Federal awards. The direct cost base selected should result in each Federal award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

2. *Base period* for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to activities performed in that period. The base period normally should coincide with the governmental unit's fiscal year, but in any event, must be so selected as to avoid inequities in the allocation of costs.

3. *Cognizant agency for indirect costs* means the Federal agency responsible for reviewing and approving the governmental unit's indirect cost rate(s) on the behalf of the Federal Government. The cognizant agency for indirect costs assignment is described in Appendix V, section F, Negotiation and Approval of Central Service Plans.

4. *Final rate* means an indirect cost rate applicable to a specified past period which is based on the actual allowable costs of the period. A final audited rate is not subject to adjustment.

5. *Fixed rate* means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual, allowable costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

6. *Indirect cost pool* is the accumulated costs that jointly benefit two or more programs or other cost objectives.

7. *Indirect cost rate* is a device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

8. *Indirect cost rate proposal* means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

9. *Predetermined rate* means an indirect cost rate, applicable to a specified current or future period, usually the governmental unit's fiscal year. This rate is based on an estimate of the costs to be incurred during the period. Except under very unusual circumstances, a predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.) Predetermined rates may not be used by governmental units that have not submitted and negotiated the rate with the cognizant agency for indirect costs. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for indirect costs for a period of two to four years should be the norm in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting periods.

10. *Provisional rate* means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on Federal awards pending the establishment of a "final" rate for that period.

C. ALLOCATION OF INDIRECT COSTS AND DETERMINATION OF INDIRECT COST RATES

1. General

a. Where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures as described in subsection 2.

b. Where a governmental unit's department or agency has several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitted functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual Federal awards and other activities included in that function by means of an indirect cost rate(s).

c. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in subsections 2, 3 and 4.

2. Simplified Method

a. Where a non-Federal entity's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (1) classifying the non-Federal entity's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where a governmental unit's department or agency has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to that department or agency is relatively small.

b. Both the direct costs and the indirect costs must exclude capital expenditures and unallowable costs. However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

c. The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, subcontracts in excess of \$25,000, participant support costs, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

3. Multiple Allocation Base Method

a. Where a non-Federal entity's indirect costs benefit its major functions in varying degrees, such costs must be accumulated into separate cost groupings. Each grouping must then be allocated individually to benefitted functions by means of a base which best measures the relative benefits.

b. The cost groupings should be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, taking into consideration the materiality of the amounts involved and the degree of precision needed.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefitted functions. When an allocation can be made by assignment of a cost grouping directly to the function benefitted, the allocation must be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Federal Government and the governmental unit. In general, any cost element or related factor associated with the governmental unit's activities is potentially adaptable for use as an allocation base provided that: (1) it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, and the like), and (2) it is common to the benefitted functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with paragraph (C)(4) of this Appendix, the separate groupings of indirect costs allocated to each major function must be aggregated and treated as a common pool for that function. The costs in the common pool must then be distributed to individual Federal awards included in that function by use of a single indirect cost rate.

e. The distribution base used in computing the indirect cost rate for each function may be (1) total direct costs (excluding capital expenditures and other distorting items such as pass-through funds, subawards in excess of \$25,000, participant support costs, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage relationship between the particular indirect cost pool and the distribution base identified with that pool.

4. Special Indirect Cost Rates

a. In some instances, a single indirect cost rate for all activities of a non-Federal entity or for each major function of the agency may not be appropriate. It may not take into account those different factors which may substantially affect the indirect costs applicable to a particular program or group of programs. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the organizational arrangements used, or any combination thereof. When a particular Federal award is carried out in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to that Federal award. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided that: (1) The rate differs significantly from the rate which would have been developed under paragraphs (C)(2) and (C)(3) of this Appendix, and (2) the Federal award to which the rate would apply is material in amount.

b. Where Federal statutes restrict the reimbursement of certain indirect costs, it may be necessary to develop a special rate for the affected Federal award. Where a “restricted rate” is required, the same procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement.

D. SUBMISSION AND DOCUMENTATION OF PROPOSALS

1. Submission of Indirect Cost Rate Proposals

a. All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in 2 CFR 200.333 Retention Requirements for Records.

b. A governmental department or agency unit that receives more than \$35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs. Other governmental department or agency must develop an indirect cost proposal in accordance with the requirements of this Part and maintain the proposal and related supporting documentation for audit. These governmental departments or agencies are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency for indirect costs. Where a non-Federal entity only receives funds as a subrecipient, the pass-through entity will be responsible for negotiating and/or monitoring the subrecipient's indirect costs.

c. Each Indian tribal government desiring reimbursement of indirect costs must submit its indirect cost proposal to the Department of the Interior (its cognizant agency for indirect costs).

d. Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs. If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount for central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

2. Documentation of Proposals

The following must be included with each indirect cost proposal:

a. The rates proposed, including subsidiary work sheets and other relevant data, cross referenced and reconciled to the financial data noted in subsection b. Allocated central service costs will be supported by the summary table included in the approved central service cost allocation plan. This summary table is not required to be submitted with the indirect cost proposal if the central service cost allocation plan for the same fiscal year has been approved by the cognizant agency for indirect costs and is available to the funding agency.

b. A copy of the financial data (financial statements, comprehensive annual financial report, executive budgets, accounting reports, etc.) upon which the rate is based. Adjustments resulting from the use of unaudited data will be recognized, where appropriate, by the Federal cognizant agency for indirect costs in a subsequent proposal.

c. The approximate amount of direct base costs incurred under Federal awards. These costs should be broken out between salaries and wages and other direct costs.

d. A chart showing the organizational structure of the agency during the period for which the proposal applies, along with a functional statement(s) noting the duties and/or responsibilities of all units that comprise the agency. (Once this is submitted, only revisions need be submitted with subsequent proposals.)

3. Required certification.

Each indirect cost rate proposal must be accompanied by a certification in the following form:

CERTIFICATE OF INDIRECT COSTS

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish billing or final indirect costs rates for [identify period covered by rate] are allowable in accordance with the requirements of the Federal award(s) to which they apply and the provisions of this Part. Unallowable costs have been adjusted for in allocating costs as indicated in the indirect cost proposal

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct.

Governmental Unit:

Signature:

Name of Official:

Title:

Date of Execution:

E. NEGOTIATION AND APPROVAL OF RATES.

1. Indirect cost rates will be reviewed, negotiated, and approved by the cognizant agency on a timely basis. Once a rate has been agreed upon, it will be accepted and used by all Federal agencies unless prohibited or limited by statute. Where a Federal awarding agency has reason to believe that special operating factors affecting its Federal awards necessitate special indirect cost rates, the funding agency will, prior to the time the rates are negotiated, notify the cognizant agency for indirect costs.

2. The use of predetermined rates, if allowed, is encouraged where the cognizant agency for indirect costs has reasonable assurance based on past experience and reliable projection of the non-Federal entity's costs, that the rate is not likely to exceed a rate based on actual costs. Long-term agreements utilizing predetermined rates extending over two or more years are encouraged, where appropriate.

3. The results of each negotiation must be formalized in a written agreement between the cognizant agency for indirect costs and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute, or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The agreed upon rates must be made available to all Federal agencies for their use.

4. Refunds must be made if proposals are later found to have included costs that (a) are unallowable (i) as specified by law or regulation, (ii) as identified in 2 CFR 200.420 Considerations for selected items of cost, of this Part, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards. These adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

F. OTHER POLICIES

1. Fringe Benefit Rates

If overall fringe benefit rates are not approved for the governmental unit as part of the central service cost allocation plan, these rates will be reviewed, negotiated and approved for individual recipient agencies during the indirect cost negotiation process. In these cases, a proposed fringe benefit rate computation should accompany the indirect cost proposal. If fringe benefit rates are not used at the recipient agency level (i.e., the agency specifically identifies fringe benefit costs to individual employees), the governmental unit should so advise the cognizant agency for indirect costs.

2. Billed Services Provided by the Recipient Agency

In some cases, governmental departments or agencies (components of the governmental unit) provide and bill for services similar to those covered by central service cost allocation plans (e.g., computer centers). Where this occurs, the governmental departments or agencies (components of the governmental unit) should be guided by the requirements in Appendix V relating to the development of billing rates and documentation requirements, and should advise the cognizant agency for indirect costs of any billed services. Reviews of these types of services (including reviews of costing/billing methodology, profits or losses, etc.) will be made on a case-by-case basis as warranted by the circumstances involved.

3. Indirect Cost Allocations Not Using Rates

In certain situations, governmental departments or agencies (components of the governmental unit), because of the nature of their Federal awards, may be required to develop a cost allocation plan that distributes indirect (and, in some cases, direct) costs to the specific funding sources. In these cases, a narrative cost allocation methodology should be developed, documented, maintained for audit, or submitted, as appropriate, to the cognizant agency for indirect costs for review, negotiation, and approval.

4. Appeals

If a dispute arises in a negotiation of an indirect cost rate (or other rate) between the cognizant agency for indirect costs and the governmental unit, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

5. Collection of Unallowable Costs and Erroneous Payments

Costs specifically identified as unallowable and charged to Federal awards either directly or indirectly will be refunded (including interest chargeable in accordance with applicable Federal cognizant agency for indirect costs regulations).

6. OMB Assistance

To the extent that problems are encountered among the Federal agencies or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

Appendix G: GENERAL PROVISIONS FOR SELECTED ITEMS OF COST

2 CFR 200.420

This section provides principles to be applied in establishing the allowability of certain items involved in determining cost, in addition to the requirements of Subtitle II. Basic Considerations of this subpart. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described in 2 CFR 200.402 Composition of costs through 2 CFR 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs. In case of a discrepancy between the provisions of a specific Federal award and the provisions below, the Federal award governs. Criteria outlined in 2 CFR 200.403 Factors affecting allowability of *costs* must be applied in determining allowability. See also 2 CFR 200.102 Exceptions.

- 200.421 [Advertising and public relations](#).
- 200.422 [Advisory councils](#).
- 200.423 [Alcoholic beverages](#).
- 200.424 Alumni/ae activities.
- 200.425 Audit services.
- 200.426 [Bad debts](#).
- 200.427 [Bonding costs](#).
- 200.428 Collections of improper payments.
- 200.429 Commencement and convocation costs.
- 200.430 [Compensation - personal services](#).
- 200.431 Compensation – fringe benefits.
- 200.432 Conferences.
- 200.433 [Contingency provisions](#).
- 200.434 Contributions and donations.
- 200.435 [Defense and prosecution of criminal and civil proceedings, claims](#), appeals and patent infringements.
- 200.436 [Depreciation](#).
- 200.437 [Employee health and welfare costs](#).
- 200.438 [Entertainment costs](#).
- 200.439 [Equipment and other capital expenditures](#).
- 200.440 Exchange rates.
- 200.441 [Fines, penalties](#), damages and other settlements.
- 200.442 [Fund raising and investment management costs](#).
- 200.443 [Gains and losses on disposition of depreciable assets](#).
- 200.444 Costs of [government](#).
- 200.445 [Goods or services for personal use](#).
- 200.446 [Idle facilities and idle capacity](#).
- 200.447 [Insurance and indemnification](#).
- 200.448 Intellectual property.
- 200.449 [Interest](#).

200.450	Lobbying.
200.451	Losses on other awards or contracts.
200.452	Maintenance and repair costs.
200.453	Materials and supplies costs , including costs of computing devices.
200.454	Memberships, subscriptions, and professional activity costs.
200.455	Organization costs.
200.456	Participant support costs.
200.457	Plant and security costs.
200.458	Pre- award costs.
200.459	Professional service costs.
200.460	Proposal costs.
200.461	Publication and printing costs.
200.462	Rearrangement and reconversion costs.
200.463	Recruiting costs.
200.464	Relocation costs of employees.
200.465	Rental costs of real property and equipment.
200.466	Scholarships and student aid costs.
200.467	Selling and marketing costs.
200.468	Specialized services facilities.
200.469	Student activity costs.
200.470	Taxes (including Value Added Tax).
200.471	Termination costs.
200.472	Training and education costs.
200.473	Transportation costs.
200.474	Travel costs.
200.475	Trustees.

2 CFR 200.421 Advertising and public relations.

(a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like.

(b) The only allowable advertising costs are those which are solely for:

(1) The recruitment of personnel required by the non-Federal entity for performance of a Federal award (See also 2 CFR 200.463 Recruiting costs);

(2) The procurement of goods and services for the performance of a Federal award;

(3) The disposal of scrap or surplus materials acquired in the performance of a Federal award except when non-Federal entities are reimbursed for disposal costs at a predetermined amount;
or

(4) Program outreach and other specific purposes necessary to meet the requirements of the Federal award.

(c) The term “public relations” includes community relations and means those activities dedicated to maintaining the image of the non-Federal entity or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

(d) The only allowable public relations costs are:

(1) Costs specifically required by the Federal award;

(2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award (these costs are considered necessary as part of the outreach effort for the Federal award); or

(3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

(e) Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in paragraphs (b) and (d) of this section;

(2) Costs of meetings, conventions, convocations, or other events related to other activities of the entity (See also 2 CFR 200.432 Conferences), including:

(i) Costs of displays, demonstrations, and exhibits;

(ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;

(4) Costs of advertising and public relations designed solely to promote the non-Federal entity.

2 CFR 200.422 Advisory councils.

Costs incurred by advisory councils or committees are unallowable unless authorized by statute, the Federal awarding agency or as an indirect cost where allocable to Federal awards. See 2 CFR 200.444 General costs of government, applicable to states, local governments and Indian tribes.

2 CFR 200.423 Alcoholic beverages.

Costs of alcoholic beverages are unallowable.

2 CFR 200.424 Alumni/ae activities.

Costs incurred by IHEs for, or in support of, alumni/ae activities are unallowable.

2 CFR 200.425 Audit services.

(a) A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable:

- (1) Any costs when audits required by the Single Audit Act and Subpart F—Audit Requirements of this part have not been conducted or have been conducted but not in accordance therewith; and
- (2) Any costs of auditing a non-Federal entity that is exempted from having an audit conducted under the Single Audit Act and Subpart F—Audit Requirements of this part because its expenditures under Federal awards are less than \$750,000 during the non-Federal entity's fiscal year.

(b) The costs of a financial statement audit of a non-Federal entity that does not currently have a Federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

(c) Pass-through entities may charge Federal awards for the cost of agreed-upon-procedures engagements to monitor subrecipients (in accordance with Subpart D—Post Federal Award Requirements of this part, 2 CFR 200.330 Subrecipient and contractor determinations through 200.332 Fixed Amount Subawards) who are exempted from the requirements of the Single Audit Act and Subpart F—Audit Requirements of this part. This cost is allowable only if the agreed-upon-procedures engagements are:

- (1) Conducted in accordance with GAGAS attestation standards;
- (2) Paid for and arranged by the pass-through entity; and
- (3) Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

2 CFR 200.426 Bad debts.

Bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable.

Related collection costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable. See also 2 CFR 200.428 Collections of improper payments.

2 CFR 200.427 Bonding costs.

(a) Bonding costs arise when the Federal awarding agency requires assurance against financial loss to itself or others by reason of the act or default of the non-Federal entity. They arise also in instances where the non-Federal entity requires similar assurance, including: bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds for employees and officials.

(b) Costs of bonding required pursuant to the terms and conditions of the Federal award are allowable.

(c) Costs of bonding required by the non-Federal entity in the general conduct of its operations are allowable as an indirect cost to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

2 CFR 200.428 Collections of improper payments.

The costs incurred by a non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate. Amounts collected may be used by the non-Federal entity in accordance with cash management standards set forth in 2 CFR 200.305 Payment.

2 CFR 200.429 Commencement and convocation costs.

For IHEs, costs incurred for commencements and convocations are unallowable, except as provided for in Appendix III to 2 CFR 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph (B)(9) Student Administration and Services, as student activity costs.

2 CFR 200.430 Compensation—personal services.

(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in 2 CFR 200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and

(3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.

(b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

(1) Non-Federal entity activities, and

(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

(d) Unallowable costs. (1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

(e) Special considerations. Special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

(f) Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

(g) Nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination must be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include director and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.

(h) Institutions of higher education (IHEs). (1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under Federal awards. Among such conditions are the following:

(i) Allowable activities. Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (i) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or receive prior written approval by the Federal awarding agency.

(2) Salary basis. Charges for work performed on Federal awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in paragraph (h)(1)(ii) of this section, in no event will charges to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.

(3) Intra-Institution of Higher Education (IHE) consulting. Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS.

However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the Federal awarding agency.

(4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:

(i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

(ii) The non-Federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations.

(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.

(v) The total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section.

(5) Periods outside the academic year. (i) Except as specified for teaching activity in paragraph (h)(5)(ii) of this section, charges for work performed by faculty members on Federal awards during periods not included in the base salary period will be at a rate not in excess of the IBS.

(ii) Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(6) Part-time faculty. Charges for work performed on Federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments.

(7) Sabbatical leave costs. Rules for sabbatical leave are as follow:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE.

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

(8) Salary rates for non-faculty members. Non-faculty full-time professional personnel may also earn "extra service pay" in accordance with the non-Federal entity's written policy and consistent with paragraph (h)(1)(i) of this section.

(i) Standards for Documentation of Personnel Expenses (1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and

(vi) [Reserved]

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal

entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

- (B) The entire time period involved must be covered by the sample; and
- (C) The results must be statistically valid and applied to the period being sampled.
- (ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.
- (iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.
- (6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.
- (7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.
- (8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

2 CFR 200.431 Compensation—fringe benefits.

- (a) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement, or an established policy of the non-Federal entity.
- (b) Leave. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

- (1) They are provided under established written leave policies;
- (2) The costs are equitably allocated to all related activities, including Federal awards; and,
- (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.
 - (i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment.
 - (ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-Federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.
- (c) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in 2 CFR 200.447 Insurance and indemnification); pension plan costs (See paragraph (i) of this section); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the non-Federal entity's accounting practices.
- (d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the non-Federal entity demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.
- (e) Insurance. See also 2 CFR 200.447 Insurance and indemnification, paragraphs (d)(1) and (2).
 - (1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability.
 - (2) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the non-Federal entity is named as

beneficiary are unallowable.

(3) Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., post-retirement health benefits), are allowable in the year of payment provided that the non-Federal entity follows a consistent costing policy.

(f) Automobiles. That portion of automobile costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect (F&A) costs regardless of whether the cost is reported as taxable income to the employees.

(g) Pension Plan Costs. Pension plan costs which are incurred in accordance with the established policies of the non-Federal entity are allowable, provided that:

(1) Such policies meet the test of reasonableness.

(2) The methods of cost allocation are not discriminatory.

(3) For entities using accrual based accounting, the cost assigned to each fiscal year is determined in accordance with GAAP.

(4) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 calendar days after each quarter of the year to which such costs are assignable are unallowable. Non-Federal entity may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Costs" (48 CFR 9904.412).

(5) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. 1301-1461) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.

(6) Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-Federal entity.

(i) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(ii) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related

Federal reimbursement and the non-Federal entity's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.

(iii) Amounts funded by the non-Federal entity in excess of the actuarially determined amount for a fiscal year may be used as the non-Federal entity's contribution in future periods.

(iv) When a non-Federal entity converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP.

(v) The Federal Government must receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the non-Federal entity in the form of a refund, withdrawal, or other credit.

(h) Post-Retirement Health. Post-retirement health plans (PRHP) refers to costs of health insurance or health services not included in a pension plan covered by paragraph (g) of this section for retirees and their spouses, dependents, and survivors. PRHP costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-Federal entity.

(1) For PRHP financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHP costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The Federal cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the non-Federal entity's contributions to the PRHP fund. Adjustments may be made by cash refund, reduction in current year's PRHP costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHP fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the non-Federal entity contribution in a future period.

(4) When a non-Federal entity converts to an acceptable actuarial cost method and funds PRHP costs in accordance with this method, the initial unfunded liability attributable to prior years is allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency for indirect costs.

(5) To be allowable in the current year, the PRHP costs must be paid either to:

- (i) An insurer or other benefit provider as current year costs or premiums, or
 - (ii) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.
- (6) The Federal Government must receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the non-Federal entity in the form of a refund, withdrawal, or other credit.

(i) Severance Pay. (1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by non-Federal entities to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (a) law, (b) employer-employee agreement, (c) established policy that constitutes, in effect, an implied agreement on the non-Federal entity's part, or (d) circumstances of the particular employment.

(2) Costs of severance payments are divided into two categories as follows:

(i) Actual normal turnover severance payments must be allocated to all activities; or, where the non-Federal entity provides for a reserve for normal severances, such method will be acceptable if the charge to current operations is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the non-Federal entity.

(ii) Measurement of costs of abnormal or mass severance pay by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Federal Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Prior approval by the Federal awarding agency or cognizant agency for indirect cost, as appropriate, is required.

(3) Costs incurred in certain severance pay packages which are in an amount in excess of the normal severance pay paid by the non-Federal entity to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the non-Federal entity's assets, are unallowable.

(4) Severance payments to foreign nationals employed by the non-Federal entity outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the non-Federal entity in the United States, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(5) Severance payments to foreign nationals employed by the non-Federal entity outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the non-Federal entity in that country, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(j)(1) For IHEs only. Fringe benefits in the form of undergraduate and graduate tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established non-Federal entity policies, and are distributed to all non-Federal entity activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable.

(2) Fringe benefits in the form of tuition or remission of tuition for individual employees not employed by IHEs are limited to the tax-free amount allowed per section 127 of the Internal Revenue Code as amended.

(3) IHEs may offer employees tuition waivers or tuition reductions, provided that the benefit does not discriminate in favor of highly compensated employees. Employees can exercise these benefits at other institutions according to institutional policy. See 2 CFR 200.466 Scholarships and student aid costs, for treatment of tuition remission provided to students.

(k) For IHEs whose costs are paid by state or local governments, fringe benefit programs (such as pension costs and FICA) and any other benefits costs specifically incurred on behalf of, and in direct benefit to, the non-Federal entity, are allowable costs of such non-Federal entities whether or not these costs are recorded in the accounting records of the non-Federal entities, subject to the following:

(1) The costs meet the requirements of Basic Considerations in 2 CFR 200.402 Composition of costs through 2 CFR 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs of this subpart;

(2) The costs are properly supported by approved cost allocation plans in accordance with applicable Federal cost accounting principles; and

(3) The costs are not otherwise borne directly or indirectly by the Federal Government.

2 CFR 200.432 Conferences.

A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award. Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The Federal awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also 2 CFR 200.438 Entertainment costs, 2 CFR 200.456 Participant support costs, 2 CFR 200.474 Travel costs, and 2 CFR 200.475 Trustees.

2 CFR 200.433 Contingency provisions.

(a) Contingency is that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the Federal awarding agency) which is associated with possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs for the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included.

(b) It is permissible for contingency amounts other than those excluded in paragraph (a) of this section to be explicitly included in budget estimates to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly-accepted cost estimating methodologies, specified in the budget documentation of the Federal award, and accepted by the Federal awarding agency. As such, contingency amounts are to be included in the Federal award. In order for actual costs incurred to be allowable, they must comply with the cost principles and other requirements in this part (See also 2 CFR 200.300 Statutory and national policy requirements through 2 CFR 200.309 Period of performance of Subpart D of this part and 200.403 Factors affecting allowability of costs); be necessary and reasonable for proper and efficient accomplishment of project or program objectives, and be verifiable from the non-Federal entity's records.

(c) Payments made by the Federal awarding agency to the non-Federal entity's "contingency reserve" or any similar payment made for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening, are unallowable, except as noted in 2 CFR 200.431 Compensation—fringe benefits regarding self-insurance, pensions, severance and post-retirement health costs and 200.447 Insurance and indemnification.

2 CFR 200.434 Contributions and donations.

(a) Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable.

(b) The value of services and property donated to the non-Federal entity may not be charged to the Federal award either as a direct or indirect (F&A) cost. The value of donated services and property may be used to meet cost sharing or matching requirements (See 2 CFR 200.306 Cost sharing or matching). Depreciation on donated assets is permitted in accordance with 2 CFR 200.436 Depreciation, as long as the donated property is not counted towards cost sharing or matching requirements.

(c) Services donated or volunteered to the non-Federal entity may be furnished to a non-Federal entity by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services may not be charged to the Federal award either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of 2 CFR 200.306 Cost sharing or matching.

(d) To the extent feasible, services donated to the non-Federal entity will be supported by the same methods used to support the allocability of regular personnel services.

(e) The following provisions apply to nonprofit organizations. The value of services donated to the nonprofit organization utilized in the performance of a direct cost activity must be considered in the determination of the non-Federal entity's indirect cost rate(s) and, accordingly, must be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(1) The aggregate value of the services is material;

(2) The services are supported by a significant amount of the indirect costs incurred by the non-Federal entity;

(i) In those instances where there is no basis for determining the fair market value of the services rendered, the non-Federal entity and the cognizant agency for indirect costs must negotiate an appropriate allocation of indirect cost to the services.

(ii) Where donated services directly benefit a project supported by the Federal award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the Federal award or used to meet cost sharing or matching requirements.

(f) Fair market value of donated services must be computed as described in 2 CFR 200.306 Cost sharing or matching.

(g) Personal Property and Use of Space.

(1) Donated personal property and use of space may be furnished to a non-Federal entity. The value of the personal property and space may not be charged to the Federal award either as a direct or indirect cost.

(2) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in 2 CFR 200.300 Statutory and national policy requirements through 2 CFR 200.309 Period of performance of subpart D of this part. The value of the donations must be determined in accordance with 2 CFR 200.300 Statutory and national policy requirements through 2 CFR 200.309 Period of performance. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

2 CFR 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

(a) Definitions for the purposes of this section. (1) Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon verdict or a

plea, including a conviction due to a plea of nolo contendere.

(2) Costs include the services of in-house or private counsel, accountants, consultants, or others engaged to assist the non-Federal entity before, during, and after commencement of a judicial or administrative proceeding, that bear a direct relationship to the proceeding.

(3) Fraud means:

(i) Acts of fraud or corruption or attempts to defraud the Federal Government or to corrupt its agents,

(ii) Acts that constitute a cause for debarment or suspension (as specified in agency regulations), and

(iii) Acts which violate the False Claims Act (31 U.S.C. 3729-3732) or the Anti-kickback Act (41 U.S.C. 1320a-7b(b)).

(4) Penalty does not include restitution, reimbursement, or compensatory damages.

(5) Proceeding includes an investigation.

(b) Costs. (1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal Government, a state, local government, or foreign government, or joined by the Federal Government (including a proceeding under the False Claims Act), against the non-Federal entity, (or commenced by third parties or a current or former employee of the non-Federal entity who submits a whistleblower complaint of reprisal in accordance with 10 U.S.C. 2409 or 41 U.S.C. 4712), are not allowable if the proceeding:

(i) Relates to a violation of, or failure to comply with, a Federal, state, local or foreign statute, regulation or the terms and conditions of the Federal award, by the non-Federal entity (including its agents and employees); and

(ii) Results in any of the following dispositions:

(A) In a criminal proceeding, a conviction.

(B) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of non-Federal entity liability.

(C) In the case of any civil or administrative proceeding, the disallowance of costs or the imposition of a monetary penalty, or an order issued by the Federal awarding agency head or delegate to the non-Federal entity to take corrective action under 10 U.S.C. 2409 or 41 U.S.C. 4712.

(D) A final decision by an appropriate Federal official to debar or suspend the non-Federal

entity, to rescind or void a Federal award, or to terminate a Federal award by reason of a violation or failure to comply with a statute, regulation, or the terms and conditions of the Federal award.

(E) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in paragraphs (b)(1)(ii)(A) through (D) of this section.

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings are unallowable if any results in one of the dispositions shown in paragraph (b) of this section.

(c) If a proceeding referred to in paragraph (b) of this section is commenced by the Federal Government and is resolved by consent or compromise pursuant to an agreement by the non-Federal entity and the Federal Government, then the costs incurred may be allowed to the extent specifically provided in such agreement.

(d) If a proceeding referred to in paragraph (b) of this section is commenced by a state, local or foreign government, the authorized Federal official may allow the costs incurred if such authorized official determines that the costs were incurred as a result of:

(1) A specific term or condition of the Federal award, or

(2) Specific written direction of an authorized official of the Federal awarding agency.

(e) Costs incurred in connection with proceedings described in paragraph (b) of this section, which are not made unallowable by that subsection, may be allowed but only to the extent that:

(1) The costs are reasonable and necessary in relation to the administration of the Federal award and activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the reasonable, necessary, allocable and otherwise allowable costs incurred is not prohibited by any other provision(s) of the Federal award;

(3) The costs are not recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and,

(4) An authorized Federal official must determine the percentage of costs allowed considering the complexity of litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States, and such other factors as may be appropriate. Such percentage must not exceed 80 percent. However, if an agreement reached under paragraph (c) of this section has explicitly considered this 80 percent limitation and permitted a higher percentage, then the full amount of costs resulting from that agreement are allowable.

(f) Costs incurred by the non-Federal entity in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (18 U.S.C. 1031), including the cost of all relief necessary to make such employee whole, where the non-

Federal entity was found liable or settled, are unallowable.

(g) Costs of prosecution of claims against the Federal Government, including appeals of final Federal agency decisions, are unallowable.

(h) Costs of legal, accounting, and consultant services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the Federal award.

(i) Costs which may be unallowable under this section, including directly associated costs, must be segregated and accounted for separately. During the pendency of any proceeding covered by paragraphs (b) and (f) of this section, the Federal Government must generally withhold payment of such costs. However, if in its best interests, the Federal Government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

2 CFR 200.436 Depreciation.

(a) Depreciation is the method for allocating the cost of fixed assets to periods benefitting from asset use. The non-Federal entity may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP, provided that they are used, needed in the non-Federal entity's activities, and properly allocated to Federal awards. Such compensation must be made by computing depreciation.

(b) The allocation for depreciation must be made in accordance with Appendices III through IX.

(c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the non-Federal entity by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For the purpose of computing depreciation, the acquisition cost will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it is presently located;

(3) Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity where law or agreement prohibits recovery; and

(4) Any asset acquired solely for the performance of a non-Federal award.

(d) When computing depreciation charges, the following must be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed to be the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the cognizant agency. The depreciation methods used to calculate the depreciation amounts for indirect (F&A) rate purposes must be the same methods used by the non-Federal entity for its financial statements.

(3) The entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life. A building may also be divided into multiple components. Each component item may then be depreciated over its estimated useful life. The building components must be grouped into three general components of a building: building shell (including construction and design costs), building services systems (e.g., elevators, HVAC, plumbing system and heating and air-conditioning system) and fixed equipment (e.g., sterilizers, casework, fume hoods, cold rooms and glassware/washers). In exceptional cases, a cognizant agency may authorize a non-Federal entity to use more than these three groupings. When a non-Federal entity elects to depreciate its buildings by its components, the same depreciation methods must be used for indirect (F&A) purposes and financial statements purposes, as described in paragraphs (d)(1) and (2) of this section.

(4) No depreciation may be allowed on any assets that have outlived their depreciable lives.

(5) Where the depreciation method is introduced to replace the use allowance method, depreciation must be computed as if the asset had been depreciated over its entire life (i.e., from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The total amount of use allowance and depreciation for an asset (including imputed depreciation applicable to periods prior to the conversion from the use allowance method as well as depreciation after the conversion) may not exceed the total acquisition cost of the asset.

(e) Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.

2 CFR 200.437 Employee health and welfare costs.

(a) Costs incurred in accordance with the non-Federal entity's documented policies for the improvement of working conditions, employer-employee relations, employee health, and

employee performance are allowable.

(b) Such costs will be equitably apportioned to all activities of the non-Federal entity. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably sent to employee welfare organizations.

(c) Losses resulting from operating food services are allowable only if the non-Federal entity's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only:

(1) Where the non-Federal entity can demonstrate unusual circumstances; and

(2) With the approval of the cognizant agency for indirect costs.

2 CFR 200.438 Entertainment costs.

Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

2 CFR 200.439 Equipment and other capital expenditures.

(a) See 2 CFR 200.13 Capital expenditures, 2 CFR 200.33 Equipment, 2 CFR 200.89 Special purpose equipment, 2 CFR 200.48 General purpose equipment, 2 CFR 200.2 Acquisition cost, and 2 CFR 200.12 Capital assets.

(b) The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity. See 2 CFR 200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also 2 CFR 200.465 Rental costs of real property and equipment.

(4) When approved as a direct charge pursuant to paragraphs (b)(1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as

otherwise determined appropriate and negotiated with the Federal awarding agency.

(5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

(7) Equipment and other capital expenditures are unallowable as indirect costs. See 2 CFR 200.436 Depreciation.

2 CFR 200.440 Exchange rates.

(a) Cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding. Prior approval of exchange rate fluctuations is required only when the change results in the need for additional Federal funding, or the increased costs result in the need to significantly reduce the scope of the project. The Federal awarding agency must however ensure that adequate funds are available to cover currency fluctuations in order to avoid a violation of the Anti-Deficiency Act.

(b) The non-Federal entity is required to make reviews of local currency gains to determine the need for additional federal funding before the expiration date of the Federal award. Subsequent adjustments for currency increases may be allowable only when the non-Federal entity provides the Federal awarding agency with adequate source documentation from a commonly used source in effect at the time the expense was made, and to the extent that sufficient Federal funds are available.

2 CFR 200.441 Fines, penalties, damages and other settlements.

Costs resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award, or with prior written approval of the Federal awarding agency. See also 2 CFR 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

2 CFR 200.442 Fund raising and investment management costs.

(a) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency. Proposal costs are covered in 2 CFR 200.460 Proposal costs.

(b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this part.

(c) Costs related to the physical custody and control of monies and securities are allowable.

(d) Both allowable and unallowable fund raising and investment activities must be allocated as an appropriate share of indirect costs under the conditions described in 2 CFR 200.413 Direct costs.

2 CFR 200.443 Gains and losses on disposition of depreciable assets.

(a) Gains and losses on the sale, retirement, or other disposition of depreciable property must be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) is the difference between the amount realized on the property and the undepreciated basis of the property.

(b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions:

(1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under 2 CFR 200.436 Depreciation and 2 CFR 200.439 Equipment and other capital expenditures.

(2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(3) A loss results from the failure to maintain permissible insurance, except as otherwise provided in 2 CFR 200.447 Insurance and indemnification.

(4) Compensation for the use of the property was provided through use allowances in lieu of depreciation.

(5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis.

(c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section, e.g., land, must be excluded in computing Federal award costs.

(d) When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with 2 CFR 200.310 Insurance Coverage through 2 CFR 200.316 Property trust relationship.

2 CFR 200.444 General costs of government.

(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in 2 CFR 200.474 Travel costs). Unallowable costs include:

- (1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe;
- (2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;
- (3) Costs of the judicial branch of a government;
- (4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in 2 CFR 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements); and
- (5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

(b) For Indian tribes and Councils of Governments (COGs) (See 2 CFR 200.64 Local government), up to 50% of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.

2 CFR 200.445 Goods or services for personal use.

(a) Costs of goods or services for personal use of the non-Federal entity's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

(b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.

2 CFR 200.446 Idle facilities and idle capacity.

(a) As used in this section the following terms have the meanings set forth in this section:

(1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the non-Federal entity.

(2) Idle facilities means completely unused facilities that are excess to the non-Federal entity's current needs.

(3) Idle capacity means the unused capacity of partially used facilities. It is the difference between:

(i) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and;

(ii) The extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation. These costs could include the costs of idle public safety emergency facilities, telecommunications, or information technology system capacity that is built to withstand major fluctuations in load, e.g., consolidated data centers.

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all benefiting programs; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the Federal award or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

2 CFR 200.447 Insurance and indemnification.

(a) Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with the non-Federal entity's policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the Federal awarding agency has specifically required or approved such costs.

(3) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees.

(4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (See 2 CFR 200.431 Compensation—fringe benefits). The cost of such insurance when the non-Federal entity is identified as the beneficiary is unallowable.

(5) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the non-Federal entity's materials or workmanship are unallowable.

(6) Medical liability (malpractice) insurance. Medical liability insurance is an allowable cost of Federal research programs only to the extent that the Federal research programs involve human subjects or training of participants in research techniques. Medical liability insurance costs must be treated as a direct cost and must be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance.

(c) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(d) Contributions to a reserve for certain self-insurance programs including workers' compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, must not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the non-Federal entity's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3)(i) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims:

(A) Submitted and adjudicated but not paid;

(B) Submitted but not adjudicated; and

(C) Incurred but not submitted.

(ii) Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the non-Federal entity. If individual departments or agencies of the non-Federal entity experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund or unrestricted account), refunds must be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable Federal cognizant agency for indirect cost, claims collection regulations.

(e) Insurance refunds must be credited against insurance costs in the year the refund is received.

(f) Indemnification includes securing the non-Federal entity against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the non-Federal entity only to the extent expressly provided for in the Federal award, except as provided in paragraph (c) of this section.

2 CFR 200.448 Intellectual property.

(a) Patent costs. (1) The following costs related to securing patents and copyrights are allowable:

(i) Costs of preparing disclosures, reports, and other documents required by the Federal award, and of searching the art to the extent necessary to make such disclosures;

(ii) Costs of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the Federal Government to be conveyed to the Federal Government; and

(iii) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee intellectual property agreements (See also 2 CFR 200.459 Professional service costs).

(2) The following costs related to securing patents and copyrights are unallowable:

(i) Costs of preparing disclosures, reports, and other documents, and of searching the art to make disclosures not required by the Federal award;

(ii) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the Federal award does not require conveying title or a royalty-free license to the Federal Government.

(b) Royalties and other costs for use of patents and copyrights. (1) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the Federal award are allowable unless:

(i) The Federal Government already has a license or the right to free use of the patent or copyright.

(ii) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

(iii) The patent or copyright is considered to be unenforceable.

(iv) The patent or copyright is expired.

(2) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less-than-arm's-length bargaining, such as:

(i) Royalties paid to persons, including corporations, affiliated with the non-Federal entity.

(ii) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Federal award would be made.

(iii) Royalties paid under an agreement entered into after a Federal award is made to a non-Federal entity.

(3) In any case involving a patent or copyright formerly owned by the non-Federal entity, the amount of royalty allowed must not exceed the cost which would have been allowed had the non-Federal entity retained title thereto.

2 CFR 200.449 Interest.

(a) General. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-Federal entity's own funds, however represented, are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section.

(b)(1) Capital assets is defined as noted in 2 CFR 200.12 Capital assets. An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP.

(2) For non-Federal entity fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.

(c) Conditions for all non-Federal entities. (1) The non-Federal entity uses the capital assets in support of Federal awards;

(2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the non-Federal entity from an unrelated (arm's length) third party.

(3) The non-Federal entity obtains the financing via an arm's-length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction.

(4) The non-Federal entity limits claims for Federal reimbursement of interest costs to the least expensive alternative. For example, a capital lease may be determined less costly than purchasing through debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.

(5) The non-Federal entity expenses or capitalizes allowable interest cost in accordance with GAAP.

(6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(7) The following conditions must apply to debt arrangements over \$1 million to purchase or construct facilities, unless the non-Federal entity makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the non-Federal entity for the acquisition of facilities prior to occupancy.

(i) The non-Federal entity must reduce claims for reimbursement of interest cost by an amount

equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for Federal awards.

(ii) The non-Federal entity must impute interest on excess cash flow as follows:

(A) Annually, the non-Federal entity must prepare a cumulative (from the inception of the project) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of Federal reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments.

(B) To compute monthly cash inflows and outflows, the non-Federal entity must divide the annual amounts determined in step (i) by the number of months in the year (usually 12) that the building is in service.

(C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The rate of interest to be used must be the three-month Treasury bill closing rate as of the last business day of that month.

(8) Interest attributable to a fully depreciated asset is unallowable.

(d) Additional conditions for states, local governments and Indian tribes. For costs to be allowable, the non-Federal entity must have incurred the interest costs for buildings after October 1, 1980, or for land and equipment after September 1, 1995.

(1) The requirement to offset interest earned on borrowed funds against current allowable interest cost (paragraph (c)(5), above) also applies to earnings on debt service reserve funds.

(2) The non-Federal entity will negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of \$1 million or more, as outlined in paragraph (c)(7) of this section. For this purpose, a non-Federal entity must consider only cash inflows and outflows attributable to that portion of the real property used for Federal awards.

(e) Additional conditions for IHEs. For costs to be allowable, the IHE must have incurred the interest costs after July 1, 1982, in connection with acquisitions of capital assets that occurred after that date.

(f) Additional condition for nonprofit organizations. For costs to be allowable, the nonprofit organization incurred the interest costs after September 29, 1995, in connection with acquisitions of capital assets that occurred after that date.

(g) The interest allowability provisions of this section do not apply to a nonprofit organization subject to "full coverage" under the Cost Accounting Standards (CAS), as defined at 48 CFR 9903.201-2(a). The non-Federal entity's Federal awards are instead subject to CAS 414 (48

CFR 9904.414), “Cost of Money as an Element of the Cost of Facilities Capital”, and CAS 417 (48 CFR 9904.417), “Cost of Money as an Element of the Cost of Capital Assets Under Construction”.

2 CFR 200.450 Lobbying.

(a) The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans is governed by relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, “New Restrictions on Lobbying” published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget “Governmentwide Guidance for New Restrictions on Lobbying” and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

(b) Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a Federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter.

(c) In addition to the above, the following restrictions are applicable to nonprofit organizations and IHEs:

(1) Costs associated with the following activities are unallowable:

(i) Attempts to influence the outcomes of any Federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;

(ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections in the United States;

(iii) Any attempt to influence:

(A) The introduction of Federal or state legislation;

(B) The enactment or modification of any pending Federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence state or local officials to engage in similar lobbying activity);

(C) The enactment or modification of any pending Federal or state legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally,

fund raising drive, lobbying campaign or letter writing or telephone campaign; or

(D) Any government official or employee in connection with a decision to sign or veto enrolled legislation;

(iv) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

(2) The following activities are excepted from the coverage of paragraph (c)(1) of this section:

(i) Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a state legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the non-Federal entity's member of congress, legislative body or a subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(ii) Any lobbying made unallowable by paragraph (c)(1)(iii) of this section to influence state legislation in order to directly reduce the cost, or to avoid material impairment of the non-Federal entity's authority to perform the grant, contract, or other agreement; or

(iii) Any activity specifically authorized by statute to be undertaken with funds from the Federal award.

(iv) Any activity excepted from the definitions of "lobbying" or "influencing legislation" by the Internal Revenue Code provisions that require nonprofit organizations to limit their participation in direct and "grass roots" lobbying activities in order to retain their charitable deduction status and avoid punitive excise taxes, I.R.C. §§501(c)(3), 501(h), 4911(a), including:

(A) Nonpartisan analysis, study, or research reports;

(B) Examinations and discussions of broad social, economic, and similar problems; and

(C) Information provided upon request by a legislator for technical advice and assistance, as defined by I.R.C. §4911(d)(2) and 26 CFR 56.4911-2(c)(1)-(c)(3).

(v) When a non-Federal entity seeks reimbursement for indirect (F&A) costs, total lobbying costs must be separately identified in the indirect (F&A) cost rate proposal, and thereafter

treated as other unallowable activity costs in accordance with the procedures of 2 CFR 200.413 Direct costs.

(vi) The non-Federal entity must submit as part of its annual indirect (F&A) cost rate proposal a certification that the requirements and standards of this section have been complied with. (See also 2 CFR 200.415 Required certifications.)

(vii)(A) Time logs, calendars, or similar records are not required to be created for purposes of complying with the record keeping requirements in 2 CFR 200.302 Financial management with respect to lobbying costs during any particular calendar month when:

(1) The employee engages in lobbying (as defined in paragraphs (c)(1) and (c)(2) of this section) 25 percent or less of the employee's compensated hours of employment during that calendar month; and

(2) Within the preceding five-year period, the non-Federal entity has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.

(B) When conditions in paragraph (c)(2)(vii)(A)(1) and (2) of this section are met, non-Federal entities are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in paragraphs (c)(2)(vii)(A)(1) and (2) of this section are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

(viii) The Federal awarding agency must establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions must be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this part, provided, however, that this must not be construed to prevent a contractor or non-Federal entity from contesting the lawfulness of such a determination.

2 CFR 200.451 Losses on other awards or contracts.

Any excess of costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the non-Federal entity's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect (F&A) costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to another award or contract is unallowable. All losses are not allowable indirect (F&A) costs and are required to be included in the appropriate indirect cost rate base for allocation of indirect costs.

2 CFR 200.452 Maintenance and repair costs.

Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services,

repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures. (See 2 CFR 200.439 Equipment and other capital expenditures). These costs are only allowable to the extent not paid through rental or other agreements.

2 CFR 200.453 Materials and supplies costs, including costs of computing devices.

(a) Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable.

(b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms must be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

(c) Materials and supplies used for the performance of a Federal award may be charged as direct costs. In the specific case of computing devices, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award.

(d) Where federally-donated or furnished materials are used in performing the Federal award, such materials will be used without charge.

2 CFR 200.454 Memberships, subscriptions, and professional activity costs.

(a) Costs of the non-Federal entity's membership in business, technical, and professional organizations are allowable.

(b) Costs of the non-Federal entity's subscriptions to business, professional, and technical periodicals are allowable.

(c) Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.

(d) Costs of membership in any country club or social or dining club or organization are unallowable.

(e) Costs of membership in organizations whose primary purpose is lobbying are unallowable. See also 2 CFR 200.450 Lobbying.

2 CFR 200.455 Organization costs.

Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management

consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-Federal entity in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the Federal awarding agency.

2 CFR 200.456 Participant support costs.

Participant support costs as defined in 2 CFR 200.75 Participant support costs are allowable with the prior approval of the Federal awarding agency.

2 CFR 200.457 Plant and security costs.

Necessary and reasonable expenses incurred for protection and security of facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants. Capital expenditures for plant security purposes are subject to 2 CFR 200.439 Equipment and other capital expenditures.

2 CFR 200.458 Pre-award costs.

Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.

2 CFR 200.459 Professional service costs.

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the non-Federal entity, are allowable, subject to paragraphs (b) and (c) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. In addition, legal and related services are limited under 2 CFR 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

- (1) The nature and scope of the service rendered in relation to the service required.
- (2) The necessity of contracting for the service, considering the non-Federal entity's capability in the particular area.
- (3) The past pattern of such costs, particularly in the years prior to Federal awards.

(4) The impact of Federal awards on the non-Federal entity's business (i.e., what new problems have arisen).

(5) Whether the proportion of Federal work to the non-Federal entity's total business is such as to influence the non-Federal entity in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal awards.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

(c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.

2 CFR 200.460 Proposal costs.

Proposal costs are the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Federal entity's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-Federal entity. No proposal costs of past accounting periods will be allocable to the current period.

2 CFR 200.461 Publication and printing costs.

(a) Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the non-Federal entity.

(b) Page charges for professional journal publications are allowable where:

(1) The publications report work supported by the Federal Government; and

(2) The charges are levied impartially on all items published by the journal, whether or not under a Federal award.

(3) The non-Federal entity may charge the Federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the Federal award.

2 CFR 200.462 Rearrangement and reconversion costs.

(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a Federal award are allowable as a direct cost with the prior approval of the Federal awarding agency or pass-through entity.

(b) Costs incurred in the restoration or rehabilitation of the non-Federal entity's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

2 CFR 200.463 Recruiting costs.

(a) Subject to paragraphs (b) and (c) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to the non-Federal entity's standard recruitment program. Where the non-Federal entity uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) Special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that do not meet the test of reasonableness or do not conform with the established practices of the non-Federal entity, are unallowable.

(c) Where relocation costs incurred incident to recruitment of a new employee have been funded in whole or in part to a Federal award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the non-Federal entity will be required to refund or credit the Federal share of such relocation costs to the Federal Government. See also 2 CFR 200.464 Relocation costs of employees.

(d) Short-term, travel visa costs (as opposed to longer-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Since short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a Federal award. For these costs to be directly charged to a Federal award, they must:

- (1) Be critical and necessary for the conduct of the project;
- (2) Be allowable under the applicable cost principles;
- (3) Be consistent with the non-Federal entity's cost accounting practices and non-Federal entity policy; and

(4) Meet the definition of “direct cost” as described in the applicable cost principles.

2 CFR 200.464 Relocation costs of employees.

(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitations described in paragraphs (b), (c), and (d) of this section, provided that:

(1) The move is for the benefit of the employer.

(2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.

(3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

(b) Allowable relocation costs for current employees are limited to the following:

(1) The costs of transportation of the employee, members of his or her immediate family and his household, and personal effects to the new location.

(2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to maximum period of 30 calendar days.

(3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in (4), are limited to 8 per cent of the sales price of the employee's former home.

(4) The continuing costs of ownership (for up to six months) of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing-up expenses), utilities, taxes, and property insurance.

(5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of canceling an unexpired lease, transportation of personal property, and purchasing insurance against loss of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental.

(c) Allowable relocation costs for new employees are limited to those described in paragraphs (b)(1) and (2) of this section. When relocation costs incurred incident to the recruitment of new employees have been charged to a Federal award and the employee resigns for reasons within the employee's control within 12 months after hire, the non-Federal entity must refund or credit the Federal Government for its share of the cost. However, the costs of travel to an overseas

location must be considered travel costs in accordance with 2 CFR 200.474 Travel costs, and not this 2 CFR 200.464 Relocation costs of employees, for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods.

(d) The following costs related to relocation are unallowable:

- (1) Fees and other costs associated with acquiring a new home.
- (2) A loss on the sale of a former home.
- (3) Continuing mortgage principal and interest payments on a home being sold.
- (4) Income taxes paid by an employee related to reimbursed relocation costs.

2 CFR 200.465 Rental costs of real property and equipment.

(a) Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

(b) Rental costs under “sale and lease back” arrangements are allowable only up to the amount that would be allowed had the non-Federal entity continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance.

(c) Rental costs under “less-than-arm's-length” leases are allowable only up to the amount (as explained in paragraph (b) of this section). For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between:

- (1) Divisions of the non-Federal entity;
- (2) The non-Federal entity under common control through common officers, directors, or members; and
- (3) The non-Federal entity and a director, trustee, officer, or key employee of the non-Federal entity or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the non-Federal entity may establish a separate corporation for the sole purpose of owning property and leasing it back to the non-Federal entity.
- (4) Family members include one party with any of the following relationships to another party:

- (i) Spouse, and parents thereof;
- (ii) Children, and spouses thereof;
- (iii) Parents, and spouses thereof;
- (iv) Siblings, and spouses thereof;
- (v) Grandparents and grandchildren, and spouses thereof;
- (vi) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
- (vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(5) Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in paragraph (b) of this section) that would be allowed had the non-Federal entity purchased the property on the date the lease agreement was executed. The provisions of GAAP must be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in 2 CFR 200.449 Interest. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-Federal entity purchased the property.

(6) The rental of any property owned by any individuals or entities affiliated with the non-Federal entity, to include commercial or residential real estate, for purposes such as the home office workspace is unallowable.

2 CFR 200.466 Scholarships and student aid costs.

(a) Costs of scholarships, fellowships, and other programs of student aid at IHEs are allowable only when the purpose of the Federal award is to provide training to selected participants and the charge is approved by the Federal awarding agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that:

- (1) The individual is conducting activities necessary to the Federal award;
- (2) Tuition remission and other support are provided in accordance with established policy of the IHE and consistently provided in a like manner to students in return for similar activities conducted under Federal awards as well as other activities; and
- (3) During the academic period, the student is enrolled in an advanced degree program at a non-Federal entity or affiliated institution and the activities of the student in relation to the Federal award are related to the degree program;

(4) The tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work; and

(5) It is the IHE's practice to similarly compensate students under Federal awards as well as other activities.

(b) Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages must be subject to the reporting requirements in 2 CFR 200.430 Compensation—personal services, and must be treated as direct or indirect cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis. See also 2 CFR 200.431 Compensation—fringe benefits.

2 CFR 200.467 Selling and marketing costs.

Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under 2 CFR 200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.

2 CFR 200.468 Specialized service facilities.

(a) The costs of services provided by highly complex or specialized facilities operated by the non-Federal entity, such as computing facilities, wind tunnels, and reactors are allowable, provided the charges for the services meet the conditions of either paragraphs (b) or (c) of this section, and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under 2 CFR 200.406 Applicable credits.

(b) The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that:

(1) Does not discriminate between activities under Federal awards and other activities of the non-Federal entity, including usage by the non-Federal entity for internal purposes, and

(2) Is designed to recover only the aggregate costs of the services. The costs of each service must consist normally of both its direct costs and its allocable share of all indirect (F&A) costs. Rates must be adjusted at least biennially, and must take into consideration over/under applied costs of the previous period(s).

(c) Where the costs incurred for a service are not material, they may be allocated as indirect (F&A) costs.

(d) Under some extraordinary circumstances, where it is in the best interest of the Federal Government and the non-Federal entity to establish alternative costing arrangements, such arrangements may be worked out with the Federal cognizant agency for indirect costs.

2 CFR 200.469 Student activity costs.

Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the Federal award.

2 CFR 200.470 Taxes (including Value Added Tax).

(a) For states, local governments and Indian tribes:

(1) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs.

(2) Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.

(3) This provision does not restrict the authority of the Federal awarding agency to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency for indirect costs may accept a reasonable approximation thereof.

(b) For nonprofit organizations and IHEs:

(1) In general, taxes which the non-Federal entity is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for:

(i) Taxes from which exemptions are available to the non-Federal entity directly or which are available to the non-Federal entity based on an exemption afforded the Federal Government and, in the latter case, when the Federal awarding agency makes available the necessary exemption certificates,

(ii) Special assessments on land which represent capital improvements, and

(iii) Federal income taxes.

(2) Any refund of taxes, and any payment to the non-Federal entity of interest thereon, which were allowed as Federal award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the Federal Government. However, any interest actually paid or credited to a non-Federal entity incident to a refund of tax, interest, and penalty will be paid or credited to the Federal Government only to the extent that such interest accrued over the period during which the non-Federal entity has been reimbursed by the Federal Government for the taxes, interest, and penalties.

(c) Value Added Tax (VAT) Foreign taxes charged for the purchase of goods or services that a non-Federal entity is legally required to pay in country is an allowable expense under Federal

awards. Foreign tax refunds or applicable credits under Federal awards refer to receipts, or reduction of expenditures, which operate to offset or reduce expense items that are allocable to Federal awards as direct or indirect costs. To the extent that such credits accrued or received by the non-Federal entity relate to allowable cost, these costs must be credited to the Federal awarding agency either as costs or cash refunds. If the costs are credited back to the Federal award, the non-Federal entity may reduce the Federal share of costs by the amount of the foreign tax reimbursement, or where Federal award has not expired, use the foreign government tax refund for approved activities under the Federal award with prior approval of the Federal awarding agency.

2 CFR 200.471 Termination costs.

Termination of a Federal award generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the Federal award not been terminated. Cost principles covering these items are set forth in this section. They are to be used in conjunction with the other provisions of this part in termination situations.

(a) The cost of items reasonably usable on the non-Federal entity's other work must not be allowable unless the non-Federal entity submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the non-Federal entity, the Federal awarding agency should consider the non-Federal entity's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the non-Federal entity must be regarded as evidence that such items are reasonably usable on the non-Federal entity's other work. Any acceptance of common items as allocable to the terminated portion of the Federal award must be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) If in a particular case, despite all reasonable efforts by the non-Federal entity, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this part, except that any such costs continuing after termination due to the negligent or willful failure of the non-Federal entity to discontinue such costs must be unallowable.

(c) Loss of useful value of special tooling, machinery, and equipment is generally allowable if:

(1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the non-Federal entity,

(2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the Federal awarding agency (See also 2 CFR 200.313 Equipment, paragraph (d), and

(3) The loss of useful value for any one terminated Federal award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the Federal award bears to the entire terminated Federal award and other Federal

awards for which the special tooling, machinery, or equipment was acquired.

(d) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated Federal award less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the Federal award and such further period as may be reasonable, and

(2) The non-Federal entity makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the Federal award, and of reasonable restoration required by the provisions of the lease.

(e) Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(i) The preparation and presentation to the Federal awarding agency of settlement claims and supporting data with respect to the terminated portion of the Federal award, unless the termination is for cause (See Subpart D—Post Federal Award Requirements of this part, 2 CFR 200.338 Remedies for Noncompliance through 2 CFR 200.342 Effects of Suspension and termination); and

(ii) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal Government or acquired or produced for the Federal award.

(f) Claims under subawards, including the allocable portion of claims which are common to the Federal award and to other work of the non-Federal entity, are generally allowable. An appropriate share of the non-Federal entity's indirect costs may be allocated to the amount of settlements with contractors and/or subrecipients, provided that the amount allocated is otherwise consistent with the basic guidelines contained in 2 CFR 200.414 Indirect (F&A) costs. The indirect costs so allocated must exclude the same and similar costs claimed directly or indirectly as settlement expenses.

2 CFR 200.472 Training and education costs.

The cost of training and education provided for employee development is allowable.

2 CFR 200.473 Transportation costs.

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or

added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate indirect (F&A) cost accounts if the non-Federal entity follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms and conditions of the Federal award, should be treated as a direct cost.

2 CFR 200.474 Travel costs.

(a) General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. Notwithstanding the provisions of 2 CFR 200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

(b) Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity's written travel policy. In addition, if these costs are charged directly to the Federal award documentation must justify that:

- (1) Participation of the individual is necessary to the Federal award; and
- (2) The costs are reasonable and consistent with non-Federal entity's established travel policy.

(c)(1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:

- (i) The costs are a direct result of the individual's travel for the Federal award;
- (ii) The costs are consistent with the non-Federal entity's documented travel policy for all entity travel; and
- (iii) Are only temporary during the travel period.

(2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency. See also 2 CFR 200.432 Conferences.

(d) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, (“Travel and Subsistence Expenses; Mileage Allowances”), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a)).

(e) Commercial air travel. (1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:

(i) Require circuitous routing;

(ii) Require travel during unreasonable hours;

(iii) Excessively prolong travel;

(iv) Result in additional costs that would offset the transportation savings; or

(v) Offer accommodations not reasonably adequate for the traveler's medical needs. The non-Federal entity must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the Federal Government will generally not question a non-Federal entity's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the non-Federal entity can demonstrate that such airfare was not available in the specific case.

(f) Air travel by other than commercial carrier. Costs of travel by non-Federal entity-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (d) of this section, is unallowable.

2 CFR 200.475 Trustees.

Travel and subsistence costs of trustees (or directors) at IHEs and nonprofit organizations are allowable. See also 2 CFR 200.474 Travel costs.