

MARC SOLID WASTE MANAGEMENT DISTRICT
GRANT ASSISTANCE AGREEMENT (GAA)

Grant #E2014-006

The MARC Solid Waste Management District (hereafter referred to as the 'District') hereby agrees to grant up to \$64,632 to Jackson County, Missouri (hereafter referred to as the Sub-grantee) to implement the project titled *Eastern Jackson County Yard Waste Facility*.

The Sub-grantee agrees that it will administer this agreement in accordance with:

- a) Sub-grantee application dated 9/10/2013;
- b) Sub-grantee budget plan, work plan and time line (attached);
- c) MARC SWMD Special Terms and Conditions (Attachment 1);
- d) MDNR General Terms and Conditions (Attachment 2 and 2A);
- e) Funding Acknowledgement (Attachment 2E)

Budget Period

January 1, 2014 – December 31, 2014

The Sub-grantee agrees to complete the activities described above on the dates specified. All activities will be completed by the end of the grant period.

Sub-grantee Authorized Official: Michael Sanders, Jackson County Executive

Address: 415 E. 12th Street, Suite 200, Kansas City, MO 64106

Phone: 816-881-3333 **e-mail:** msanders@jacksongov.org

Sub-grantee Project Manager: Sandy Mayer, Special Projects Coordinator

Address: 415 E. 12th Street, Suite 200, Kansas City, MO 64106

Phone: 816-881-3282 **e-mail:** smayer@jacksongov.org

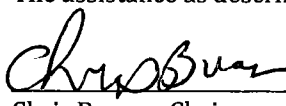
Project Title and Description: Funds will support the development of a permanent, fee-based, drop-off yard waste facility to serve residents and businesses.

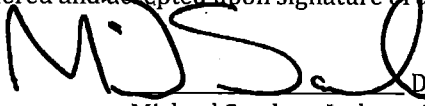
<u>Project Funding</u>	<u>Amount</u>	<u>Percent</u>
District Award	\$64,632	79
Sub-grantee Match	\$17,600	21
Total Project Cost	\$82,232	100
15% Retainage	\$9,695	

Specific Project Conditions

The grantee agrees to accept and comply with the following conditions as approved by the MARC SWMD executive board on October 15, 2013, None Stated.

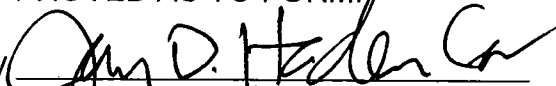
The assistance as described herein is hereby offered and accepted upon signature of authorized officials:

 Date 12/16/13
 Chris Bussen, Chair
 MARC Solid Waste Management District


 Date _____
 Michael Sanders, Jackson County Executive
 Jackson County

FILED
 JAN - 6 2014
 MARY JO SPINO
 COUNTY CLERK

APPROVED AS TO FORM:

By 
 W. Stephen Nixon,
 County Counselor

ATTEST BY:


 Mary Jo Spino,
 Clerk of the County Legislature

Sub-grantee: Initial
each section to
verify agreement.

**SPECIAL TERMS AND CONDITIONS
MARC SWMD GRANT PROGRAM**

ATTACHMENT 1

I Reporting

MS **Quarterly Reports**

Quarterly reports are due on April 15, 2014; July 15, 2014; October 15, 2014 and January 15, 2015. A final report is due January 15, 2015. As a reminder, reports must be printed on recycled content paper with at least 30% post consumer content and double-sided. Reports must be submitted in hard copy with appropriate signature.

MS **Late Report Penalties for Subgrantees**

If the district does not receive quarterly or final reports within seven (7) days from the due date stipulated in the grant assistance agreement's special terms and conditions, the subgrantee is considered out of compliance. Within those seven (7) days, the subgrantee may either submit the late report or negotiate an alternate due date with the grant administrator. If no contact has been initiated by the subgrantee to negotiate an alternate due date, the district will send a warning letter to inform the subgrantee of noncompliance and possible fiscal penalty measures.

If the report is not received within fourteen (14) days from the original due date or upon the negotiated due date, fiscal penalties may be incurred, effective immediately, in the amount of two percent (2%) of the original grant award and remain in effect at the rate of one percent (1%) per week until the outstanding report(s) is received and accepted by the grant administrator.

The grant administrator will obtain authorization from the grant review committee chair to implement the penalty phase and inform the executive board. The subgrantee will be notified by certified letter that the penalty phase is in effect. Noncompliance of reporting requirements will be noted in the subgrantee's record for consideration of future grant awards. Extreme cases may be taken before the executive board for further resolution.

MS ***II Acknowledgements and Publications***

Sub-grantees receiving grant funding shall identify the MARC Solid Waste Management District and the Missouri Department of Natural Resources as a funding source on all publications and other materials intended for distribution. Attachment D provides specifications for using the MDNR and MARC SWMD logos. Logos are available on the MARC website.

MS District staff shall review draft copies of all publications, scripts, and other printed materials that are intended for distribution and are financed, wholly or in part, by agreement funds.


For acknowledgements, Item S, *Mandatory Disclosures*, page 21 of Attachment 2 is hereby amended to include the MARC Solid Waste Management District as a funding source.

III Reimbursements

MS The District shall retain 15% of the funds awarded to the project until the final report has been provided to the district and has been approved.

MS Grant project expenses will be reimbursed only upon receipt of proper source documentation. Documentation must include proof of purchase and proof of payment. Accepted are:

- Paid invoices
- Paid receipts
- Credit card statements indicating payment
- Cancelled checks
- Appropriate electronic verification of cancelled checks
- Employee time sheets
- Accounting payroll sheets

See other side for more 

IV Project Modifications

The sub-grantee agrees to comply with the following requirements to modify or extend the stated project:

MS **Time Extensions:** An extension of the project time must be requested in writing sixty (60) days prior to the end of the grant period. Materials providing adequate justification for the extension and a revised time line must accompany a request for an extension. All extensions must receive District approval thirty (30) days prior to the end of the grant period.

MS **Budget Revisions:** Subgrantees must request and receive prior approval to transfer funds from a direct cost budget category (ies) when the cumulative amount of such transfers exceed or are expected to exceed ten percent of the requested funds. Notification to district staff is to be made whenever a sub-grantee makes a revision of less than ten percent.

MS **Scope of Work Revisions** Changes to the scope of services described in the agreement must receive prior approval from district staff. Approved changes in the scope of work or budget shall be incorporated in a written amendment to the agreement.

V Security Interest

MS The sub-grantee agrees that any equipment [building/site improvements] purchased pursuant to this agreement shall be used for the performance of services under this agreement during the term of this agreement and four (4) years [Nine (9) for buildings/site improvements] thereafter. A security interest agreement between the District and the Subgrantee will be executed.

MS The subgrantee will pay all applicable filing and termination fees associated with UCC filings, certificate of title or a deed of trust. The security interest of the District shall decrease at a rate of 20% of the provided funding per year for equipment and at a decreased rate of 10% of the provided funding per year for buildings and site improvements.

MS The subgrantee shall annually submit a report as provided by the district certifying that the intended use of the equipment, buildings, and/or site improvements are for project activities. Proof of insurance and tonnages diverted shall be reported annually.

For equipment and buildings/site improvements, Item C(3)(xii), *Method of Payment*, Attachment 2, page 4, (Missouri Department of Natural Resources, General Terms and Conditions) is hereby amended to reflect the change in the length of time a security interest is maintained.

For rate of decrease, Item M(3)(ii), *Equipment*, of Attachment 2, page 12, is hereby amended to reflect the change in the percentage of the declining interest.

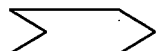
VI Bidding Requirements

MS As recipients of Solid Waste Management Fund financial assistance, sub-grantees are required to obtain bids for all purchases according to the schedule defined in the Revised Statutes of Missouri (RSMo) 34.040. Documentation of bids must be provided to the District.

To paraphrase this statute:

Purchases of \$0-3,000.00	DO NOT REQUIRE BIDS
Purchases of \$3,001.00-24,999.00	REQUIRE COMPETITIVE BIDS, BUT DO NOT HAVE TO BE ADVERTISED.
Purchases of \$25,000.00 or Higher	REQUIRE COMPETITIVE BIDS, ADVERTISED IN AT LEAST TWO DAILY NEWSPAPERS AT LEAST FIVE DAYS BEFORE BID OPENING.

more



_____ The sub-grantee will be required to demonstrate that affirmative steps are taken to assure that small and minority firms, women's business enterprises and labor surplus area firms are used when possible as sources when procuring supplies, equipment, construction and services related to the project.

VII E-Verify Filing Requirement

MS For those grants which provide services, the sub-grantee must certify their business status in accordance with RS MO 285.525 (Attachment C). Sub-grantee and subcontractors will be required to submit the appropriate form and notarization before project costs are incurred.

VIII Indemnification

MS To the extent permitted by law, the Sub-grantee expressly agrees to hold and save harmless, defend and indemnify MARC, its officers, agents, servants and employees for liability of any nature (including, without limitation, reasonable attorneys' fees) related to or arising from (i) a breach of this Agreement by Sub-grantee, (ii) the Services provided under this Agreement by Sub-grantee (iii) any act or omission of Sub-grantee or of any employee or agent of Sub-grantee or (iv) any claim that the Sub-grantee Content or the Custom Content infringes any Intellectual Property right of any third party.

IX Project Income

MS The sub-grantee is encouraged to earn income to defray program costs. Revenues generated as a result of grant funds will be added to the match funds committed to the project and shall be used for the purposes of the project identified in this grant assistance agreement. For reference see F (2) (b) of the General Terms and Conditions, Attachment 2.

7.0 PROJECT BUDGET

RECEIVED
NOV 01 2013

BY: Revised (UK)

BUDGET CATEGORY	NOTES	REQUESTED FUNDS	MATCH FUNDS	MATCHIN KIND	TOTAL
PERSONNEL					
Employee 1	Cashier	\$0	\$8800		\$8800
Employee 2	Machine Operator	\$0	\$8800		\$8800
PROFESSIONAL SERVICES					
PostCards	35,000 post cards	\$1000			\$1000
Magnets	9302 x .43 each	\$4000			\$4000
Printing	Advertisement Signs	\$500.00			\$500.00
EQUIPMENT					
Machinery	Gas Generator	\$430.00			\$430.00
Other	12' x 10' Utility Building (Portable Building)	\$3,000.00			\$3,000.00
Other	900 ft Fencing	\$28,000.00			\$28,000.00
Other	1 High Loader Equipment Usage	\$8,960.00			\$8,960.00
Other	Window Air Conditioner	\$170.00			\$170.00
SUPPLIES					
Other	Cash Register	\$400.00			\$400.00
Other	Printer	\$500.00			\$500.00
Other	6" Thick Clean Aggregate Surface	\$14,437.00			\$14,437.0
Other	Smart phone with credit card reader	\$500.00			\$500.00
OTHER					
Rent					
Utilities	Electrical wiring for Portable Building	\$350.00			\$350.00
Phone	Phone Service	\$600.00			\$600.00
Toilets	2 Portable Toilets Rentals: 1 Regular and 1 Handicap	\$1,785.00			\$1,785.00
TOTAL BUDGET		\$64,632.00	\$17,600.00	\$0.00	\$82,232.00
PERCENTAGE OF TOTAL		79%	21%		100%

Regarding salaries,
\$23.03 per hour
11.34 benefits

Open 4 days a
month for 8 months =
32 days

32 days at 8
hours a day =
256 hours.

\$8800 divided
by 256 hours
will be \$34.37
per hour,
including
benefits

**MISSOURI DEPARTMENT OF NATURAL RESOURCES
Solid Waste Management Program
General Terms and Conditions
Attachment 2**

I. Administrative Requirements

These General Terms and Conditions include requirements that are especially pertinent to solid waste management district grant awards made by the Missouri Department of Natural Resources (MDNR), Solid Waste Management Program (SWMP) to Missouri's Solid Waste Management Districts (Districts). These General Terms and Conditions do not set out all of the provisions of the applicable laws and regulations, nor do they represent an exhaustive list of all requirements applicable to this award. A certain number of these requirements are emphasized here because they are frequently invoked and their violation is of serious concern. Definitions of terminology used within these General Terms and Conditions are set forth in Section III of this document.

These General Terms and Conditions apply to district grant applications approved and signed by the District's Executive Board for use of Solid Waste Management Funds (SWMF). In addition to these terms and conditions, the District and District Subgrantee must comply with all governing requirements of the District's subgrant award.

A. Use and Award of Solid Waste Management Funds

1. All district funds shall be used for implementation of a solid waste management plan, district operations, solid waste management, waste reduction, recycling and related services as approved by the District's Executive Board and the SWMP.
2. District grant or subgrant funds shall be awarded by the District for projects that will implement the District's approved solid waste management plan. These funds shall be used for solid waste management projects as finally approved for funding by the SWMP. However, no district grant or subgrant funds shall be made available for incineration without energy recovery.
3. A District may elect to use more than one fiscal year's allocation of funds to finance a project.
 - a. Prior to the SWMP encumbering funds for this project, the District shall submit a request to the SWMP for approval that provides justification for the project and shall include financial supporting documentation.
 - b. Following the SWMP's approval, the District may request that these funds be disbursed to the District.
 - c. All interest income earned by the District shall be obligated to this project until the total amount needed for the project is reached.
4. District grant or subgrant funds shall not be awarded for a project whose applicant is directly involved in the evaluation and ranking of that particular project.
5. District grant or subgrant funds shall not be awarded for a project that displaces existing resource recovery services, unless the District demonstrates how the proposed project will result in improved or expanded services.
6. District grant or subgrant funds shall not be awarded for a project that collects solid waste for disposal on a continuous basis.

7. Any funds awarded and disbursed to a District, which are not expended or encumbered, for the purpose for which the funds were awarded, shall be repaid by the District to the SWMP for deposit into the SWMF for reallocation.
8. District grant or subgrant funds may be withheld or may be required to be repaid to the SWMP if the District has an unresolved audit with significant findings or questioned costs.
9. Any funds allocated to a District that are not requested by the District pursuant to the procedures outlined in 10 CSR 80-9.050, within twenty-four (24) months of the end of the state fiscal year in which the funds were allocated may be reallocated by the SWMP pursuant to section 260.335.2, RSMo.
10. Special Terms and Conditions may apply to grantees or subgrantees considered "high risk" in accordance with 260.335.5, RSMo.
 - a. The SWMP, in conjunction with the Solid Waste Advisory Board (SWAB), shall periodically review the performance of Districts and District Subgrantees that have had significant findings or questioned costs.
 - b. The SWMP may determine and declare that a District or District Subgrantee is "high risk", if the District or District Subgrantee:
 - i. has a history of unsatisfactory performance;
 - ii. is not financially stable;
 - iii. has a management system that does not meet the management standards set forth in these General Terms and Conditions;
 - iv. has not conformed to terms and conditions of previous awards; or
 - v. is otherwise not responsible.
 - c. If SWMP determines that an award will be made to a "high risk" District or District Subgrantee, then special conditions and/or restrictions shall be set to correspond to the high risk declaration and shall be included in the award as a separate attachment.
 - d. Special conditions or restrictions may include:
 - i. authorizing payment on a reimbursement basis only;
 - ii. withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
 - iii. requiring additional, more detailed financial reports;
 - iv. requiring additional project monitoring;
 - v. requiring the grantee or subgrantee to obtain technical or management assistance; or
 - vi. establishing additional requirements to obtain prior approvals from SWMP and/or the District, where appropriate.
 - e. If the SWMP declares a District or District Subgrantee to be high risk and prior to imposing special conditions or restrictions, the SWMP will notify the District or District Subgrantee as early as possible, in writing, of:
 - i. the nature of the special conditions/restrictions;
 - ii. the reason(s) for imposing the special conditions/restrictions;
 - iii. the corrective actions that must be taken to abate the problems that gave rise to the special conditions/ restrictions and the time allowed for completing such corrective actions; and
 - iv. the method of requesting reconsideration of the special conditions/restrictions imposed.

11. In consideration for the ability to utilize SWMF monies, the District and the District Subgrantee agree to comply with all applicable terms and conditions of the Financial Assistance Agreement (FAA) and any documents incorporated therein, including these General Terms and Conditions. Districts must incorporate the General Terms and Conditions into the District's Subgrantee FAAs and any documents incorporated therein and either provide copies or make copies available to the District's Subgrantees.

B. Project and Budget Periods

1. District Operations: The District's grant and budget period shall cover up to a one (1) year time period, unless otherwise approved by the SWMP.
2. Plan Implementation and District Subgrantee Projects:
 - a. Districts are to assign project and budget periods for district subgrants to allow for up to a two (2) year time period for project completion.
 - b. A maximum of one (1) six (6)-month extension may be allowed beyond the two (2) year completion period when approved by the District's Executive Board. All project and budget period extensions must be documented in executive board meeting minutes with a copy of the extension and executive board meeting minutes provided to SWMP.
 - c. Any extension of the project or budget periods beyond two (2) years and six (6) months must have prior approval of the District's Executive Board and the SWMP.

C. Method of Payments and Disbursements

1. The District must be in compliance with all reporting requirements to receive disbursements.
2. Disbursements from SWMP to the District.
 - a. For District Operations. Funds allocated to the District are disbursable to the District by the SWMP for all eligible and approved expenses for performing the agreed upon scope of services identified in the approved application, required attachments, and supporting documentation, if applicable. In order to receive funds, the District shall submit original invoices requesting disbursements to the SWMP as agreed upon per the Attachment 1 of the approved and fully executed FAA. For Districts entering into contracts for district operations, no disbursements will be made for such expenditures incurred before the SWMP approval date or after the closing budget date. Budget closing dates can be extended when prior approval has been granted by the SWMP.
 - b. For Plan Implementation Projects. Funds allocated to the District are disbursable to the District by the SWMP for all eligible and approved expenses for performing the agreed upon scope of services identified in the approved application, required attachments, and supporting documentation, if applicable. In order to receive funds, the District shall submit original invoices for payment to the SWMP as agreed upon per the Attachment 1 of the approved and fully executed FAA. No disbursements will be made for district plan implementation expenditures incurred before the SWMP approval date or after the closing budget date. Budget closing dates can be extended when prior approval has been granted by the SWMP.
 - c. For District Subgrantee Projects. Funds are disbursable to the District by the SWMP for all eligible and approved expenses as specified in the agreed upon scope of services identified in the approved district subgrantee project application(s). In order to receive funds, the District shall submit original invoices and a copy of the fully executed District

Subgrantee FAAs supporting the amounts requested from the SWMP, as agreed upon per the Attachment 1 of the SWMP's FAA. No disbursements will be made for district subgrantee project expenditures incurred before the SWMP approval date or after the district subgrantee project closing date. Project closing dates can be extended when prior approval has been granted by the District's Executive Board and SWMP as provided for in section B., above.

- d. All invoices submitted by the Districts to the SWMP must include:
 - i. the project name, project identification number, and the amount of allocation funds requested for disbursement for each project;
 - ii. the award amount set forth in the fully executed FAA by the District or District's Subgrantee; and
 - iii. copies of fully executed FAAs for each project for which the District is requesting funds, as attachments.
- e. All requests for disbursement must include the following certification signed by the authorized district official: I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made or will be made in accordance with the grant or subgrant and that payment is due and has not been previously requested.
- f. No disbursements will be made for costs incurred before or after the project's approved budget period or for costs incurred prior to the approval of the project by the SWMP.
- g. No disbursements will be made for expenditures incurred after the closing budget period unless a budget time period extension has been granted. (See section B., above.)

3. Payments from the District to the District Subgrantee

- a. The approved and fully executed FAA between the District and the District Subgrantee shall include:
 - i. the District issued sequential project identification number;
 - ii. the District Subgrantee's name;
 - iii. the project name;
 - iv. the project start and completion dates;
 - v. a breakdown of award amount from allocation, carryover, and interest;
 - vi. the Subgrantee and District authority signatures;
 - vii. an executive summary;
 - viii. project tasks;
 - ix. a budget summary/notes contained in the district subgrantee project application;
 - x. a requirement that the District will retain 15% of the amount to be paid to the District Subgrantee until the District Executive Board gives its final approval of the District Subgrantee's final report and final accounting of project expenditures;
 - xi. a requirement that records be retained for 3-years;
 - xii. for a minimum 5 year security interest in buildings, building site improvements, or equipment costing five thousand dollars or more and purchased, in whole or in part, with SWMF monies; and
 - xiii. a copy of the District's Special and/or General Terms and Conditions, if referred to.
- b. Invoices submitted to the District by the District's Subgrantee must include:
 - i. the award amount provided in the fully executed FAA; and
 - ii. the project name, project identification number, and the amount of funds being requested for reimbursement.

- c. All requests for disbursement must include the following certification signed by the authorized District Subgrantee official: I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made or will be made in accordance with the subgrant and that payment is due and has not been previously requested.
- d. No reimbursements will be made for costs incurred before or after the project's approved budget period by the District or for costs incurred prior to the approval of the project by the SWMP.
- e. No reimbursements will be made for expenditures incurred after the closing budget period unless a budget time period extension has been granted (See section B., above).
- f. Where the District requires match, payments under non-construction subgrants are to be based on the subgrant sharing ratio as applied to the total project cost. Each invoice submitted to the District must be based on the subgrant sharing ratio unless the District's subgrant specifically provides for advance payments.
- g. Advance payments may only be made upon a showing of good cause or special circumstances, as determined by the SWMP. Advance payments will only be made on a monthly basis to cover estimated expenditures for a 30-day period or as otherwise agreed. The SWMP will not approve the District advancing more than 25% of the total amount of the subgrant unless the Subgrantee demonstrates good cause.
- h. The District shall retain 15% of the funds awarded to the project until a District Subgrantee's final report has been provided to the District and the District's Executive Board approves the project's final report and final accounting of expenditures.
- i. The District has the option of making payment directly to a vendor instead of reimbursing the District Subgrantee. In order for payment to be made directly to a vendor, the District's Executive Board must approve such direct payment for goods or services being purchased by the District Subgrantee and the goods or services must have been actually received by the District Subgrantee. The District's Executive Board is nevertheless still bound by the requirement to retain 15% of the project funds until it approves the final report and final accounting of expenditures submitted by the District Subgrantee.
- j. The District's Executive Board and the SWMP may approve waiving of the 15% retention upon written request by the District Subgrantee.

D. Withholding of District Funds

- 1. The SWMP may withhold or reduce district grant awards if the District is not in compliance with:
 - a. The Solid Waste Management Law and regulations;
 - b. Planning requirements pursuant to section 260.325, RSMo;
 - c. All General and Special Terms and Conditions of the District's FAA;
 - d. Audit requirements as set forth in 260.325.10 RSMo and as detailed herein at Subsection J.5;
 - e. Significant audit findings and questioned costs resolution plans; and

- f. All reporting requirements and plan revisions detailed in 10 CSR 80-9.050.
2. The SWMP may immediately withhold funds for significant audit findings. For other situations for which the SWMP determines the withholding of funds would be appropriate, the SWMP shall provide written notice of noncompliance prior to such withholding, and such notice shall allow at least thirty (30) days for the District to comply with the requirements contained in the SWMP's notice of noncompliance.
3. The SWMP may withhold funds for failure to timely submit reports. To determine whether a report has been timely submitted, the SWMP shall use the postmark date as the date submitted by the District. If no postmark date is available, the SWMP shall use the date the SWMP receives the report. Withholdings for failure to timely submit reports shall be done as follows:
 - a. If a District fails to submit to the SWMP a complete quarterly report, annual report, or plan revision (i.e., assessment inventory) by the due date indicated in the SWMP's notice of noncompliance, the SWMP shall withhold and reallocate funds equal to one percent (1%) of the District's most recent quarterly allocation for each day past the notice due date.
 - b. Extensions from the required due dates are allowed if the following provisions have been met:
 - i. The District has requested an extension prior to the notice due date and the SWMP has granted that extension; and
 - ii. The District has submitted complete reports by the dates indicated in previous SWMP approved extensions.
4. The SWMP may withhold disbursements for costs it determines to be inappropriate or unnecessary. In such event, the District shall repay the SWMP or the SWMP shall withhold from the District's allocation the amount of the costs, following the SWMP's written request.
5. Funds withheld or repaid by a District shall be reallocated by the SWMP to all Districts that, at the time of the reallocation, are in compliance with all requirements and have addressed all deficiencies identified in a District's audit to the satisfaction of the SWMP. The reallocation shall be made to Districts in accordance with the allocation criteria pursuant to section 260.335, RSMo.

E. Recordkeeping

1. The District or District Subgrantee shall retain financial records, supporting documents, and other records pertinent to the subgrant for a period of three years starting from the date of submission of the final financial status report.
2. If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the 3-year period, the District or District Subgrantee shall retain records until completion of the action and resolution of all issues that arise from it, or until the end of the regular 3-year period, whichever is later.
3. The SWMP and the Missouri State Auditor's Office and any of their authorized agents, shall have the right of access to any pertinent books, documents, papers, or other records of the District or District Subgrantees which are pertinent to the subgrant, in order to make audits, examinations, excerpts, and transcripts and the SWMP shall have the right to inspect any and all such documents and records so long as they are maintained by the District or the District Subgrantee, regardless of whether the requirement to maintain those records has expired.

4. For equipment and building or site improvement records the 3-year retention period begins from the date of the disposition, replacement, or transfer of the asset at the direction of the SWMP or District.
5. The District will include these provisions for compliance with the record retention requirements of these General Terms and Conditions in every subgrant.
6. The District's records shall be maintained as public records pursuant to Chapter 610, RSMo.

F. Program Income

1. The District or District Subgrantee is encouraged to earn income to defray program costs.
2. Program income shall be deducted from outlays (i.e., expenditures) that may be both district grant funds and non-district grant funds as described below, unless the District Grant regulations at 10 CSR 80-9.050 or the FAA specify another alternative (or a combination of alternatives). In specifying alternatives, the SWMP may distinguish between income earned by the District and income earned by District Subgrantees and between the sources, kinds, or amounts of income. When the SWMP authorizes use of the alternatives in paragraphs 2.b. and 2.c. of this section, program income in excess of any limits stipulated shall also be deducted from outlays.
 - a. Deduction. Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the SWMP authorizes otherwise. Program income which the District or District Subgrantee did not anticipate at the time of the award shall be used to reduce the SWMP and District contributions rather than to increase the funds committed to the project.
 - b. Addition. With the prior written approval of the SWMP, program income may be added to the funds committed to the FAA by the SWMP and the District. The program income shall be used for the purposes and under the conditions stated in the FAA.
 - c. Cost sharing or matching. With the prior written approval of the SWMP, program income may be used to meet the cost sharing or matching requirement of the FAA, if applicable. The amount of the district grant award remains the same.
 - d. Program income after the award period.
 - i. Program income generated from project activities occurring after the expiration of the FAA between the District and District Subgrantee remains with the District Subgrantee.
 - ii. Program income generated from project activities funded from district grant funds occurring after the expiration of the District's FAA with the SWMP must be expended in compliance with 10 CSR 80-9.050.

G. Interest Income

1. Expenditure of interest income earned on district grant agreement funds must be in compliance with 10 CSR 80-9.050.
2. Interest income earned from grant monies may be used to fund costs as long as those costs are reimbursable under the provisions established in 10 CSR 80-9.050 and directly benefit the District Subgrant Program and are budgeted and spent as part of a subgrant approved by the SWMP.

3. The expenditure of interest income, like other grant expenditures, must be reported to the SWMP quarterly on forms provided by the SWMP.

H. Match or Cost Share Funding

1. At this time, the SWMP does not require Districts to match state funds allocated pursuant to 260.335, RSMo.
2. The District may elect to require a matching share from their District Subgrantees. The matching share will usually be prescribed as a minimum percentage. In-kind (non-cash) contributions are allowable project costs when the in-kind contributions directly benefit and are specifically identifiable to the project or program. Any in-kind match must be assigned a fair market value stated in dollars and the rationale used to calculate the value must be provided. Neither costs nor the values of third party in-kind contributions count towards satisfying a cost sharing or matching requirement of a subgrant agreement if such costs have been or will be counted towards satisfying a cost sharing or matching requirement of another SWMF subgrantee agreement, a SWMF procurement contract, or any other award of SWMF funds. MDNR funds from another MDNR grant or subgrant shall not count towards satisfying a cost sharing or matching requirement of a district subgrant agreement. Any match funds are considered state funds and may only be used for purposes allowed by 10 CSR 80-9.050.

I. Financial Management Systems

The financial management systems used by Districts and District Subgrantees must be in accordance with generally accepted accounting principles and meet the following standards:

1. **Financial Reporting.** Accurate, current, and complete disclosure of financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the subgrant;
2. **Accounting Records.** Records shall be maintained that adequately identify the source and use of funds provided for financially assisted activities. These records must contain information pertaining to subgrant awards and authorizations, restrictions on use of funds, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income, permit preparation of reports required by the SWMP, permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes;
3. **Internal Control.** Effective control to prevent loss or misuse and accountability shall be maintained for all District and District Subgrantee cash, real and personal property, and other assets. Subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes;
4. **Budget Control.** Actual expenditures or outlays must be compared with budgeted amounts for each subgrant;
5. **Allowable Costs.** Allowability of costs shall be determined in compliance with the Solid Waste Management Law and the implementing rules as well as cost principles contained in Office of Management and Budget Circular No. A-87 for state and local governments (Attachment A), and Office of Management and Budget Circular No. A-122 (Attachment B) for nonprofit organizations. The District Grant rules and regulations at 10 CSR 80-9.050, and the subgrant scope of work will be followed in determining the reasonableness, allowability, and allocability of costs. The District and its Executive Board are responsible for ensuring proper use of the SWMF. Districts will repay the amount of any improperly expended funds to the SWMP.

6. **Eligible and Ineligible Costs.** Eligible and ineligible costs may vary depending on the services, materials, and activities being performed. The District shall refer to 10 CSR 80-9.050(2)(D) for specifics for district fund use. Items not listed in 10 CSR 80-9.050(2)(D) or in sections (3)(A) District Operations, Eligible Costs and (4)(B) Plan Implementation Projects, Eligible Costs may be allowed with prior approval of the District's Executive Board and SWMP;
7. **Source Documentation.** Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents. Appropriate electronic verification of cleared checks may also be considered source documentation in lieu of actual cancelled checks. The documentation must be made available by the District or District Subgrantee at the SWMP's request; and
8. The District shall have procedures in place to minimize the time lapsed between money disbursed by the SWMP and money spent by the District or District Subgrantee.

J. Reporting of Program Activities

The District shall submit to the SWMP:

1. **District Annual Report.** The District shall submit within 120 days following the close of the just completed state fiscal year the following information:
 - a. Goals and accomplishments;
 - b. Types of projects and results during the fiscal year;
 - i. Projects resulting in tonnage diversion from landfills. Include the number and cost of the projects, tons diverted, and average cost per ton diverted. Identify separate statistics for items banned and not banned from landfills;
 - ii. Projects not resulting in tonnage diversion including the number and cost of projects; and
 - iii. Projects closed.
 - c. A description of the grant proposal evaluation process; and
 - d. District council and executive board members: list names along with the organization represented.
2. **Quarterly Report(s).** On quarterly status report forms provided by the SWMP, the District shall submit the following information to the SWMP thirty (30) days after the end of each state fiscal year quarter (Note: State fiscal year quarters end on September 30, December 31, March 31, and June 30. Quarterly reports are due on: October 30, January 30, April 30, and July 30 respectively.):
 - a. **Project status.** For each plan implementation and district subgrantee project in progress, the District shall provide:
 - i. The details of progress addressing the project tasks outlined in the plan implementation application or subgrantee financial assistance agreement;
 - ii. Problems encountered in project execution;
 - iii. Budget adjustments made within budget categories, with justifications;
 - iv. The weight in tons of waste diverted for each type of recovered material utilized in the project for the most recent quarter following the implementation of the diversion activity or other measurable outcomes, as appropriate;

- v. A copy of an amended District Subgrantee FAA , if appropriate;
 - vi. Other information necessary for proper evaluation of the progress of the projects; and
 - vii. In the event that a time period for a project is less than a full year, only quarterly information appropriate to the project time period need be included in the district report.
- b. District Operations Status: For the district operations status report, the District shall provide:
- i. The details of progress in completing the district operations tasks outlined in the district operations application;
 - ii. Problems encountered in district operations;
 - iii. Required budget amendments; and
 - iv. Other information necessary for proper evaluation of district operations.
- c. Project Financial Summary. For each grant (district operations, plan implementation and district subgrantee project) the District shall provide:
- i. The original award amount taken from the accrued allocation held by the SWMP;
 - ii. Any district carryover used to fund a project or district operations;
 - iii. Any accrued interest income used to fund a project or district operations;
 - iv. Total grant award for that project or district operations. (The total J.2.c.i, J.2.c.ii, and J.2.c.iii);
 - v. Cumulative amount of District disbursement of funds to each District Subgrantee or to the District during that reporting period;
 - vi. Balance of that district subgrant project or district operations during that reporting period;
 - vii. Any carryover funding held by the District that has not been obligated for projects or district operations; and
 - viii. Any accrued interest income held by the District that has not been obligated for projects or district operations.
3. Final Project Reports. The District shall submit to the SWMP a final report for each plan implementation or district subgrantee project that shall contain the same information as described for project status in J.2.a. as well as a comparison of actual accomplishments to the goals established and a description of how goals were met, not met, or were exceeded. Final Project Reports shall be provided along with the next quarterly report submitted by the District (i.e., thirty (30) days after the end of the next state fiscal year quarter.).
4. Assessment Inventory: Pursuant to section 260.325, RSMo, the District Executive Board shall review the District's recycling and solid waste management planning activities at least every twenty-four (24) months for the purpose of evaluating the District's progress in expanding and improving waste reduction and recycling efforts within their District and shall submit revisions to planning information to the Department and District Executive Board or Council. At a minimum, the District Executive Board shall submit revisions by April 1 of each odd numbered year that include, but are not limited to:
- a. An inventory of solid waste services in the planning area on forms provided by the SWMP. Service information shall include:
 - i. the solid waste collection services available to residential and commercial customers;
 - ii. the recycling services available to residential and commercial customers;
 - iii. the services available for management of items banned from Missouri landfills, pursuant to section 260.250, RSMo; and

- iv. the services available for management of household hazardous wastes.
 - b. Pursuant to section 260.320.3, RSMo, a list of advisory boards, members of each and documentation of meetings; and
 - c. A description of illegal dumping identification, public education, and household hazardous waste activities and programs established by the District Executive Board, pursuant to section 260.320.3, RSMo.
5. Financial Audit Requirements:
- a. The District's Executive Board shall have their records audited by a certified public accountant or firm of certified public accountants pursuant to section 260.325, RSMo. Districts receiving two hundred thousand dollars or more of financial assistance shall have annual independent financial audits and Districts receiving less than two hundred thousand dollars of financial assistance shall have independent audits at least once every two (2) years. The due date for audit reports will be within one hundred eighty (180) days of the close of the District's fiscal year.
 - b. The District's Executive Board shall address all deficiencies identified in a District's audit to the satisfaction of the SWMP. Districts failing to adequately address deficiencies identified in the audit may have funds withheld or may be required to repay any and all disbursements of funds in accordance with 10 CSR 80-9.050(9) Withholding of District Funds.
 - c. For questioned costs that the SWMP determines to be inappropriate or unnecessary, the District shall repay the SWMP or the SWMP shall withhold from the District's allocation the amount of the cost.
 - d. The SWMP may withhold or reduce district grant awards until the District is in compliance with the audit requirements, and has resolved significant audit findings and questioned costs.
 - e. The basic financial statements and required supplementary information shall be audited and provide, at a minimum, for all fund types and account groups in accordance with generally accepted government auditing standards and include the following:
 - i. An Independent Auditor's Report on the Financial Statements and Schedule of Receipts and Expenditures of State Awards.
 - ii. Management's Discussion and Analysis (MDA) providing an analytical overview of the district's financial activities.
 - iii. Basic Financial Statements
 - 1) With statements identifying, at a minimum, the following accounts:
 - a) Assets: cash, investments, receivables, fixed assets.
 - b) Liabilities: accounts payable, deferred grant revenue, deferred interest revenue.
 - c) Net Assets
 - d) Revenues: grant revenue, program income, interest revenue, and other revenue.
 - 2) With the following minimum statements:
 - a) Statement of Net Assets
 - b) Statement of Activities
 - c) Fund Financial Statements.
 - 3) Notes to the Financial Statements
 - iv. Schedule of Receipts and Expenditures of State Awards

- 1) The schedule for each subgrant including district operations shall include, at a minimum, subgrant period; subgrant project number; subgrantee name; subgrant award amount; prior period subgrant funds expended; current period subgrant amount expended; program income earned and expended, as applicable; interest income earned and expended, as applicable; subgrant amount remaining available; program income amount remaining available; and unobligated amount by source as identified by the District's Executive Board.
 - 2) Notes to the Schedule of Receipts and Expenditures of State Awards
- v. Report on Internal Controls over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards, issued by the Comptroller General of the United States.
 - vi. Schedule of Findings and Questioned Costs, if applicable.
 - vii. Corrective Action Plan, if applicable.
 - viii. Summary Schedule of Prior Audit Findings and Questioned Costs.

6. Performance Reports:

- a. The SWMP pursuant to 260.335.5 RSMo may require the District Grantee or Subgrantee to submit periodic reports and such other data as are necessary, both during the grant or subgrant period and up to five years thereafter to ensure the Grantee or Subgrantee complies with the specific goals and implementation dates contained in their grant or subgrant application and that grantees or subgrantees shall be contractually obligated to fulfill same.
- b. The District Grantee or Subgrantee shall file quarterly program status reports during the grant or subgrant period including waste material diversion tonnage information, as established in the grant or subgrant application.
- c. The District Grantee or Subgrantee acquiring equipment from district grant funds shall thereafter provide an annual waste material diversion tonnage report for a period of up to four years after the expiration of the grant period, but no longer than a five year period in total. The annual waste material diversion tonnage report shall be due to the district from the grantee or subgrantee by September 30 of each year. The district shall be responsible for submitting all such annual waste material diversion tonnage reports for the applicable district to the SWMP along with the district's annual report.

K. Performance Audits and Other Examinations or Reviews

The SWMP or its designees have the right to conduct audits, examinations or reviews of the District or District Subgrantees at any time.

1. Audits or examinations must confirm that records accurately reflect the operations of the District; the internal control structure provides reasonable assurance that assets are safeguarded, and the District or District Subgrantee is in compliance with applicable laws and regulations.
2. A District or a District Subgrantee receiving SWMF which are audited shall address all deficiencies identified in the audit to the satisfaction of the SWMP and/or the District.
3. The District's Executive Board shall address all deficiencies identified in a District's audit to the satisfaction of the SWMP. Districts failing to adequately address deficiencies identified in the audit may have funds withheld or may be required to repay any and all disbursements of funds in accordance with 10 CSR 80-9.050(9) Withholding of District Funds.

4. For questioned costs that the SWMP determines to be inappropriate or unnecessary, the District shall repay the SWMP or the SWMP shall withhold from the District's allocation the amount of the cost.
5. The SWMP may withhold or reduce district grant awards until the District is in compliance with the audit requirements and has resolved significant audit findings and questioned costs.

L. Budget and Scope of Work Revisions

The District and District Subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements. However, the District and District Subgrantees must request approval in writing to revise budgets and scopes of work under the following conditions:

1. For non-construction projects, the District and District Subgrantees shall obtain the prior approval of the SWMP, unless waived in writing by the SWMP, for cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities when the accumulative amounts of such transfers exceed or are expected to exceed 10% of the current total approved budget which includes current year grant award amount, carryover amount, and interest income amount, whenever the SWMP's share exceeds \$100,000.
2. For construction and non-construction projects, the District and District Subgrantees shall obtain prior written approval from the SWMP for any budget revision which would result in the need for additional SWMF monies.
3. For combined non-construction and construction projects, the District and District Subgrantee must obtain prior written approval from the SWMP before making any fund or budget transfer from a non-construction project to a construction project or vice versa.
4. The District or District Subgrantee under non-construction projects must obtain prior written approval from the SWMP whenever contracting out, subgranting or otherwise obtaining a third party to perform activities, which are central to the purpose of the award.
5. Changes to the scope of services described in the application and FAA must receive prior approval from the District or SWMP, as applicable. Approved changes in the scope of work or budget shall be incorporated by written amendment to the FAA with copies immediately provided to SWMP upon the obtaining of the District and District Subgrantee's official signatures.
6. To extend the subgrant past the original completion date, see section B., above.

M. Equipment

Equipment is defined in Section III below. The District and District Subgrantee agree that any equipment purchased pursuant to this agreement shall be used for the performance of services under the FAA during the term of the FAA. Notwithstanding anything to the contrary contained in this agreement, the equipment shall not be removed from the State of Missouri without the written approval of the SWMP.

The following standards shall govern the utilization and disposition of equipment acquired with District or District Subgrantee funds:

1. Title to equipment acquired under a grant or subgrant will vest with either the District or District Subgrantee upon acquisition.

- a. Equipment shall be used by the District or District Subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by SWMF. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the SWMP or MDNR.
 - b. The District or District Subgrantee shall not transfer, sell, or pledge any assets including equipment purchased using SWMF monies during the term of the grant and for four years thereafter without first obtaining the prior written consent of the SWMP.
 - c. The District or District Subgrantee shall not sell, give away, relocate, or abandon the assets including equipment without the SWMP's prior written approval.
 - d. The District or District Subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the SWMP or other MDNR programs, if such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the SWMP or MDNR. User fees should be considered, if appropriate. This fee may be considered program income. See Section F, above.
 - e. The District or District Subgrantee must not use equipment acquired with SWMF to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically allowed by state law.
 - f. When acquiring replacement equipment, the District or District Subgrantee may use the equipment to be replaced as a trade-in or sell the equipment and use the proceeds to offset the cost of the replacement equipment, subject to the prior written approval of the SWMP or District.
 - g. The District or District's Subgrantee hereby agrees that any equipment purchased pursuant to this agreement shall be used for the performance of services under this agreement during the term of this agreement, and for four years thereafter. The District or District's Subgrantees shall annually submit a statement as provided by the District certifying that the use(s) of said equipment is for project activities. Use(s) of said equipment for activities not related to the performance of services of this agreement must be reported in quarterly reports required by this agreement.
2. Equipment Management. The District's and District Subgrantee's procedures for managing equipment (i.e., including replacement equipment), whether acquired in whole or in part with subgrant funds, will, at a minimum, meet the following requirements until disposition takes place:
- a. Equipment records must be maintained that include a description of the equipment, a serial number or other identification number, the source of the equipment, who holds the title, the acquisition date, cost of the equipment, percentage of state participation in the cost of the equipment, and the location, use and condition of the equipment, and any ultimate disposition data including date of disposal, and sale price of the equipment.
 - b. A physical inventory of the equipment must be taken and the results reconciled with the equipment records at least once every two years.
 - c. A control system must be developed to ensure adequate safeguards to prevent against loss, damage, or theft of the equipment. Any loss, damage, or theft shall be reported to and investigated by local authorities.

- d. The control system shall include permanent tagging of equipment to identify the equipment as belonging to the District or being funded by district grant funds.
- e. For all equipment purchased, in whole or in part, with SWMF, the District or District Subgrantee shall procure and maintain insurance covering loss or damage to equipment purchased with a District or District Subgrantee award, with a financially sound and reputable insurer in such amounts and covering such risks as are usually carried by similarly situated companies engaged in the same or similar business. Alternatively, the Subgrantee may provide documentation of self-insurance to cover the amount of the equipment purchased.
- f. The District and District Subgrantee must utilize adequate maintenance procedures to keep the equipment in good condition.
- g. If the District or District Subgrantee is authorized or required to sell the equipment, proper sales procedures must be established to ensure the highest possible return.

3. Security Interest in Equipment.

- a. The District hereby grants to the SWMP, its successors and assigns a security interest in all equipment purchased by the District for five thousand dollars or more, in whole or in part, with SWMF monies.
 - i. The District hereby agrees to apply the funding provided for equipment to the purchase of the equipment specified in the FAA as negotiated with the SWMP.
 - ii. The security interest in equipment owned by the District shall be equivalent to the amount of funding provided by SWMP for the purchase of the equipment. Unless the SWMP notifies the District in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of SWMP shall decrease at a rate of 20% of the provided funding per year, beginning one year from the purchase date shown on the equipment invoice.
 - iii. The District hereby covenants that it will not transfer, sell, or pledge the SWMP's security interest in the equipment as collateral for any indebtedness without first obtaining the prior written consent of the SWMP. When the security interest is fully depreciated, the SWMP will, on written demand by the District, send the District a termination statement that the SWMP no longer claims a security interest in the financing statement (identified by file number).
 - iv. If the equipment owned by the District is purchased with SWMF monies and is required to be titled through the Missouri Department of Revenue (MDOR), the SWMP must be listed as a lien holder on said title. The District must provide the SWMP a clear title to be held until the security interest (lien) has been fully depreciated. In the case of more than one lien holder, the District must provide the SWMP with documentation that the SWMP is listed as a lien holder on the title.
 - v. If the equipment owned by the District is purchased with SWMP monies and is not required to be titled through MDOR, the District must provide the SWMP with documentation that the SWMP is listed as a lien holder on the certificate of title, UCC-1 form, or other security instrument.
 - vi. It is the responsibility of the District to obtain the proper forms and meet all requirements regarding the use of such forms. This documentation must be obtained within 30 days of purchase.
- b. The District Subgrantee hereby grants to the District, its successors, and assigns a security interest in all equipment purchased by the District Subgrantee for five thousand dollars or more, in whole or in part, with SWMF monies.

- i. The District Subgrantee hereby agrees to apply the funding provided for equipment to the purchase of the equipment specified in the FAA as negotiated with the District.
 - ii. The security interest in equipment owned by the District Subgrantee shall be equivalent to the amount of funding provided by the District for the purchase of the equipment. Unless the SWMP or District notifies the District Subgrantee in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of the District may decrease at a rate of 20% per year, beginning one year from the purchase date shown on the equipment invoice.
 - iii. The District Subgrantee hereby covenants that it will not transfer, sell, or pledge the District's security interest in the equipment as collateral for any indebtedness without first obtaining the prior written consent of the District. When the security interest is fully depreciated, the District will, on written demand by the District Subgrantee, send the District Subgrantee a termination statement that the District no longer claims a security interest in the financing statement (identified by file number).
 - iv. If the equipment owned by the District Subgrantee is purchased with SWMF monies and is required to be titled through the MDOR, the District must be listed as a lien holder on said title. The District's Subgrantee must provide the District a clear title to be held until the security interest (lien) has been fully depreciated. In the case of more than one lien holder, the District's Subgrantee must provide the District with documentation that the District is listed as a lien holder on the title.
 - v. If the equipment owned by the District Subgrantee is purchased with SWMF monies and is not required to be titled through MDOR, the District's Subgrantee must provide the District with documentation that the District is listed as a lien holder on the certificate of title, UCC-1 form, or other security instrument.
 - vi. It is the responsibility of the District's Subgrantee to obtain the proper forms and meet all requirements regarding the use of such forms. This documentation must be obtained within 30 days of purchase.
4. When original or replacement equipment acquired by the District or District's Subgrantee with SWMF monies is no longer needed for the original project or program or for other activities currently or previously supported by the MDNR, the equipment shall be disposed of as follows:
- a. Items of equipment with a current per-unit fair market value of less than five thousand dollars may be retained, sold or otherwise disposed of with no further obligation to the SWMP or the District.
 - b. For items of equipment with a current per unit fair market value of five thousand dollars or more:
 - i. When the equipment is District owned, the SWMP shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the SWMP's remaining interest in the equipment as established in M.3.a.ii of this agreement.
 - ii. When the equipment is owned by a District Subgrantee, the District shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the District's remaining interest in the equipment as established in M.3.b.ii of this agreement.
 - c. When appropriate disposition actions are not taken by the equipment owner:
 - i. For District owned equipment, the SWMP may direct the District on how to dispose of the equipment.

- ii. For District Subgrantee owned equipment, the District may direct the District Subgrantee on how to dispose of the equipment.
- d. If the equipment owner is put on notice by either the SWMP or the District that grant assets are not being used for the intended purpose, then:
 - i. For District owned equipment, the District shall not sell, give away, move, relocate, abandon or dispose of the asset without the SWMP's prior written approval.
 - ii. For District Subgrantee owned equipment, the District's Subgrantee shall not sell, give away, move, relocate, abandon or dispose of the asset without the District's prior written approval.

N. Buildings or Site Improvements

Buildings or site improvements is defined in Section III below. The District or District Subgrantee agrees that any buildings or site improvements purchased pursuant to this agreement shall be used for the performance of services under the FAA during the term of the FAA. Notwithstanding anything to the contrary contained in this agreement, the buildings or site improvements shall not be removed from the State of Missouri without the written approval of the SWMP.

The following standards shall govern the utilization and disposition of buildings or site improvements acquired with district funds:

1. Title to buildings or site improvements acquired under a grant will vest with either the District or District Subgrantee upon acquisition.
 - a. The funding provided for buildings or site improvements specified in the FAA as negotiated with the SWMP or District shall be used for acquisition of the buildings or site improvements.
 - b. The District or District Subgrantee shall not transfer, sell, or pledge any assets including buildings or site improvements purchased using SWMF monies during the term of the grant and for four years thereafter without first obtaining the prior written consent of the District and SWMP.
 - c. The District or District Subgrantee shall not sell, give away, relocate, or abandon the assets including buildings or site improvements without the District and SWMP's prior written approval.
 - d. The District or District Subgrantee must not use the buildings or site improvements acquired with SWMF to unfairly compete with private companies that provide equivalent services, unless specifically permitted or contemplated by state law.
 - e. Buildings or site improvements constructed or purchased pursuant to this agreement shall be used for the performance of services under this agreement during the term of the FAA, and for four years thereafter. Annually a statement must be submitted to the District certifying that the use of said buildings or site improvements is for project activities. The District shall provide and use a form for such statement.
2. Buildings or Site Improvements Management. The District's or Subgrantee's procedures for managing buildings or site improvements whether acquired in whole or in part with subgrant funds, will, at a minimum, meet the following requirements until disposition takes place:

- a. A control system must be developed to ensure adequate safeguards to prevent against loss, damage, or theft of the buildings or site improvements. Any loss, damage, or theft shall be reported to and investigated by local authorities.
- b. For all buildings or site improvements purchased, in whole or in part, with SWMF, the District or District Subgrantee shall procure and maintain insurance covering loss or damage to buildings or site improvements, with a financially sound and reputable insurer in such amounts and covering such risks as are usually carried by similarly situated companies engaged in the same or similar business.

3. Security Interest in Buildings or Site Improvements.

- a. When buildings or site improvements are acquired with SWMF monies under this agreement, the following conditions apply or equivalent conditions are required to be set by the District and certified as appropriate by the District's legal counsel:

- b. The District shall grant to the SWMP, its successors, and assigns a security interest or lien in all buildings or site improvements purchased or constructed for five thousand dollars or more, in whole or in part, with SWMF monies.

- i. For such buildings or site improvements to be owned by the District, the SWMP must be granted a security interest or lien and be listed as the lien holder. The District shall complete a deed of trust or certificate of title, whichever applies, and return a copy of such document along with the FAA packet to the SWMP.
- ii. The security interest or lien shall be equivalent to the amount of funding provided by the SWMP.
- iii. The District hereby covenants that it will not transfer, sell or pledge the SWMP's security interest in the buildings or site improvements as collateral for any indebtedness whatsoever without first obtaining the prior written consent of the SWMP.
- iv. If the District is granting the security interest to the SWMP, the District must provide a copy of the documentation to the SWMP showing that the SWMP is listed as a lien holder on the certificate of title, the deed of trust, or other security instrument.
- v. Unless the SWMP notifies the District in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of the SWMP shall decrease at a rate of 20% per annum, beginning one year from the date the financing statement is fully executed.
- vi. When the security interest is fully depreciated, the SWMP will, on written demand by the District, send the District a termination statement that a security interest in the financing statement is no longer claimed.

- c. The District Subgrantee hereby grants to the District, its successors, and assigns a security interest or lien in all buildings or site improvements purchased or constructed by the District Subgrantee for five thousand dollars or more, in whole or in part, with SWMF monies.

- i. For such buildings or site improvements to be owned by the District Subgrantee, the District must be granted a security interest or lien and be listed as the lien holder. The District Subgrantee shall complete a deed of trust or certificate of title, whichever applies, and return a copy of such document along with the FAA packet to the District.
- ii. The security interest or lien shall be equivalent to the amount of funding provided by the District.
- iii. The District Subgrantee hereby covenants that it will not transfer, sell or pledge the District's security interest in the buildings or site improvements as collateral

- for any indebtedness whatsoever without first obtaining the prior written consent of the District.
- iv. If the District Subgrantee is granting the security interest to the District, the District Subgrantee must provide the District a copy of the documentation showing that the District is listed as a lien holder on the certificate of title, the deed of trust, or other security instrument.
 - v. Unless the SWMP or the District notifies the District Subgrantee in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of the District may decrease at a rate of 20% per annum, beginning one year from the date the financing statement is fully executed.
 - vi. When the security interest is fully depreciated, the secured party will, on written demand by the debtor, send the debtor a termination statement that a security interest in the financing statement is no longer claimed.
4. When a building or site improvement acquired by the District or District Subgrantee is no longer needed for the original project or program or for other activities currently or previously supported by the MDNR, the building or site improvement shall be disposed of as follows:
- a. Buildings or site improvements with a current fair market value of less than five thousand dollars may be retained, sold or otherwise disposed of with no further obligation to the SWMP or the district.
 - b. For a building or site improvement with a current fair market value of five thousand dollars or more:
 - i. When a building or site improvement is District owned, the SWMP shall have a right to an amount calculated by multiplying the current market value or proceeds from the sale by the SWMP's remaining interest in the building or site improvement as established in N.3.b.v. of this agreement.
 - ii. When the building or a site improvement is owned by a District Subgrantee, the District shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the District's remaining interest in the building or a site improvement as established in N.3.c.v. of this agreement.
 - c. When appropriate disposition actions fail to be taken by the building or site improvement owner:
 - i. For District owned buildings or site improvements, the SWMP may direct the District on how to dispose of the building or site improvement.
 - ii. For District Subgrantee owned buildings or site improvements, the District may direct the District Subgrantee on how to dispose of the buildings or site improvements.
 - d. If the building or site improvement owner is put on notice by either the SWMP or the District that grant assets are not being used for the intended purpose, then:
 - i. For District owned buildings or site improvements, the District shall not sell, give away, move, relocate, abandon or dispose of the asset without the SWMP's prior written approval.
 - ii. For District Subgrantee owned buildings or site improvements, the District's Subgrantee shall not sell, give away, move, relocate, abandon, or dispose of the asset without the District's prior written approval.

O. Public Access and Transparency.

1. Districts shall be "public governmental bodies" as that term is defined in Chapter 610 RSMo, commonly known and referred to as the Missouri Sunshine Law. Consequently, Districts shall maintain records, conduct meetings, and provide access as required in that Chapter.
2. The District shall either have a principal designated office with established office hours or provide all District records including postings of meeting and other public notices required open under Chapter 610 RSMo through an Internet website. Principal designated offices of districts in order to be open to the public must be located in commercial, governmental or stand-alone buildings not used as a residence as defined herein.

P. Travel.

Travel will be conducted according to the District's written travel policy and procedures with the following additional limitations imposed by the SWMP which are based on Internal Revenue Service guidelines:

1. Travel expenses are limited to actual expenses that are reasonable and necessary as determined by the Department. The method of travel shall be that which is most economical and advantageous to the grant or subgrant funds.
2. Out-of-state travel must be approved in advance of travel by the SWMP. The District or District Subgrantee must provide a written justification for such travel, which shall include the purpose of the trip and how it relates to the scope of the project. The District or District Subgrantee shall not incur out-of-state travel expenses on project business until receiving written approval by the SWMP. Out-of-state travel requests may be included as part of the annual District Operations or Subgrant approval process or separately as the need for travel arises after original approval of District Operations or the Subgrant.
 - a. Travel by personal vehicle instead of air travel, shall be limited to the District or District Subgrantee's established mileage allowance as stated in their written travel policy (not to exceed the state rate) plus any actual expenses that would have been allowed or provided if taking air transportation.
 - b. If traveling by air, the total allowable costs cannot exceed the reasonable coach fare available at the time to the same destination.
 - c. No meals, additional lodging, or incidentals will be reimbursed for personal extended stays while traveling.
 - d. Reimbursement for out-of-state travel by train or bus shall not exceed the actual cost of the train or bus fare, plus any actual expenses that would have been allowed or provided if taking air transportation.
2. Meal costs shall be allowed during project-related travel, in-state or out-of state, provided that there are at least twelve consecutive hours of travel involved. The District or District Subgrantee will indicate on the travel expense voucher "twelve hour status" and provide time records as back up documentation. Twelve-hour travel status includes the allowable breaks for meals in the District's or District Subgrantee's travel policy. A definition of eligible meals is provided in Section III. When in twelve-hour travel status, an eligible meal is as defined in Section III.
3. Reimbursement shall be provided for reasonable meal and hotel expenses as specified in the State of Missouri Travel Regulations or the District's or District Subgrantee's Travel policy, whichever is less. The website link provided herein may be utilized as reference for State of Missouri Per Diem Rates <http://oa.mo.gov/travel/>.

Q. Food.

1. Food purchases for events, meetings, etc. must be approved in advance by the SWMP. The events must fit the scope of work and provide a benefit to the success of the subgrant project. The District or District Subgrantee shall not make food purchases until receiving written approval by the SWMP. Food purchase requests may be included as part of the annual District Operations or Subgrant approval process or separately as the need for such purchases occur.
 - a. The SWMP shall allow Districts and District Subgrantees to provide food in conjunction with official District or District Subgrantee business and district grant or subgrant sponsored activities within parameters outlined below.
 - b. As used in this section, "official business" includes council, advisory council, and board meetings, and similar functions when they are conducted as part of the District or District Subgrantee's scope of work.
 - c. As used in this section, "other agency sponsored activities" include board meetings, workshops, and other specific subgrant related activities. Costs associated with such events are allowable to the extent the primary purpose is the dissemination of technical information.
2. Districts and District Subgrantees are to be accountable for their decisions to provide food at official or sponsored functions within the limits of this section. Districts and District Subgrantees are expected to establish sufficient controls to ensure agency-provided food expenses are incurred only when appropriate and in compliance with this section and with written approval from the SWMP granted prior to the event at which food is to be served.
3. Food at Official Business Functions
 - a. The District or District Subgrantee may provide food to serve during official District and District Subgrantee business functions when it is determined that providing food or beverage service will promote the efficient conduct of a specific project activity (e.g., workshops, cleanup events or collection events) and such purchases have been approved by SWMP in writing prior to the event at which food or beverages are to be served. Under no circumstances, however, will alcoholic beverages be a permitted or allowable cost.
 - b. During meeting breaks, light snacks and beverages may be provided. Costs for snacks and beverages should be at a nominal charge per person.
 - c. Lunch or dinner may be provided if there is a substantial reason for doing so that directly and demonstrably creates a benefit to the scope of the District or District Subgrantee's work, and if the cost of which is reasonable and necessary as determined by the SWMP.
 - d. Official business functions does not include those where the only individuals in attendance are employees of the District or District Subgrantee. Food shall not be allowed for the District's or District Subgrantee's general staff meetings or other similar functions that only relate to day-to-day operations.
 - e. Lunch expenses shall not automatically be allowed when incurred in conjunction with a District or District Subgrantee's related meeting. Typically lunch expenses will only be allowed when a meeting extends through the typical lunch periods or an all-day meeting, training, etc.

4. Food at Other Agency Sponsored Activities

- a. Districts or District Subgrantees may purchase light refreshments in conjunction with board or council meetings, advisory committee meetings, sponsored workshops, sponsored conference, or like activity. Costs for such events should be at a nominal charge per person and be prior approved by SWMP.
- b. Lunch or dinner may be provided for similar events if there is a substantial reason for doing so which demonstrates a benefit to the District or District Subgrantee's scope of work, be at a reasonable cost and be prior approved by SWMP.

5. Meals Provided to Public Officials

Expenditures made for food for public officials, except those meals that are given to a public official or employee when such person is acting in his or her official capacity with the District, or District Subgrantee should be reported to the Missouri Ethics Commission as lobbying expenses as provided in 105.470-473 RSMo.

R. Supplies

1. Title to supplies acquired under a subgrant will vest, upon acquisition, in the District or the District's Subgrantee.
2. If there is a residual inventory of unused supplies exceeding five thousand dollars in total aggregate fair market value upon termination or completion of the grant or subgrant award, and if the supplies are not needed for any other SWMP sponsored programs or projects, then the District or District Subgrantee shall compensate the SWMP or District for its share.

S. Promotional Items

Unallowable advertising and public relations costs include the costs of promotional items and memorabilia, including models, gifts, and souvenirs.

1. Costs considered ineligible for district grant funding include the costs of gifts as provided in 10 CSR 80-9.050(2)(D)2.
2. Nominally priced educational items containing recycled materials are allowable, but shall not exceed 10% of the total subgrant project budget. These educational items shall be directly related to a measureable subgrant project outcome. The educational items may promote the project or overall reduce/reuse/recycle goals. The educational item shall be necessary to accomplish the purpose of the subgrant and shall have a direct effect on the success of the project.

T. Invention and Patents

1. If any District or District Subgrantee produces subject matter, which is or may be patentable in the course of work sponsored by the Subgrantee, the District or District Subgrantee shall promptly and fully disclose such subject matter in writing to the SWMP and District.
2. In the event that the District or District Subgrantee fails or declines to file Letters of Patent or to recognize patentable subject matter, the SWMP reserves the right to file the same.
3. The SWMP grants to the District or District Subgrantee the opportunity to acquire an exclusive license, including the right to sublicense, with a royalty consideration paid to the SWMP. Payment of royalties by the District or District Subgrantee to the SWMP will be addressed in a separate royalty agreement.

U. Copyrights

1. Except as otherwise provided in the terms and conditions of this subgrant, the author, the District or District's Subgrantee is free to copyright any books, publications, or other copyrightable material developed in the course of this subgrant.
2. The SWMP and District reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, with the approval of the SWMP, the work for the District or SWMP purposes.

V. Prior Approval for Publications

1. The District or District's Subgrantee shall submit to the SWMP and the District two draft copies of each publication and other printed materials which are intended for distribution and are financed, wholly or in part, by SWMF monies.
2. The District or District Subgrantee shall not print or distribute any publication until receiving written approval by the SWMP.

W. Mandatory Disclosures

District and District Subgrantees receiving grant funding from the SWMF shall identify the MDNR as a funding source on all equipment, buildings, site improvements, publications and other printed materials which are intended for distribution and paid for, in whole or in part, with Solid Waste Management Funds.

1. Identification shall include the MDNR's logo with the full "Missouri Department of Natural Resources" name.
2. This requirement applies to publications, news releases, videos, displays, signs, and all other projects from which information may be obtained by reading, watching, hearing, or simply seeing the material.
3. Camera ready copies of the MDNR logo will be provided to any District requesting the copies by the SWMP. The Districts will provide logos to District Subgrantees requesting copies of the logos.
4. For other projects, such as audiocassette tapes and news releases, the SWMP shall be identified audibly by including its full name. Guidelines pertaining to placement of logos along with the "Missouri Department of Natural Resources" name and audible identification of the "Missouri Department of Natural Resources" can be obtained from the SWMP.

X. Procurement Standards

District or District Subgrantees shall use their own procurement procedures provided that procurement conforms to standards set forth in the "Uniform Administrative Requirements For Grants and Cooperative Agreements to State and Local Governments", "Uniform Administrative Requirements for Grants and Agreement with Institutions of Higher Education, Hospitals, or Other Non-Profit Organizations", or 34.040, RSMo, "State Purchasing and Printing", as applicable.

1. Within eighteen months after the October 30, 2007 effective date of 10 CSR 80-9.050 which date is April 30, 2009, the District's Executive Board shall use a competitive bid process to obtain administrative services, office space rental, and other district operations services, except for employees who are directly employed by the District. Contracts shall not exceed five (5) years in duration.

2. No work or services, paid for wholly or in part with state funds, will be contracted without the written consent of the SWMP.
3. The District and/or District Subgrantee agree that any contract, interagency agreement, or equipment to be procured under this award which was not included in the approved workplan must receive formal District and SWMP approval prior to expenditure of funds associated with that contract, interagency agreement, or equipment purchase.

Y. Employment

1. Pursuant to 285.530 (1), RSMo as a condition for the award of any grant, subgrant, contract, or subcontract in excess of five thousand dollars, no grantee, subgrantee, contractor, or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.
2. The grantee, subgrantee, contractor, or subcontractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
3. Pursuant to section 285.530, RSMo, if the grantee, subgrantee, contractor, or subcontractor meets the section 285.525, RSMo definition of a "business entity" included in Attachment 2, the grantee, subgrantee, contractor, or subcontractor must affirm the entity's enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services requested herein. The grantee, subgrantee, contractor, or subcontractor shall complete applicable portions of Attachment 2, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization or Affidavit of Work Authorization Annual Renewal Document. The applicable portions of Attachment 2 must be completed, notarized, and submitted prior to award of a grant or a contract.
4. If the grantee, subgrantee, contractor, or subcontractor is found to be in violation of this requirement or the applicable state, federal, and local laws and regulations, and if the Department has reasonable cause to believe that the grantee, subgrantee, contractor, or subcontractor has knowingly employed individuals who are not eligible to work in the United States, the Department shall have the right to cancel the grant or contract immediately without penalty or recourse and suspend or debar the grantee, subgrantee, contractor, or subcontractor from doing business with the Department or State of Missouri. The Department may also withhold up to twenty-five percent of the total amount due to the grantee.
5. The grantee, subgrantee, contractor, or subcontractor shall agree to fully cooperate with any audit or investigation from federal, state, or local law enforcement agencies.

Z. Conflicts of Interest

No party to this subgrant, nor any officer, agent, or employee of either party to this subgrant, shall participate in any decision related to such subgrant which could result in a real or apparent conflict of interest, including any decision which could affect their personal or pecuniary interest, directly or indirectly.

1. The District's Executive Board shall adopt a conflict of interest policy regarding subgrants to District Subgrantees. The policy shall include a requirement that any non-governmental member of the District's Executive Board, or the business or institution to which a member is

affiliated, who applies for District Subgrants shall not review, score, rank, or approve any of the subgrantees applications in the same grant call.

2. The District or District Subgrantee is advised that no state employee or former state employee, as defined in Chapter 105, RSMo, shall perform any service for consideration paid by the District or District Subgrantee for one year after termination of the employee's state employment by which the former state employee attempts to influence a decision of a state agency. A state employee who leaves state employment is permanently banned from performing any service for consideration for any person, firm or corporation after termination of his or her office or employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment with the state.

AA. State Appropriated Funding

1. The District and District Subgrantee agree that funds expended for the purposes of this subgrant must be appropriated and made available by the Missouri General Assembly for each fiscal year included within the subgrant period, as well as being awarded by the state agency supporting the project. Therefore, the subgrant shall automatically terminate without penalty or termination costs if such funds are not appropriated and/or granted.
2. In the event that funds are not appropriated and/or granted for the subgrant, the District or District Subgrantee shall not prohibit or otherwise limit the SWMP's right to pursue alternative solutions and remedies as deemed necessary for the conduct of state government affairs. The requirements stated in this paragraph shall apply to any amendment or the execution of any option to extend the subgrant.

AB. Eligibility, Debarment and Suspension

By applying for this award, the District or District Subgrantee verifies that it, its board of directors, and all of its principles are currently in compliance with all state and federal environmental laws including those referenced below and court orders issued pursuant to those laws, and that all environmental violations have been resolved (for example, no pending or unresolved Notices of Violation (NOV) at the time of application).

1. If compliance issues exist, the District or District Subgrantee shall disclose to the District and SWMP all pending or unresolved violations noted in an NOV, administrative order, or civil and criminal lawsuit, but only where those alleged violations occurred in the past two years in the State of Missouri.
2. The SWMP will not make any award at any time to any party which is debarred or suspended, under federal or state authority, or is otherwise excluded from or ineligible for participation in federal assistance under Federal Executive Order 12549, "Debarment and Suspension."
3. The District or District Subgrantee shall complete a Debarment/Suspension form when required by the SWMP. Furthermore, the District or District Subgrantee is also responsible for written debarment/suspension certification of all subcontractors receiving funding through a state funded grant.

AC. Restriction on Lobbying Costs

Lobbyists as defined in section 105.470, RSMo, and related costs are ineligible for district grant funds.

AD. Recycled Paper

The District or District Subgrantee receiving SWMF is required to use recycled paper consisting of at least 30% post consumer waste for all reports and materials which are prepared as part of this grant award and delivered to the District or SWMP or otherwise distributed as part of this subgrant.

1. If paper containing 30% post consumer material is not reasonably available, does not meet reasonable performance requirements, or is available at an unreasonable price, then the District or District Subgrantee shall use paper containing no less than 20% post consumer material.
2. The chasing arrows symbol representing the recycled content of the paper will be clearly displayed on at least one page of any materials provided to any and all parties other than the SWMP.
3. This requirement applies even if the cost of recycled paper is higher than that of virgin paper.

AE. Contracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

In order for the SWMP to meet the provisions of Executive Order 05-30, it is desired the District and District Subgrantees secure participation of certified MBEs and WBEs in providing the products and/or services obtained with district grant funds. The targets of participation recommended by the State of Missouri are 10% MBE and 5% WBE of the total dollar value of the products and/or services obtained.

The District or District Subgrantee agrees to take all necessary affirmative steps required to assure that small and minority firms, women's business enterprises and labor surplus area firms are used when possible as sources when procuring supplies, equipment, construction, and services related to the subgrant. The District and District Subgrantee agrees to include information about these requirements in solicitation documents. Affirmative steps shall include:

1. Placing qualified small and minority business and women's business enterprises on solicitation lists;
2. Ensuring that small and minority and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority and women's business enterprises;
4. Establishing delivery schedules, where the requirements of work will permit participation by small and minority and women's business enterprises;
5. Using the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and
6. Requiring any prime contractor or other subgrantee, if subgrants are to be allowed, to take the affirmative steps in subparagraphs 1 through 5 of this section.

AF. Subgrants

The District is responsible for the day-to-day operations of subgrant supported activities. The District must monitor subgrant supported activities to assure compliance with applicable state

requirements and that performance goals are being achieved. Subgrant monitoring must cover each program, function, or activity.

AG. Later Disallowances and Adjustments

The closeout of a subgrant does not affect:

1. The SWMP's right to disallow costs and recover funds on the basis of a later audit or other review.
2. The District or District Subgrantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions.
3. Recordkeeping as required by section E above.
4. Equipment and building or site improvements management requirements as required by sections M and N above.
5. Audit requirements in sections J and K.

AH. Dispute Resolution

1. The District and the SWMP shall attempt to resolve disagreements concerning the administration or performance of the District.
2. If an agreement cannot be reached within ninety (90) days of the issuance of the notice of noncompliance, the MDNR's SWMP director will provide a written decision. The SWMP director may consult with the SWAB prior to providing this decision. Such decision of the SWMP director shall be final unless a request for review is submitted to MDNR's Division of Environmental Quality (DEQ) director within thirty (30) days of the receipt of the SWMP director's decision. The DEQ director shall provide a final decision within thirty (30) days of the district's request. Such district request shall include:
 - a. A copy of the SWMP director's written decision;
 - b. A statement of the amount in dispute;
 - c. A brief description of the issue(s) involved; and
 - d. A concise statement of the objections to the final decision.
3. A decision by the DEQ director shall constitute final MDNR action.

AI. Termination

1. Termination for Cause.
 - a. By MDNR:
 - i. The MDNR may terminate any subgrant, in whole or in part, at any time before the date of completion, whenever it is determined that the District or District Subgrantee has failed to comply with the terms and conditions of the subgrant.
 - ii. The MDNR shall promptly notify the subgrantee in writing of such a determination and the reasons for the termination, together with the effective date.
 - iii. The MDNR reserves the right to withhold all or a portion of grant funds if the District or District Subgrantee violates any term or condition of the subgrant.

b. By District:

- i. The District may terminate any subgrant, in whole or in part, at any time before the date of completion whenever it is determined that the District Subgrantee has failed to comply with the terms and conditions of the subgrant.
- ii. The District shall promptly notify the subgrantee in writing of such determination and the reasons for the termination, together with the effective date.
- iii. The District reserves the right to withhold all or a portion of subgrant funds if the District Subgrantee violates any term or condition of the subgrant.

2. Termination for Convenience.

- a. The MDNR, the District, or the District's Subgrantee may terminate the subgrant, in whole or in part, when the parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds.
- b. This agreement is not transferable to any person or entity.
- c. District subgrant agreements are not transferable to any person or entity without prior written approval of the District's Executive Board and the SWMP.

AJ. Enforcement: Remedies for Noncompliance

If a District or District Subgrantee falsifies any award document, fails to maintain records or submit reports, refuses the SWMP access to records, fails to meet the SWMP's performance standards, or materially fails to comply with any term of a grant, award, or subgrant, then the SWMP may take one or more of the following actions, as appropriate:

1. Suspend or terminate, in whole or in part, the award or grant of current or future funds;
2. Disallow all or part of the cost of the activity or action not in compliance;
3. Temporarily withhold cash payments pending subgrantee's correction of the deficiency;
4. Withhold further awards from the District or District Subgrantee;
5. Compel the repayment of funds provided to the District or District Subgrantee pursuant to the award or grant;
6. Order the District or District Subgrantee not to transfer ownership of assets purchased with district grant funds without prior SWMP approval; or
7. Pursue any other remedies that may be legally available, including cost recovery, breach of contract, and suspension or debarment with respect to the District, the District Subgrantee, or both and further may pursue criminal charges against any individual who commits any crime within the context or during the work performed under the grant or subgrant.

AK. District's and District Subgrantee's Signature

In consideration for the ability to utilize SWMF monies, the District's and District Subgrantee's signature on the application, FAA, and other award documents signify the District or District Subgrantee's agreement to all of the terms and conditions of the award which include the FAA and the documents incorporated therein, including these General Terms and Conditions.

AL. Human Trafficking.

This requirement applies to non-profit grantees or subgrantees. The subgrantee, its employees, subgrantees under this award, and subgrantees' employees may not engage in severe forms of trafficking in natural persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect, or use forced labor in the performance of the award or subawards under the award. The SWMP hereby adopts and will implement section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA) (22 U.S.C. § 7104(g)), modified so as to apply to the state and its agencies, departments, and political subdivisions and all respective agents that would correspond with those federal agents referred to in the TVPA, and as such the SWMP has the right to unilaterally terminate this agreement and any awards made in conjunction herewith if there is a violation of the TVPA.

AM. Illegal Immigration

Section 67.307 2 RSMo applies to this agreement, and consequently any municipality that enacts or adopts a sanctuary policy will be ineligible for moneys provided through grants or subgrants administered by any state agency or department until the policy is repealed or is no longer in effect.

AN. Illegal Immigration

Section 285.530 RSMo applies, and consequently no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. The SWMP may unilaterally terminate this agreement and any awards made in conjunction herewith if there is a violation §§ 285.525 – 285.550 R.S.Mo.

II. Statutory Requirements

A. Laws and regulations related to nondiscrimination and employment:

1. Chapter 213 of the Missouri Revised Statutes, which prohibits discrimination on the basis of race, color, religion, national origin, sex, age, and disability;
2. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, as amended, which prohibits discrimination on the basis of race, color, or national origin;
3. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended, which prohibits discrimination on the basis of race, color, religion, national origin, or sex;
4. Civil Rights Restoration Act of 1987, 20 U.S.C. §1687, 29 U.S.C. § 794, 42 U.S.C. § 2000d-4a, and 42 U.S.C. § 6101, as amended;
5. Civil Rights Act of 1991, 42 U.S.C. § 1981a and 42 U.S.C §§ 2000e-2(k) - (n), as amended;
6. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which prohibits discrimination on the basis of disability;
7. Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. § 621 et seq., as amended, which prohibits discrimination on the basis of age;
8. Drug Abuse Office and Treatment Act of 1972, P.L. 92-255, 21 U.S.C. § 1101 et seq., as amended, relating to nondiscrimination on the basis of drug abuse;

9. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, 42 U.S.C. § 4541 et seq., as amended, relating to nondiscrimination of the basis of alcohol abuse or alcoholism;
10. Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. § 2601 et seq.;
11. The Americans with Disabilities Act of 1990 (ADA), P.L. 101-336, 42 U.S.C. §12101 et seq., as amended, relating to nondiscrimination against individuals with disabilities; and
12. Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. § 201 et seq., as amended.

B. State and Federal Environmental Laws:

1. The Federal Clean Air Act, 42 U.S.C. § 7401 et seq., as amended, which prohibits the award of assistance by way of grant, loan, or contract to noncomplying facilities.
2. The Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. §1251 et seq., as amended, prohibiting award of assistance by way of grant, loan, or contract to noncomplying facilities.
3. The Federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq., as amended, which prohibits the award of assistance by way of grant, loan, or contract to non-complying facilities.
4. The Federal Solid Waste Disposal Act, 42 U.S.C. 6901 et seq., as amended.
5. The Federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC 9601 et seq., as amended.
6. The Federal Toxic Substance Control Act, 15 USC 2601 et seq., as amended.
7. The Federal Insecticide, Fungicide and Rodenticide Act, 7 USC 136 et seq., as amended.
8. The Federal Endangered Species Act, 16 USC 1531 et seq., as amended.
9. The National Environmental Policy Act of 1969, 42 U.S.C. §4321 et seq., as amended, particularly as it relates to the assessment of the environmental impact of federally assisted projects.
10. Earthquakes – Seismic Building and Construction Ordinances, §§ 319.200 – 319.207, RSMo relating to the adoption of seismic design and construction ordinances by certain cities, towns, villages and counties.
11. The Missouri Clean Water Law, Chapter 644, RSMo.
12. Chapters 260 and 319, RSMo including the Missouri Hazardous Waste Management Law, and the Missouri Solid Waste Management Law including laws relating to petroleum storage tanks.
13. The Missouri Air Conservation Law, Chapter 643.
14. Chapter 444, RSMo including the Metallic Minerals Waste Management Act, the Land Reclamation Act, and the Surface Coal Mining Law.

- C. Chapter 105, RSMo, as it relates to conflicts of interest and lobbying.
- D. Chapter 610, RSMo, Governmental Bodies and Records commonly referred to as the Missouri "Sunshine Law".
- E. The Archaeological and Historic Preservation Act of 1974 (Public Law 93-291) relating to potential loss or destruction of significant scientific, historical, or archaeological data in connection with federally assisted activities.
- F. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- G. The flood insurance purchase requirements of § 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subgrantees in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- H. The Privacy Act of 1974, P.L. 93-579, as amended prohibiting the maintenance of information about any individual in a manner which would violate the provision of the Act.
- I. Public Law 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- J. The Laboratory Animal Welfare Act of 1966 (P.L. 89-544), 7 U.S.C. § 2131 et seq., pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- K. The following additional requirements apply to projects that involve construction:
 1. The Davis-Bacon Act as amended, 40 U.S.C. §276 et seq.
 2. The Copeland (Anti-Kickback) Act, 18 U.S.C. §874, 40 U.S.C. § 276c.
 3. The Contract Work Hours and Safety Standards Act, 40 U.S.C. §327 et seq.
 4. Convict labor shall not be used on construction projects unless by convicts who are on work release, parole, or probation.
 5. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4801 et seq.) which prohibits the use of lead paint in construction or rehabilitation of residence structures.
 6. The National Historic Preservation Act of 1966, 16 U.S.C §470 et seq., as amended, relating to the preservation of historic landmarks.
- L. Trafficking Victims Protection Act of 2000, Section 106, as amended (22 U.S.C. 7104(g) relating to termination of contract award based upon any employee of the department, grantee or subgrantee violating this act.
- M. Missouri House Bill 1549, 1771, 1395 & 2366 – Illegal Aliens and Immigration Status Verification – This bill changed May 25, 2011, the laws regarding illegal aliens and immigration status verification. Effective January 1, 2009, no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform working within the state of Missouri.

III. Definitions

As used in these General Terms and Conditions:

- A. "Accrued expenditures" means the charges incurred by the grantee during a given period requiring the provision of funds for: (1) Goods and other tangible property received; (2) Services performed by employees, contractors, subgrantees, subcontractors, and other payees; and (3) Other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.
- B. "Accrued income" means the sum of: (1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers; and (2) Amounts becoming owed to the grantee for which no current services or performances is required by the grantee.
- C. "Acquisition cost of an item of purchased equipment" means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.
- D. "Administrative requirements" means those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from programmatic requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.
- E. "Allocated district funds" means the monies from the Solid Waste Management Fund that are set aside to be disbursed to each District by the MDNR.
- F. "Awarding agency" means (1) with respect to a grant, the SWMP of the MDNR, and (2) with respect to a subgrant, the party that awarded the subgrant.
- G. "Building or site improvements" includes any structures or appurtenances of a permanent nature related to real estate, excluding movable machinery and equipment.
- H. "Competitive bid process" means the procurement of goods or services that follows the guidelines outlined in 1 CSR 40.
- I. "Contract" means (except as used in the definitions for grant and subgrant in this section) a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.
- J. "Disposal cost" means fees charged to collect, transport or deposit solid waste in a landfill, transfer station, or other approved facility.
- K. "District" refers to one of the twenty solid waste management districts established pursuant to the Solid Waste Management Law, 260.200 through 260.345, RSMo.
- L. "District Subgrantee" refers to the District or other entities receiving district subgrant awards of SWMF from the SWMP or a District.
- M. "District administrative grant" means a grant for planning and organizational grants disbursed by the Department prior to August 28, 2004.

- N. "District carryover" means any remaining district funds of any completed grants that have been disbursed by the Department to each District for district administrative grants, district operations grants, plan implementation grants, or district subgrants.
- O. "District funds" means the revenue generated from the solid waste tonnage fee collected and deposited in the Solid Waste Management Fund that is allocated to each District pursuant to section 260.335.2, RSMo, plus district carryover, interest income earned, and state required local match funds.
- P. "District funds paid" means funds paid to each District or Subgrantee.
- Q. "Eligible meal" means the reasonable costs incurred for any of the following meals when overnight lodging is required to fulfill the project:
Breakfast – is eligible on the day of departure if travel status begins two hours before the normal start time of the employee's typical work day plus any other day until the employee returns.
Lunch – is eligible on the day of departure if travel status begins no later than 10:00 a.m. plus any other day where travel status continues past 2:00 p.m. including the day the employee returns.
Dinner – is eligible on the day of departure if travel status begins no later than 5:00 p.m. plus any other day where travel status continues past 7:00 p.m. including the day the employee returns.
- R. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of five thousand dollars or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.
- S. "Executive board" means the board established by each District's solid waste management council or by the alternative management structure chosen by a District as provided for in section 260.315.4(2), RSMo.
- T. "Financial Assistance Agreement or FAA" refers to the agreement entered into by the SWMP and the District or District and a District Subgrantee and includes these General Terms and Conditions and other incorporated documents.
- U. "Government" means the federal, state, or local government.
- V. "Grant" means an award of financial assistance, including cooperative agreements, in the form of money to an eligible grantee.
- W. "Grantee" means the government or other entity to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.
- X. "Interest income" means all interest earned by each District from the holding of revenue generated from the Solid Waste Management Fund.
- Y. "Local government" means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.
- Z. "Missouri Department of Natural Resources or MDNR" refers to the Missouri Department of Natural Resources including its agents, successors, or assignees.

- AA. "Obligations" means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.
- AB. "Outlays or Expenditures" mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, and the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.
- AC. "Program income" means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. Examples of program income include income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under the subgrant, and from payments of principal and interest on loans made with subgrant funds. Program income does not include items such as interest on grant funds, rebates, credits, discounts, or refunds and any interest earned on these items.
- AD. "Project" means all approved components of an organized undertaking described in a proposal, including any supporting documents as required by project type.
- AE. "Residence" means a place that is being used as a dwelling or home.
- AF. "Share, when referring to the awarding agency's portion of building or site improvements, equipment or supplies" means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs of the property was charged. Only costs are to be counted—not the value of third-party in-kind contributions.
- AG. "Solid Waste Management Fund or SWMF" means the fund created in section 260.330, RSMo, to receive the tonnage fee charges submitted by sanitary and demolition landfills for waste disposed of in Missouri and transfer stations for waste transported out of state for disposal.
- AH. "Solid Waste Management Program or SWMP" refers to the Missouri Department of Natural Resources, Division of Environmental Quality, Solid Waste Management Program or any other departmental organization to whom the SWMP duties may be assigned in the future.
- AI. "State" means the State of Missouri or any other agency instrumentality of the state.
- AJ. "State required local match funds" means funds committed by local governments to each District as match for district administrative grants.
- AK. "Subgrant" means an award of financial assistance in the form of money made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases.
- AL. "Subgrantee" means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of funds provided.
- AM. "Supplies" means all tangible personal property other than equipment, building, or building site improvements, as defined in this part.

- AN. "Suspension" means depending on the context, either (1) temporary withdrawal of the authority to obligate grants funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by the SWMP to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.
- AO. "Termination" means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. Termination does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) Withdrawal of the unobligated balance as of the expiration of a grant; (3) Refusal to extend a grant or award additional funds, to make a competing or non-competing continuation, renewal, extension, or supplemental award; or (4) Voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.
- AP. "Terms of a grant or subgrant" means all requirements of the grant or subgrant, whether in statute, regulations, the award document, or any documents incorporated therein.
- AQ. "Unencumbered district funds" means the district funds that have not been obligated in the form of purchase orders for goods and services.
- AR. "Unliquidated obligations for reports prepared on a cash basis" means the amount of obligations incurred by the grantee that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.
- AS. "Unobligated balance" means the portion of the funds authorized by the SWMP that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

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Title 2: Grants and Agreements

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PART 225—COST PRINCIPLES FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS (OMB CIRCULAR A-87)

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Authority: 31 U.S.C. 503; 31 U.S.C. 1111; 41 U.S.C. 405; Reorganization Plan No. 2 of 1970; E.O. 11541, 35 FR 10737, 3 CFR, 1966-1970, p. 939.

Source: 70 FR 51910, Aug. 31, 2005, unless otherwise noted.

§ 225.5 Purpose.



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This part establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments and federally-recognized Indian tribal governments (governmental units).

§ 225.10 Authority.



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This part is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; the Chief Financial Officers Act of 1990;

Reorganization Plan No. 2 of 1970; and Executive Order No. 11541 ("Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President").

§ 225.15 Background.



As part of the government-wide grant streamlining effort under Public Law 106-107, Federal Financial Award Management Improvement Act of 1999, OMB led an interagency workgroup to simplify and make consistent, to the extent feasible, the various rules used to award Federal grants. An interagency task force was established in 2001 to review existing cost principles for Federal awards to State, local, and Indian tribal governments; colleges and universities; and non-profit organizations. The task force studied "Selected Items of Cost" in each of the three cost principles to determine which items of costs could be stated consistently and/or more clearly.

§ 225.20 Policy.



This part establishes principles and standards to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the Federal Government. The principles are for determining allowable costs only. They are not intended to identify the circumstances or to dictate the extent of Federal and governmental unit participation in the financing of a particular Federal award. Provision for profit or other increment above cost is outside the scope of this part.

§ 225.25 Definitions.



Definitions of key terms used in this part are contained in Appendix A to this part, Section B.

§ 225.30 OMB responsibilities.



The Office of Management and Budget (OMB) will review agency regulations and implementation of this part, and will provide policy interpretations and assistance to insure effective and efficient implementation. Any exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.

§ 225.35 Federal agency responsibilities.



Agencies responsible for administering programs that involve cost reimbursement contracts, grants, and other agreements with governmental units shall issue regulations to implement the provisions of this part and its appendices.

§ 225.40 Effective date of changes.



This part is effective August 31, 2005.

§ 225.45 Relationship to previous issuance.



a) The guidance in this part previously was issued as OMB Circular A-87. Appendix A to this part contains the guidance that was in Attachment A (general principles) to the OMB circular; appendix B contains the guidance that was in Attachment B (selected items of cost); appendix C contains the information that was in Attachment C (state/local-wide central service cost allocation plans); appendix D contains the guidance that was in Attachment D (public assistance cost allocation plans); and appendix E contains the guidance that was in Attachment E (state and local indirect cost rate proposals).

b) This part supersedes OMB Circular A-87, as amended May 10, 2004, which superseded Circular A-87, as amended and issued May 4, 1995.

225.50 Policy review date.



This part will have a policy review three years from the date of issuance.

225.55 Information contact.



Further information concerning this part may be obtained by contacting the Office of Federal Financial Management, Financial Standards and Reporting Branch, Office of Management and Budget, Washington, DC 20503, telephone 202-395-3993.

Appendix A to Part 225—General Principles for Determining Allowable Costs



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General Principles for Determining Allowable Costs

A. Purpose and Scope

1. Objectives. This Appendix establishes principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the Federal Government (collectively referred to in this appendix and other appendices to 2 CFR part 225 as "Federal awards"). The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of federal or governmental unit participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by law. Provision for profit or other increment above cost is outside the scope of 2 CFR part 225.

2. Policy guides.

i. The application of these principles is based on the fundamental premises that:

- 1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.
- 2) Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
- 3) Each governmental unit, in recognition of its own unique combination of staff, facilities, and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration of Federal awards.

ii. Federal agencies should work with States or localities which wish to test alternative mechanisms for paying costs for administering Federal programs. The Office of Management and Budget (OMB) encourages Federal agencies to test fee-for-service alternatives as a replacement for current cost-reimbursement payment methods in response to the National Performance Review's (NPR) recommendation. The NPR recommended the fee-for-service approach to reduce the burden associated with maintaining systems for charging administrative costs to Federal programs and preparing and approving cost allocation plans. This approach should also increase incentives for administrative efficiencies and improve outcomes.

3. Application.

i. These principles will be applied by all Federal agencies in determining costs incurred by governmental units under Federal awards (including subawards) except those with (1) publicly-financed educational institutions subject to, 2 CFR part 220, Cost Principles for Educational Institutions (OMB Circular A-21), and (2) programs administered by publicly-owned hospitals and other providers of medical care that are subject to requirements promulgated by the sponsoring Federal agencies. However, 2 CFR part 225 does apply to all central service and department/agency costs that are allocated or billed to those educational institutions, hospitals, and other providers of medical care or services by other State and local government departments and agencies.

ii. All subawards are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a governmental unit (other than a college, university or hospital), 2 CFR part 225 shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial organizations shall apply; if a subaward is to a college or university, 2 CFR part 220 Circular A-21 shall apply; if a subaward is to a hospital, the cost principles used by the Federal awarding agency for awards to hospitals shall apply, subject to the provisions of subsection A.3.a. of this appendix; if a subaward is to some other non-profit organization, 2 CFR part 230, Cost Principles for Non-Profit Organizations (Circular A-122), shall apply.

iii. These principles shall be used as a guide in the pricing of fixed price arrangements where costs are

sed in determining the appropriate price.

Where a Federal contract awarded to a governmental unit incorporates a Cost Accounting Standards (CAS) clause, the requirements of that clause shall apply. In such cases, the governmental unit and the cognizant Federal agency shall establish an appropriate advance agreement on how the governmental unit shall comply with applicable CAS requirements when estimating, accumulating and reporting costs under CAS-covered contracts. The agreement shall indicate that 2 CFR part 225 (OMB Circular A-87) requirements will be applied to other Federal awards. In all cases, only one set of records needs to be maintained by the governmental unit.

Conditional exemptions.

1) OMB authorizes conditional exemption from OMB administrative requirements and cost principles for certain Federal programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the head of the executive department or establishment. A Federal agency shall consult with OMB during its consideration of whether to grant such an exemption.

2) To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from all but the allocability of costs provisions of Appendix A subsection C.3 of 2 CFR part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87); Appendix A, Section C.4 of 2 CFR 20, Cost Principles for Educational Institutions (Circular A-21); Appendix A, subsection A.4 of 2 CFR 30 Cost Principles for Non-Profit Organizations (Circular A-122); and from all of the administrative requirements provisions of 2 CFR part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (Circular A-110), and the agencies' grants management common rule.

3) When a Federal agency provides this flexibility, as a prerequisite to a State's exercising this option, a State must adopt its own written fiscal and administrative requirements for expending and accounting for these costs, which are consistent with the provisions of 2 CFR part 225 (OMB Circular A-87), and extend these policies to all subrecipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: Funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs, and funds are not used for general expenses required to carry out other responsibilities of a State or its subrecipients.

3. Definitions

1. "Approval or authorization of the awarding or cognizant Federal agency" means documentation evidencing consent prior to incurring a specific cost. If such costs are specifically identified in a Federal award document, approval of the document constitutes approval of the costs. If the costs are covered by a State/local-wide cost allocation plan or an indirect cost proposal, approval of the plan constitutes the approval.

2. "Award" means grants, cost reimbursement contracts and other agreements between a State, local and Indian tribal government and the Federal Government.

3. "Awarding agency" means (a) with respect to a grant, cooperative agreement, or cost reimbursement contract, the Federal agency, and (b) with respect to a subaward, the party that awarded the subaward.

4. "Central service cost allocation plan" means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a governmental unit on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

5. "Claim" means a written demand or written assertion by the governmental unit or grantor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of award terms, or other relief arising under or relating to the award. A voucher, invoice or other routine request for payment that is not a dispute when submitted is not a claim. Appeals, such as those filed by a governmental unit in response to questioned audit costs, are not considered claims until a final management decision is made by the Federal awarding agency.

6. "Cognizant agency" means the Federal agency responsible for reviewing, negotiating, and approving

cost allocation plans or indirect cost proposals developed under 2 CFR part 225 on behalf of all Federal agencies. OMB publishes a listing of cognizant agencies.

"Common Rule" means the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Final Rule" originally issued at 53 FR 8034-8103 (March 1, 1988). Other common rules will be referred to by their specific titles.

"Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to): awards and notices of awards; job orders or task orders issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and, bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301 *et seq.*

"Cost" means an amount as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency. It does not include transfers to a general or similar fund.

0. "Cost allocation plan" means central service cost allocation plan, public assistance cost allocation plan, and indirect cost rate proposal. Each of these terms is further defined in this section.

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

2. "Federally-recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

3. "Governmental unit" means the entire State, local, or federally-recognized Indian tribal government, including any component thereof. Components of governmental units may function independently of the governmental unit in accordance with the term of the award.

4. "Grantee department or agency" means the component of a State, local, or federally-recognized Indian tribal government which is responsible for the performance or administration of all or some part of a Federal award.

5. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or component thereof to substantiate its request for the establishment of an indirect cost rate as described in Appendix E of 2 CFR part 225.

6. "Local government" means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

17. "Public assistance cost allocation plan" means a narrative description of the procedures that will be used in identifying, measuring and allocating all administrative costs to all of the programs administered or supervised by State public assistance agencies as described in Appendix D of 2 CFR part 225.

18. "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments.

C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.

b. Be allocable to Federal awards under the provisions of 2 CFR part 225.

. Be authorized or not prohibited under State or local laws or regulations.

. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.

. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

. Except as otherwise provided for in 2 CFR part 225, be determined in accordance with generally accepted accounting principles.

. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.

. Be the net of all applicable credits.

. Be adequately documented.

. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which could be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally-funded. In determining reasonableness of a given cost, consideration shall be given to:

. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.

. Restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.

. Market prices for comparable goods or services.

. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.

. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

. Allocable costs.

. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.

. Any cost allocable to a particular Federal award or cost objective under the principles provided for in 2 CFR part 225 may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.

. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Appendices C, D, and E to this part.

. Applicable credits.

. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or

reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: Purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

b. In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards. (See Appendix B to this part, item 11, "Depreciation and use allowances," for areas of potential application in the matter of Federal financing of activities.)

D. Composition of Cost

1. Total cost. The total cost of Federal awards is comprised of the allowable direct cost of the program, plus its allocable portion of allowable indirect costs, less applicable credits.

2. Classification of costs. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost. Guidelines for determining direct and indirect costs charged to Federal awards are provided in the sections that follow.

E. Direct Costs

1. General. Direct costs are those that can be identified specifically with a particular final cost objective.

2. Application. Typical direct costs chargeable to Federal awards are:

a. Compensation of employees for the time devoted and identified specifically to the performance of those awards.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of those awards.

c. Equipment and other approved capital expenditures.

d. Travel expenses incurred specifically to carry out the award.

3. Minor items. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives.

F. Indirect Costs

1. General. Indirect costs are 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. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

2. Cost allocation plans and indirect cost proposals. Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Appendices C, D, and E to this part.

3. Limitation on indirect or administrative costs.

a. In addition to restrictions contained in 2 CFR part 225, there may be laws that further limit the amount of administrative or indirect cost allowed.

2. Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation.

3. **Interagency Services.** The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro rate share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix C to this part.

4. **Required Certifications.** Each cost allocation plan or indirect cost rate proposal required by Appendices C and E to this part must comply with the following:

1. No proposal to establish a cost allocation plan or an indirect cost rate, whether submitted to a Federal cognizant agency or maintained on file by the governmental unit, shall be acceptable unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Appendices C and E to this part. The certificate must be signed on behalf of the governmental unit by an individual at a level no lower than chief financial officer of the governmental unit that submits the proposal or component covered by the proposal.

2. No cost allocation plan or indirect cost rate shall be approved by the Federal Government unless the plan or rate proposal has been certified. Where it is necessary to establish a cost allocation plan or an indirect cost rate and the governmental unit has not submitted a certified proposal for establishing such a plan or rate in accordance with the requirements, the Federal Government may either disallow all indirect costs or unilaterally establish such a plan or rate. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because of failure of the governmental unit to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

Appendix B to Part 225—Selected Items of Cost

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Sections 1 through 43 provide principles to be applied in establishing the allowability or unallowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. A cost is allowable for Federal reimbursement only to the extent of benefits received by Federal awards and its performance with the general policies and principles stated in Appendix A to this part. Failure to mention a particular item of cost in these sections is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment or standards provided for similar or related items of cost.

1. Advertising and public relations costs.

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 term public relations includes community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

c. The only allowable advertising costs are those which are solely for:

- 1) The recruitment of personnel required for the performance by the governmental unit of obligations arising under a Federal award;
- 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 governmental units are reimbursed for disposal costs at a predetermined amount; or
- 4) Other specific purposes necessary to meet the requirements of the Federal award.

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 Federal awards (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 keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.
- e. Costs identified in subsections c and d if incurred for more than one Federal award or for both sponsored work and other work of the governmental unit, are allowable to the extent that the principles in Appendix A to this part, sections E. ("Direct Costs") and F. ("Indirect Costs") are observed.

f. Unallowable advertising and public relations costs include the following:

- (1) All advertising and public relations costs other than as specified in subsections 1.c, d, and e of this appendix;
- (2) Costs of meetings, conventions, convocations, or other events related to other activities of the governmental unit, including:
 - (a) Costs of displays, demonstrations, and exhibits;
 - (b) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
 - (c) 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 governmental unit.

2. *Advisory councils.* Costs incurred by advisory councils or committees are allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.

3. *Alcoholic beverages.* Costs of alcoholic beverages are unallowable.

4. *Audit costs and related services.*

1. The costs of audits required by, and performed in accordance with, the Single Audit Act, as implemented by Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" are allowable. Also see 31 U.S.C. 7505(b) and section 230 ("Audit Costs") of Circular A-133.

2. Other audit costs are allowable if included in a cost allocation plan or indirect cost proposal, or if specifically approved by the awarding agency as a direct cost to an award.

3. The cost of agreed-upon procedures engagements to monitor subrecipients who are exempted from A-133 under section 200(d) are allowable, subject to the conditions listed in A-133, section 230 (b)(2).

4. *Bad debts.* Bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable.

5. *Bonding costs.*

Bonding costs arise when the Federal Government requires assurance against financial loss to itself or others by reason of the act or default of the governmental unit. They arise also in instances where the governmental unit requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

Costs of bonding required pursuant to the terms of the award are allowable.

Costs of bonding required by the governmental unit in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

6. *Communication costs.* Costs incurred for telephone services, local and long distance telephone calls, telegrams, postage, messenger, electronic or computer transmittal services and the like are allowable.

7. *Compensation for personal services.*

General. Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this and other appendices under 2 CFR Part 225, and that the total compensation for individual employees:

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

2) Follows an appointment made in accordance with a governmental unit's laws and rules and meets merit system or other requirements required by Federal law, where applicable; and

3) Is determined and supported as provided in subsection h.

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 governmental unit. In cases where the kinds of employees required for Federal awards are not found in the other activities of the governmental unit, 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 employing government competes for the kind of employees involved. Compensation surveys providing data

representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

g. Unallowable costs. Costs which are unallowable under other sections of these principles shall not be allowable under this section solely on the basis that they constitute personnel compensation.

h. Fringe benefits.

1) 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, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit-employee agreement, or an established policy of the governmental unit.

2) 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, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: They are provided under established written leave policies; the costs are equitably allocated to all related activities, including Federal awards; and, the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit.

3) When a governmental unit 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 provided they are allocated as a general administrative expense to all activities of the governmental unit or component.

4) The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a governmental unit uses the accrual basis of accounting, in accordance with GAAP, allowable leave costs are the lesser of the amount accrued or funded.

5) The cost of fringe benefits in the form of employer contributions or expenses for social security; life, health, unemployment, and worker's compensation insurance (except as indicated in section 22, Insurance and Indemnification); pension plan costs (see subsection e.); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, whether treated as indirect costs or as direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or groups of employees whose salaries and wages are chargeable to such Federal awards and other activities.

g. Pension plan costs. 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 governmental unit.

1) 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.

2) 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) are allowable in the year funded. The cognizant agency 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 governmental unit'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.

(3) Amounts funded by the governmental unit in excess of the actuarially determined amount for a fiscal year may be used as the governmental unit's contribution in future periods.

(4) When a governmental unit 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 shall be allowable if amortized over a period of years in accordance with GAAP.

(5) The Federal Government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

f. **Post-retirement health benefits.** Post-retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection 8.e. of this appendix for retirees and their spouses, dependents, and survivors. PRHB 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 governmental unit.

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

(2) PRHB 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 cognizant agency 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 governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHB fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period.

(4) When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be 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.

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

a) An insurer or other benefit provider as current year costs or premiums, or

b) 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 shall receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

j. Severance pay.

1) Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by law, employer-employee agreement, or established written policy.

2) Severance payments (but not accruals) associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit as an indirect cost.

3) Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.

1. Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.

(1) Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.

(2) No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity.

(3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection 8.h.(5) of this appendix unless a statistical sampling system (see subsection 8.h.(6) of this appendix) or other substitute system has been approved by the cognizant Federal agency. In such cases, documentary support will be required where employees work on:

- a) More than one Federal award,
- b) A Federal award and a non-Federal award,
- c) An indirect cost activity and a direct cost activity,
- d) Two or more indirect activities which are allocated using different allocation bases, or
- e) An unallowable activity and a direct or indirect cost activity.

5) Personnel activity reports or equivalent documentation must meet the following standards:

- a) They must reflect an after-the-fact distribution of the actual activity of each employee,
- b) They must account for the total activity for which each employee is compensated,
- c) They must be prepared at least monthly and must coincide with one or more pay periods, and
- d) They must be signed by the employee.

e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:

- (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;
- (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and
- (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

(6) Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. Such systems may include, but are not limited to, random moment sampling, case counts, or other quantifiable measures of employee effort.

(a) Substitute systems which use sampling methods (primarily for Temporary Assistance to Needy Families (TANF), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

- (i) 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 subsection 8.h.(6)(c) of this appendix;
- (ii) The entire time period involved must be covered by the sample; and
- (iii) The results must be statistically valid and applied to the period being sampled.

(b) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(c) Less than full compliance with the statistical sampling standards noted in subsection 8.h.(6)(a) of this appendix may be accepted by the cognizant agency 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 governmental unit will

result in lower costs to Federal awards than a system which complies with the standards.

(7) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.

i. Donated services.

(1) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable 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 the Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

9. *Contingency provisions.* Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see section 22.c. of this appendix), pension plan reserves (see section 8.e.), and post-retirement health and other benefit reserves (section 8.f.) computed using acceptable actuarial cost methods.

10. *Defense and prosecution of criminal and civil proceedings, and claims.*

a. The following costs are unallowable for contracts covered by 10 U.S.C. 2324(k), "Allowable costs under defense contracts."

(1) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of false certification brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification)).

(2) Costs incurred by a contractor in connection with any criminal, civil or administrative proceedings commenced by the United States or a State to the extent provided in 10 U.S.C. 2324(k).

b. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

11. *Depreciation and use allowances.*

a. Depreciation and use allowances are means of allocating the cost of fixed assets to periods benefiting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g. , buildings, office equipment, computer equipment, etc.) except as provided for in subsection g. Except for enterprise funds and internal service funds that are included as part of a State/local cost allocation plan, classes of assets shall be determined on the same basis used for the government-wide financial statements.

b. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The value of an asset donated to the governmental unit by an unrelated third party shall be its fair market value at the time of donation. Governmental or quasi-governmental organizations located within the same State shall not be considered unrelated third parties for this purpose.

c. The computation of depreciation or use allowances will exclude:

(1) The cost of land;

) 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 presently resides; and

) Any portion of the cost of buildings and equipment contributed by or for the governmental unit, or a donor organization, in satisfaction of a matching requirement.

Where the depreciation method is followed, the following general criteria apply:

) The period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, historical usage patterns, technological developments, and the renewal and replacement policies of the governmental unit followed for the individual items or classes of assets involved. 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 of depreciation shall be used.

) Depreciation methods once used shall not be changed unless approved by the Federal cognizant or awarding agency. When the depreciation method is introduced for application to an asset previously subject to a use allowance, the annual depreciation charge thereon may not exceed the amount that would have resulted had the depreciation method been in effect from the date of acquisition of the asset. The combination of use allowances and depreciation applicable to the asset shall not exceed the total acquisition cost of the asset or fair market value at time of donation.

When the depreciation method is used for buildings, a building's shell may be segregated from the major component of the building (e.g., plumbing system, heating, and air conditioning system, etc.) and each major component depreciated over its estimated useful life, or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.

Where the use allowance method is followed, the following general criteria apply:

) The use allowance for buildings and improvements (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition costs.

) The use allowance for equipment will be computed at an annual rate not exceeding 6 2/3 percent of acquisition cost.

) When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air conditioning, etc.) cannot be segregated from the building's shell. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the destruction of, or need for costly or extensive alterations or repairs, to the building or the equipment. Equipment that meets these criteria will be subject to the 6 2/3 percent equipment use allowance limitation.

A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with State laws and procedures. When the depreciation method is followed, depreciation records indicating the amount of depreciation taken each period must also be maintained.

12. Donations and contributions.

a. Contributions or donations rendered. Contributions or donations, including cash, property, and services, made by the governmental unit, regardless of the recipient, are allowable.

b. Donated services received:

(1) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable 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 Federal Grants Management Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

13. *Employee morale, health, and welfare costs.*

a. The costs of employee information publications, health or first-aid clinics and/or infirmaries, recreational activities, employee counseling services, and any other expenses incurred in accordance with the governmental unit's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance are allowable.

b. Such costs will be equitably apportioned to all activities of the governmental unit. Income generated from any of these activities will be offset against expenses.

14. *Entertainment.* Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

15. *Equipment and other capital expenditures.*

a. For purposes of this subsection 15, the following definitions apply:

(1) "Capital Expenditures" means expenditures for the acquisition cost of capital assets (equipment, buildings, land), or expenditures to make improvements to capital assets that materially increase their value or useful life. Acquisition cost means the cost of the asset including the cost to put it in place. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from the acquisition cost in accordance with the governmental unit's regular accounting practices.

(2) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5000.

(3) "Special purpose equipment" means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

(4) "General purpose equipment" means equipment, which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

b. The following rules of allowability shall apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except where approved in advance by the awarding agency.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5000 or more have the prior approval of the awarding agency.

(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 approval of the awarding agency.

(4) When approved as a direct charge pursuant to section 15.b(1), (2), and (3) of this appendix, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the awarding agency. In addition, Federal awarding agencies are authorized at their option to waive or delegate the prior approval requirement.

(b) Equipment and other capital expenditures are unallowable as indirect costs. However, see section 11 of this appendix, Depreciation and use allowance, for rules on the allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see section 37 of this appendix, Rental costs, concerning the allowability of rental costs for land, buildings, and equipment.

(6) 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 use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

(7) When replacing equipment purchased in whole or in part with Federal funds, the governmental unit may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

16. *Fines and penalties.* Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.

17. *Fund raising and investment management costs.*

a. Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.

b. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable. However, such costs associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this and other appendices of 2 CFR part 225 are allowable.

c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in subsection C.3.b. of Appendix A to this part.

18. *Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs.*

a. (1) Gains and losses on the sale, retirement, or other disposition of depreciable property shall 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) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under sections 11 and 15 of this appendix.

(b) 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.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in subsection 22.d of this appendix.

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

b. Substantial relocation of Federal awards from a facility where the Federal Government participated in the financing to another facility prior to the expiration of the useful life of the financed facility requires

Federal agency approval. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation charged to date may require negotiation of space charges for Federal awards.

c. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection 18.a. of this appendix, e.g., land or included in the fair market value used in any adjustment resulting from a relocation of Federal awards covered in subsection b. shall be excluded in computing Federal award costs.

19. General government expenses.

a. The general costs of government are unallowable (except as provided in section 43 of this appendix, travel costs). These include:

- 1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executive of federally-recognized Indian tribal government;
- 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 judiciary branch of a government;
- 4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by program statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General); 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 federally-recognized Indian tribal governments and Councils Of Governments (COGs), the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his staff is allowable.

c. **Goods or services for personal use.** Costs of goods or services for personal use of the governmental unit's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

1. Idle facilities and idle capacity.

As used in this section the following terms have the meanings set forth below:

- 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 governmental unit.
- 2) "Idle facilities" means completely unused facilities that are excess to the governmental unit's current needs.
- 3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between: 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 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, property taxes and depreciation or use allowances.

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

- 1) They are necessary to meet fluctuations in workload; 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, or dispose of such facilities.

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 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. Insurance and Indemnification.

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

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 governmental unit'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 awarding agency has specifically required or approved such costs.

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 or as described below. However, the Federal Government will participate in actual losses of a self insurance program if they are in excess of reserves. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses of covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

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, shall 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 governmental unit'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) 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 submitted and adjudicated but not paid, submitted but not adjudicated, and incurred but not submitted. 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 governmental unit. If individual departments or agencies of the governmental unit 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), refunds shall be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer.

e. 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., subsection 8.f. for post retirement health benefits), are allowable in the year of payment provided the governmental unit follows a consistent costing policy and they are allocated as a general administrative expense to all activities of the governmental unit.

f. Insurance refunds shall be credited against insurance costs in the year the refund is received.

g. Indemnification includes securing the governmental unit against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the governmental unit only to the extent expressly provided for in the Federal award, except as provided in subsection 22.d of this appendix.

h. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

23. Interest.

a. Costs incurred for interest on borrowed capital or the use of a governmental unit's own funds, however represented, are unallowable except as specifically provided in subsection b. or authorized by Federal legislation.

b. Financing costs (including interest) paid or incurred which are associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980 is allowable subject to the conditions in section 23.b.(1) through (4) of this appendix. Financing costs (including interest) paid or incurred on or after September 1, 1995 for land or associated with otherwise allowable costs of equipment is allowable, subject to the conditions in section 23.b. (1) through (4) of this appendix.

(1) The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the governmental unit;

(2) The assets are used in support of Federal awards;

(3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(4) For debt arrangements over \$1 million, unless the governmental unit makes an initial equity contribution to the asset purchase of 25 percent or more, the governmental unit shall reduce claims for interest cost by an amount equal to imputed interest earnings on excess cash flow, which is to be calculated as follows. Annually, non-Federal entities shall prepare a cumulative (from the inception of the project) report of monthly cash flows that includes inflows and outflows, regardless of the funding source. Inflows consist of depreciation expense, amortization of capitalized construction interest, and annual interest cost. For cash flow calculations, the annual inflow figures shall be divided by the number of months in the year (i.e., usually 12) that the building is in service for monthly amounts. Outflows consist of initial equity contributions, debt principal payments (less the pro rata share attributable to the unallowable costs of land) and interest payments. Where cumulative inflows exceed cumulative outflows, interest shall be calculated on the excess inflows for that period and be treated as a reduction to allowable interest cost. The rate of interest to be used to compute earnings on excess cash flows shall be the three-month Treasury bill closing rate as of the last business day of that month.

(5) Interest attributable to fully depreciated assets is unallowable.

24. Lobbying.

a. General. 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 shall be governed by the common rule, "New Restrictions on Lobbying" (see Section J.24 of Appendix A to 2 CFR part 220), including definitions, and the Office of Management and Budget "Government-wide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), and 57 FR 1772 (January 15, 1992), respectively.

4. **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 sponsored agreement 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 federally-sponsored agreement or regulatory matter on any other than the merits of the matter.

5. **Maintenance, operations, and repairs.** Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they: keep property (including Federal property, unless otherwise provided for) in an efficient operating condition, do not add to the permanent value of property or appreciably prolong its intended life, and are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see sections 11 and 15 of this appendix).

6. **Materials and supplies costs.**

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

Purchased materials and supplies shall be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should 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.

Only materials and supplies actually used for the performance of a Federal award may be charged as direct costs.

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

7. **Meetings and conferences.** Costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental facilities, speakers' fees, and other items incidental to such meetings or conferences. But see section 4, Entertainment costs, of this appendix.

8. **Memberships, subscriptions, and professional activity costs.**

Costs of the governmental unit's memberships in business, technical, and professional organizations are allowable.

Costs of the governmental unit's subscriptions to business, professional, and technical periodicals are allowable.

Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of the Federal awarding agency.

Costs of membership in organizations substantially engaged in lobbying are unallowable.

9. **Patent costs.**

The following costs relating to patent and copyright matters are allowable: cost 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; cost 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 general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements (but see sections 32, Professional service costs, and 38, Royalties and other costs for use of patents and copyrights, of this appendix).

The following costs related to patent and copyright matter are unallowable: Cost of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures not required by the award; 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 (but see section 38, Royalties and

other costs for use of patents and copyrights, of this appendix).

30. Plant and homeland security costs. Necessary and reasonable expenses incurred for routine and homeland security to protect 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; contractual security services; consultants; etc. Capital expenditures for homeland and plant security purposes are subject to section 15, Equipment and other capital expenditures, of this appendix.

31. Pre-award costs. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

32. Professional service costs.

1. 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 governmental unit, are allowable, subject to subparagraphs 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 section 10 of this appendix.

2. 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 governmental unit'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 governmental unit's business (i.e., what new problems have arisen).

5) Whether the proportion of Federal work to the governmental unit's total business is such as to influence the governmental unit 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 grants and contracts.

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-Federal awards.

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).

9. In addition to the factors in subparagraph b, retainer fees to be allowable must be supported by available or rendered evidence of bona fide services available or rendered.

33. Proposal costs. Costs of preparing proposals for potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental unit utilizing the cost allocation plan and indirect cost rate proposal. However, proposal costs may be charged directly to Federal awards with the prior approval of the Federal awarding agency.

34. Publication and printing costs.

1. Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling. Publication costs also include page charges in professional publications.

2. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the governmental unit.

Page charges for professional journal publications are allowable as a necessary part of research costs here:

-) The research papers report work supported by the Federal Government; and
 -) The charges are levied impartially on all research papers published by the journal, whether or not by Federally-sponsored authors.
5. **Rearrangement and alteration costs.** Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of the Federal awarding agency.

6. **Reconversion costs.** Costs incurred in the restoration or rehabilitation of the governmental unit'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.

7. **Rental costs of buildings and equipment.**

Subject to the limitations described in subsections 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.

Rental costs under "sale and lease back" arrangements are allowable only up to the amount that could be allowed had the governmental unit continued to own the property. This amount would include expenses such as depreciation or use allowance, maintenance, taxes, and insurance.

Rental costs under "less-than-arm's-length" leases are allowable only up to the amount (as explained in section 37.b of this appendix) that would be allowed had title to the property vested in the governmental unit. 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 divisions of a governmental unit; governmental units under common control through common officers, directors, or members; and a governmental unit and a director, trustee, officer, or key employee of the governmental unit or his immediate family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, a governmental unit may establish a separate corporation for the sole purpose of owning property and leasing it back to the governmental unit.

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 subsection 37.b of this appendix) that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. The provisions of Financial Accounting Standards Board Statement 13, Accounting for Leases, shall 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 section 23 of this appendix. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the governmental unit purchased the facility.

8. **Royalties and other costs for the use of patents.**

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 award are allowable unless:

- 1) The Federal Government has a license or the right to free use of the patent or copyright.
- 2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.
- 3) The patent or copyright is considered to be unenforceable.
- 4) The patent or copyright is expired.

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, e.g.:

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 governmental unit 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.

a. Settlement expenses including the following are generally allowable:

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

a) The preparation and presentation to the awarding agency of settlement claims and supporting data with respect to the terminated portion of the Federal award, unless the termination is for default (see Subpart .44 of the Grants Management Common Rule (see §215.5) implementing OMB Circular A-102); and

b) 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, except when grantees or contractors are reimbursed for disposals at a predetermined amount in accordance with Subparts .31 and .32 of the Grants Management Common Rule (see §215.5) implementing OMB Circular A-102.

Claims under subawards, including the allocable portion of claims which are common to the Federal award, and to other work of the governmental unit are generally allowable. An appropriate share of the governmental unit's indirect expense may be allocated to the amount of settlements with subcontractors and/or subgrantees, provided that the amount allocated is otherwise consistent with the basic guidelines contained in Appendix A to this part. The indirect expense so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

12. *Training costs.* The cost of training provided for employee development is allowable.

13. *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 governmental unit. 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 governmental unit's non-federally-sponsored activities. Notwithstanding the provisions of section 19 of this appendix, General government expenses, travel costs of officials covered by that section are allowable with the prior approval of an awarding agency when they are specifically related to Federal awards.

b. *Lodging and subsistence.* Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as the result of the governmental unit's written travel policy. In the absence of an acceptable, written governmental unit policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57, Title 5, United States Code ("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 shall apply to travel under Federal awards (48 CFR 31.205-46(a)).

c. *Commercial air travel.*

(1) Airfare costs in excess of the customary standard commercial airfare (coach or equivalent), Federal Government contract airfare (where authorized and available), or the lowest commercial discount airfare are allowable except when such accommodations would:

a) Require circuitous routing;

...purchasing, accounting, etc., to operating agencies on a centralized basis. Since federally-supported awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process. All costs and other data that will support the propriety of the costs assigned to Federal awards.

Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State 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 the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20540.

Definitions.

"Billed central services" means central services that are billed to benefitted agencies and/or programs on an individual fee-for-service or similar basis. Typical examples of billed central services include computer services, transportation services, insurance, and fringe benefits.

"Allocated central services" means central services that benefit operating agencies but are not billed to the agencies on a fee-for-service or similar basis. These costs are allocated to benefitted agencies on some reasonable basis. Examples of such services might include general accounting, personnel administration, purchasing, etc.

"Agency or operating agency" means an organizational unit or sub-division within a governmental unit that is responsible for the performance or administration of awards or activities of the governmental unit.

Scope of the Central Service Cost Allocation Plans. The central service cost allocation plan will include all central service costs that will be claimed (either as a billed or an allocated cost) under Federal awards and will be documented as described in section E. Costs of central services omitted from the plan will not be reimbursed.

Submission Requirements.

Each State will submit a plan to the Department of Health and Human Services for each year in which it claims central service costs under Federal awards. The plan should include a projection of the next year's allocated central service cost (based either on actual costs for the most recently completed year or the budget projection for the coming year), and a reconciliation of actual allocated central service costs to the estimated costs used for either the most recently completed year or the year immediately preceding the most recently completed year.

Each local government that has been designated as a "major local government" by the Office of Management and Budget (OMB) is also required to submit a plan to its cognizant agency annually. OMB periodically lists major local governments in the Federal Register.

All other local governments claiming central service costs must develop a plan in accordance with the requirements described in this appendix and maintain the plan and related supporting documentation for audit. These local governments are not required to submit their plans for Federal approval unless they are specifically requested to do so by the cognizant agency. Where a local government only receives awards as a sub-recipient, the primary recipient will be responsible for negotiating indirect cost rates and/or monitoring the sub-recipient's plan.

All central service cost allocation plans will be prepared and, when required, submitted within six months prior to the beginning of each of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency on a case-by-case basis.

Documentation Requirements for Submitted Plans. The documentation requirements described in this appendix may be modified, expanded, or reduced by the cognizant agency on a case-by-case basis. For awards, the requirements may be reduced for those central services which have little or no impact on the award. Conversely, if a review of a plan indicates that certain additional information is needed, it will likely be needed in future years, it may be routinely requested in future plan submissions. Items marked with an asterisk (*) should be submitted only once; subsequent plans should merely indicate any changes since the last plan.

All costs included in this proposal [identify date] to establish cost allocations or billings for [identify period covered by plan] are allowable in accordance with the requirements of 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87), and the Federal award to which they apply. Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

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 awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as direct costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently.

Declare that the foregoing is true and correct.

Governmental Unit: _____
Signature: _____
Name of Official: _____
Title: _____
Date of Execution: _____

Negotiation and Approval of Central Service Plans.

All proposed central service cost allocation plans that are required to be submitted will be reviewed, negotiated, and approved by the Federal cognizant agency on a timely basis. The cognizant agency will review the proposal within six months of receipt of the proposal and either negotiate/approve the proposal or advise the governmental unit of the additional documentation needed to support/evaluate the proposed plan or the changes required to make the proposal acceptable. Once an agreement with the governmental unit has been reached, the agreement will be accepted and used by all Federal agencies, unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special consideration, the funding agency shall, prior to the time the plans are negotiated, notify the cognizant agency.

The results of each negotiation shall be formalized in a written agreement between the cognizant agency 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 results of the negotiation shall be made available to all Federal agencies for their use.

Negotiated cost allocation plans based on a proposal later found to have included costs that: Are unallowable as specified by law or regulation, as identified in Appendix B of this part, or by the terms and conditions of Federal awards, or are unallowable because they are clearly not allocable to Federal awards, shall be adjusted, or a refund shall be made at the option of the Federal cognizant agency. These adjustments or refunds are designed to correct the plans and do not constitute a reopening of the negotiation.

Other Policies.

Billed central service activities. Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss.

Working capital reserves. Internal service funds are dependent upon a reasonable level of working capital reserve to operate from one billing cycle to the next. Charges by an internal service activity to provide for the establishment and maintenance of a reasonable level of working capital reserve, in addition to the full recovery of costs, are allowable. A working capital reserve as part of retained earnings of up to 60 days cash expenses for normal operating purposes is considered reasonable. A working capital reserve exceeding 60 days may be approved by the cognizant Federal agency in exceptional cases.

Carry-forward adjustments of allocated central service costs. Allocated central service costs are usually negotiated and approved for a future fiscal year on a "fixed with carry-forward" basis. Under this procedure, the fixed amounts for the future year covered by agreement are not subject to adjustment for the actual costs of the year involved become known, the differences between the fixed amounts previously approved and the actual costs will be carried forward and used as an adjustment to the fixed amounts established for a later year. This "carry-forward" procedure applies to all central services whose costs were fixed in the approved plan. However, a carry-forward adjustment is not permitted, for a central service activity that was not included in the approved plan, or for unallowable

costs that must be reimbursed immediately.

1. **Adjustments of billed central services.** Billing rates used to charge Federal awards shall be based on the estimated costs of providing the services, including an estimate of the allocable central service costs. A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. These adjustments will be made through one of the following adjustment methods: A cash refund to the Federal Government for the Federal share of the adjustment, credits to the amounts charged to the individual programs, adjustments to future billing rates, or adjustments to allocated central service costs. Adjustments to allocated central services will not be permitted where the total amount of the adjustment for a particular service (Federal share and non-Federal) share exceeds \$500,000.

2. **Records retention.** All central service cost allocation plans and related documentation used as a basis for claiming costs under Federal awards must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

3. **Appeals.** If a dispute arises in the negotiation of a plan between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

4. **OMB assistance.** To the extent that problems are encountered among the Federal agencies and/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 D to Part 225—Public Assistance Cost Allocation Plans

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General. Federally-financed programs administered by State public assistance agencies are funded predominantly by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This appendix extends these requirements to all Federal agencies whose programs are administered by a State public assistance agency. Major federally-financed programs typically administered by State public assistance agencies include: Temporary Assistance to Needy Families (TANF), Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

Definitions.

"State public assistance agency" means a State agency administering or supervising the administration of one or more public assistance programs operated by the State as identified in Subpart E of 45 CFR part 95. For the purpose of this appendix, these programs include all programs administered by the State public assistance agency.

"State public assistance agency costs" means all costs incurred by, or allocable to, the State public assistance agency, except expenditures for financial assistance, medical vendor payments, food stamps, and payments for services and goods provided directly to program recipients.

State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR part 95. The plan will include all programs administered by the State public assistance agency. Where a letter of approval or disapproval is transmitted to a State public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this appendix (except for the requirement for certification) summarize the provisions of Subpart E of 45 CFR part 95.

Submission, Documentation, and Approval of Public Assistance Cost Allocation Plans.

State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval.

Under the coordination process outlined in subsection E, affected Federal agencies will review all new plans and plan amendments and provide comments, as appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the quarter following the submission of the plan or amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the State public assistance agency and will inform the State agency of the action taken on the plan or plan amendment.

Review of Implementation of Approved Plans.

Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal Government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the funding agencies, single audits, or audits conducted by the cognizant audit agency.

If inappropriate charges affecting more than one funding agency are identified, the cognizant cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E of 45 CFR part 95.

If a dispute arises in the negotiation of a plan or from a disallowance involving two or more funding agencies, the dispute shall be resolved in accordance with the appeals procedures set out in 45 CFR part 75. Disputes involving only one funding agency will be resolved in accordance with the funding agency's appeal process.

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

Unallowable Costs. Claims developed under approved cost allocation plans will be based on allowable costs as identified in 2 CFR part 225. Where unallowable costs have been claimed and reimbursed, they will be refunded to the program that reimbursed the unallowable cost using one of the following methods: a cash refund, offset to a subsequent claim, or credits to the amounts charged to individual awards.

Appendix E to Part 225—State and Local Indirect Cost Rate Proposals

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A. General.

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.

Indirect costs include the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and the costs of central governmental services distributed through the central service cost allocation plan (as described in Appendix C to this part) and not otherwise treated as direct costs.

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 State 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 the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401.

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 grantee department or agency, accounting and personnel services performed within the grantee department or agency, depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, etc.

This appendix does not apply to State public assistance agencies. These agencies should refer instead to Appendix D to this part.

Definitions.

"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.

"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.

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

"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 award bearing a fair share

of the indirect costs in reasonable relation to the benefits received from the costs.

5. "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. 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.

3. "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.

7. "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.

1. "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.

1. "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, shall be so selected as to avoid inequities in the allocation of costs.

2. Allocation of Indirect Costs and Determination of Indirect Cost Rates.

General.

1. 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 of this appendix.

2. 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 benefited 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 awards and other activities included in that function by means of an indirect cost rate(s).

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 of this appendix.

Simplified method.

1. Where a grantee agency's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by classifying the grantee agency's total costs for the base period as either direct or indirect, and 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 a 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.

Both the direct costs and the indirect costs shall 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 total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), direct salaries and wages, or another base which results in an equitable distribution.

3. Multiple allocation base method.

a. Where a grantee agency's indirect costs benefit its major functions in varying degrees, such costs shall be accumulated into separate cost groupings. Each grouping shall 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 shall 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: 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 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 subsection 4, the separate groupings of indirect costs allocated to each major function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall 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 total direct costs (excluding capital expenditures and other distorting items such as pass-through funds, major subcontracts, etc.), direct salaries and wages, or 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.

f. Special indirect cost rates.

1. In some instances, a single indirect cost rate for all activities of a grantee department or agency 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 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 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: the rate differs significantly from the rate which would have been developed under subsections 2. and 3. of this appendix, and the award to which the rate would apply is material in amount.

Although 2 CFR part 225 adopts the concept of the full allocation of indirect costs, there are some Federal statutes which restrict the reimbursement of certain indirect costs. Where such restrictions exist, it may be necessary to develop a special rate for the affected award. Where a "restricted rate" is required, the 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.

Submission and Documentation of Proposals.

Submission of indirect cost rate proposals.

All departments or agencies of the governmental unit desiring to claim indirect costs under Federal

wards 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 the Common Rule.

A governmental unit for which a cognizant agency assignment has been specifically designated must submit its indirect cost rate proposal to its cognizant agency. The Office of Management and Budget (OMB) will periodically publish lists of governmental units identifying the appropriate Federal cognizant agencies. The cognizant agency for all governmental units or agencies not identified by OMB will be determined based on the Federal agency providing the largest amount of Federal funds. In these cases, a governmental unit must develop an indirect cost proposal in accordance with the requirements of 2 CFR 225 and maintain the proposal and related supporting documentation for audit. These governmental units are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency. Where a local government only receives funds as a sub-recipient, the primary recipient will be responsible for negotiating and/or monitoring the sub-recipient's plan.

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

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 Federal agency. 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.

Documentation of proposals. The following shall be included with each indirect cost proposal:

The rates proposed, including subsidiary work sheets and other relevant data, cross referenced and reconciled to the financial data noted in subsection b of this appendix. 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 and is available to the submitting agency.

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 in a subsequent proposal.

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.

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.)

Required certification. Each indirect cost rate proposal shall 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 to which they apply and 2 CFR part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87). Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

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 direct 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 Federal 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 funding agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates, the funding agency will, prior to the time the rates are negotiated, notify the cognizant Federal agency.

2. The use of predetermined rates, if allowed, is encouraged where the cognizant agency has reasonable assurance based on past experience and reliable projection of the grantee agency'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 shall be formalized in a written agreement between the cognizant agency 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 shall be made available to all Federal agencies for their use.

4. Refunds shall be made if proposals are later found to have included costs that are unallowable as specified by law or regulation, as identified in Appendix B to this part, or by the terms and conditions of Federal awards, or 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 grantee 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 grantee agency level (i.e., the agency specifically identifies fringe benefit costs to individual employees), the governmental unit should so advise the cognizant agency.

2. Billed services provided by the grantee agency. In some cases, governmental units provide and bill for services similar to those covered by central service cost allocation plans (e.g., computer centers). Where this occurs, the governmental unit should be guided by the requirements in Appendix C to this part relating to the development of billing rates and documentation requirements, and should advise the cognizant agency 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, a governmental unit, because of the nature of its 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 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 and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

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 agency regulations).

6. OMB assistance. To the extent that problems are encountered among the Federal agencies and/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.

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ATTACHMENT
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PART 230—COST PRINCIPLES FOR NON-PROFIT ORGANIZATIONS (OMB CIRCULAR A-122)

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Authority: 31 U.S.C. 503; 31 U.S.C. 1111; 41 U.S.C. 405; Reorganization Plan No. 2 of 1970; E.O. 11541, 35 FR 10737, 3 CFR, 1966-1970; p. 939

Source: 70 FR 51927, Aug. 31, 2005, unless otherwise noted.

§ 230.5 Purpose.



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This part establishes principles for determining costs of grants, contracts and other agreements with non-profit organizations.

§ 230.10 Scope.



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(a) This part does not apply to colleges and universities which are covered by 2 CFR part 220 Cost Principles for Educational Institutions (OMB Circular A-21); State, local, and federally-recognized Indian tribal governments which are covered by 2 CFR part 225 Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87); or hospitals.

(b) The principles deal with the subject of cost determination, and make no attempt to identify the circumstances or dictate the extent of agency and non-profit organization participation in the financing of a particular project. Provision for profit or other increment above cost is outside the scope of this part.

§ 230.15 Policy.

The principles are designed to provide that the Federal Government bear its fair share of costs except where restricted or prohibited by law. The principles do not attempt to prescribe the extent of cost sharing or matching on grants, contracts, or other agreements. However, such cost sharing or matching shall not be accomplished through arbitrary limitations on individual cost elements by Federal agencies.

§ 230.20 Applicability.

(a) These principles shall be used by all Federal agencies in determining the costs of work performed by non-profit organizations under grants, cooperative agreements, cost reimbursement contracts, and other contracts in which costs are used in pricing, administration, or settlement. All of these instruments are hereafter referred to as awards. The principles do not apply to awards under which an organization is not required to account to the Federal Government for actual costs incurred.

(b) All cost reimbursement subawards (subgrants, subcontracts, etc.) are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a non-profit organization, this part shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial concerns shall apply; if a subaward is to a college or university, 2 CFR part 220 shall apply; if a subaward is to a State, local, or federally-recognized Indian tribal government, 2 CFR part 225 shall apply.

(c) Exclusion of some non-profit organizations. Some non-profit organizations, because of their size and nature of operations, can be considered to be similar to commercial concerns for purpose of applicability of cost principles. Such non-profit organizations shall operate under Federal cost principles applicable to commercial concerns. A listing of these organizations is contained in appendix C to this part. Other organizations may be added from time to time.

§ 230.25 Definitions.

(a) Non-profit organization means any corporation, trust, association, cooperative, or other organization which:

(1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(2) Is not organized primarily for profit; and

(3) Uses its net proceeds to maintain, improve, and/or expand its operations. For this purpose, the term "non-profit organization" excludes colleges and universities; hospitals; State, local, and federally-recognized Indian tribal governments; and those non-profit organizations which are excluded from coverage of this part in accordance with §230.20(c).

(b) Prior approval means securing the awarding agency's permission in advance to incur cost for those items that are designated as requiring prior approval by the part and its appendices. Generally this permission will be in writing. Where an item of cost requiring prior approval is specified in the budget of an award, approval of the budget constitutes approval of that cost.

§ 230.30 OMB responsibilities.

OMB may grant exceptions to the requirements of this part when permissible under existing law. However, in the interest of achieving maximum uniformity, exceptions will be permitted only in highly unusual circumstances.

§ 230.35 Federal agency responsibilities.

The head of each Federal agency that awards and administers grants and agreements subject to this part is responsible for requesting approval from and/or consulting with OMB (as applicable) for deviations from the guidance in the appendices to this part and performing the applicable functions specified in the appendices to this part.

§ 230.40 Effective date of changes.



The provisions of this part are effective August 31, 2005. Implementation shall be phased in by incorporating the provisions into new awards made after the start of the organization's next fiscal year. For existing awards, the new principles may be applied if an organization and the cognizant Federal agency agree. Earlier implementation, or a delay in implementation of individual provisions, is also permitted by mutual agreement between an organization and the cognizant Federal agency.

§ 230.45 Relationship to previous issuance.



(a) The guidance in this part previously was issued as OMB Circular A-122. Appendix A to this part contains the guidance that was in Attachment A (general principles) to the OMB circular; Appendix B contains the guidance that was in Attachment B (selected items of cost) to the OMB circular; and Appendix C contains the information that was in Attachment C (non-profit organizations not subject to the Circular) to the OMB circular.

(b) Historically, OMB Circular A-122 superseded cost principles issued by individual agencies for non-profit organizations.

§ 230.50 Information contact.



Further information concerning this part may be obtained by contacting the Office of Federal Financial Management, OMB, Washington, DC 20503, telephone (202) 395-3993.

Appendix A to Part 230—General Principles



General Principles

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General Principles

A. Basic Considerations

1. Composition of total costs. The total cost of an award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

2. Factors affecting allowability of costs. To be allowable under an award, costs must meet the following general criteria:

a. Be reasonable for the performance of the award and be allocable thereto under these principles.

- b. Conform to any limitations or exclusions set forth in these principles or in the award as to types or amount of cost items.
- c. Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the organization.
- d. Be accorded consistent treatment.
- e. Be determined in accordance with generally accepted accounting principles (GAAP).
- f. Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period.
- g. Be adequately documented.

3. Reasonable costs. A cost is reasonable if, in its nature or 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 costs. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by Federal agencies. In determining the reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.
- b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and terms and conditions of the award.
- c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and clients, the public at large, and the Federal Government.
- d. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

4. Allocable costs. a. A cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Federal award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

- (1) Is incurred specifically for the award.
- (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or
- (3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

b. Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

5. Applicable credits. a. The term applicable credits refers to those receipts, or reduction of expenditures which operate to offset or reduce expense items that are allocable to awards as direct or indirect costs. Typical examples of such transactions are: Purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing or received by the organization relate to allowable cost, they shall be credited to the Federal Government either as a cost reduction or cash refund, as appropriate.

b. In some instances, the amounts received from the Federal Government to finance organizational activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the organization in determining the rates or amounts to be charged to Federal awards for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds.

c. For rules covering program income (i.e., gross income earned from federally-supported activities) see §215.24 of 2 CFR part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110).

6. Advance understandings. Under any given award, the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with organizations that receive a preponderance of their support from Federal agencies. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, it is often desirable to seek a written agreement with the cognizant or awarding agency in advance of the incurrence of special or unusual costs. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element.

7. Conditional exemptions. a. OMB authorizes conditional exemption from OMB administrative requirements and cost principles for

certain Federal programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the head of the Executive department or establishment. A Federal agency shall consult with OMB during its consideration of whether to grant such an exemption.

b. To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from all but the allocability of costs provisions of Appendix A, subsection C.e. of 2 CFR part 225 (OMB Circular A-87); Appendix A, Section C.4. of 2 CFR part 220 (OMB Circular A-21); Section A.4. of this appendix; and from all of the administrative requirements provisions of 2 CFR part 215 (OMB Circular A-110) and the agencies' grants management common rule.

c. When a Federal agency provides this flexibility, as a prerequisite to a State's exercising this option, a State must adopt its own written fiscal and administrative requirements for expending and accounting for all funds, which are consistent with the provisions of 2 CFR part 225 (OMB Circular A-87), and extend such policies to all subrecipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: Funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs, and funds are not to be used for general expenses required to carry out other responsibilities of a State or its subrecipients.

B. Direct Costs

1. Direct costs are those that can be identified specifically with a particular final cost objective, i.e., a particular award, project, service, or other direct activity of an organization. However, a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose, in like circumstance, has been allocated to an award as an indirect cost. Costs identified specifically with awards are direct costs of the awards and are to be assigned directly thereto. Costs identified specifically with other final cost objectives of the organization are direct costs of those cost objectives and are not to be assigned to other awards directly or indirectly.

2. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives.

3. The cost of certain activities are not allowable as charges to Federal awards (see, for example, fundraising costs in paragraph 17 of Appendix B to this part). However, even though these costs are unallowable for purposes of computing charges to Federal awards, they nonetheless must be treated as direct costs for purposes of determining indirect cost rates and be allocated their share of the organization's indirect costs if they represent activities which include the salaries of personnel, occupy space, and benefit from the organization's indirect costs.

4. The costs of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs whether or not allowable and be allocated an equitable share of indirect costs. Some examples of these types of activities include:

- a. Maintenance of membership rolls, subscriptions, publications, and related functions.
- b. Providing services and information to members, legislative or administrative bodies, or the public.
- c. Promotion, lobbying, and other forms of public relations.
- d. Meetings and conferences except those held to conduct the general administration of the organization.
- e. Maintenance, protection, and investment of special funds not used in operation of the organization.
- f. Administration of group benefits on behalf of members or clients, including life and hospital insurance, annuity or retirement plans financial aid, etc.

C. Indirect Costs

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct cost of minor amounts may be treated as indirect costs under the conditions described in subparagraph B.2 of this appendix. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.

2. Because of the diverse characteristics and accounting practices of non-profit organizations, it is not possible to specify the types of cost which may be classified as indirect cost in all situations. However, typical examples of indirect cost for many non-profit organizations may include depreciation or use allowances on buildings and equipment, the costs of operating and maintaining

facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

3. Indirect costs shall be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation and use allowances on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel, library expenses and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable). See indirect cost rate reporting requirements in subparagraphs D.2.e and D.3.g of this appendix.

D. Allocation of Indirect Costs and Determination of Indirect Cost Rates

1. General. a. Where a non-profit organization has only one major function, or where all its major functions benefit from its 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 subparagraph D.2 of this appendix.

b. Where an organization has several major functions which benefit from its indirect costs in varying degrees, allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefiting 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 awards and other activities included in that function by means of an indirect cost rate(s).

c. The determination of what constitutes an organization's major functions will depend on its purpose in being; the types of services it renders to the public, its clients, and its members; and the amount of effort it devotes to such activities as fundraising, public information and membership activities.

d. 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 subparagraphs D.2 through 5 of this appendix.

e. The base period for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to work performed in that period. The base period normally should coincide with the organization's fiscal year but, in any event, shall be so selected as to avoid inequities in the allocation of the costs.

2. Simplified allocation method. a. Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by separating the organization's total costs for the base period as either direct or indirect, and 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 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 an organization has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to an organization is relatively small.

b. Both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs. However, unallowable costs which represent activities must be included in the direct costs under the conditions described in subparagraph B.3 of this appendix.

c. The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such as major subcontracts or subgrants), direct salaries and wages, or other base which results in an equitable distribution. The distribution base shall generally exclude participant support costs as defined in paragraph 32 of Appendix B.

d. Except where a special rate(s) is required in accordance with subparagraph 5 of this appendix, the indirect cost rate developed under the above principles is applicable to all awards at the organization. If a special rate(s) is required, appropriate modifications shall be made in order to develop the special rate(s).

e. For an organization that receives more than \$10 million in Federal funding of direct costs in a fiscal year, a breakout of the indirect cost component into two broad categories, Facilities and Administration as defined in subparagraph C.3 of this appendix, is required. The rate in each case shall be stated as the percentage which the amount of the particular indirect cost category (i.e., Facilities or Administration) is of the distribution base identified with that category.

3. Multiple allocation base method.

a. General. Where an organization's indirect costs benefit its major functions in varying degrees, indirect costs shall be accumulated into separate cost groupings, as described in subparagraph D.3.b of this appendix. Each grouping shall then be allocated individually to benefiting functions by means of a base which best measures the relative benefits. The default allocation bases by cost pool are described in subparagraph D.3.c of this appendix.

b. Identification of indirect costs. Cost groupings shall be established so as to permit the allocation of each grouping on the basis of

benefits provided to the major functions. Each grouping shall constitute a pool of expenses that are of like character in terms of functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The groupings are classified within the two broad categories: "Facilities" and "Administration," as described in subparagraph C.3 of this appendix. The indirect cost pools are defined as follows:

(1) Depreciation and use allowances. The expenses under this heading are the portion of the costs of the organization's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with paragraph 11 of Appendix B to this part ("Depreciation and use allowances").

(2) Interest. Interest on debt associated with certain buildings, equipment and capital improvements are computed in accordance with paragraph 23 of Appendix B to this part ("Interest").

(3) Operation and maintenance expenses. The expenses under this heading are those that have been incurred for the administration, operation, maintenance, preservation, and protection of the organization's physical plant. They include expenses normally incurred for such items as: Janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; care of grounds; maintenance and operation of buildings and other plant facilities; security; earthquake and disaster preparedness; environmental safety; hazardous waste disposal; property, liability and other insurance relating to property; space and capital leasing; facility planning and management; and, central receiving. The operation and maintenance expenses category shall also include its allocable share of fringe benefit costs, depreciation and use allowances, and interest costs.

(4) General administration and general expenses. (a) The expenses under this heading are those that have been incurred for the overall general executive and administrative offices of the organization and other expenses of a general nature which do not relate solely to any major function of the organization. This category shall also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation and use allowances, and interest costs. Examples of this category include central offices, such as the director's office, the office of finance, business services, budget and planning, personnel, safety and risk management, general counsel, management information systems, and library costs.

(b) In developing this cost pool, special care should be exercised to ensure that costs incurred for the same purpose in like circumstances are treated consistently as either direct or indirect costs. For example, salaries of technical staff, project supplies, project publication, telephone toll charges, computer costs, travel costs, and specialized services costs shall be treated as direct costs wherever identifiable to a particular program. The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity. Items such as office supplies, postage, local telephone costs, periodicals and memberships should normally be treated as indirect costs.

c. Allocation bases. Actual conditions shall be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefiting functions. The essential consideration in selecting a method or a base is that it is the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither the cause nor the effect of the relationship is determinable. When an allocation can be made by assignment of a cost grouping directly to the function benefited, the allocation shall be made in that manner. When the expenses in a cost grouping are more general in nature, the allocation shall be made through the use of a selected base which produces results that are equitable to both the Federal Government and the organization. The distribution shall be made in accordance with the bases described herein unless it can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to sponsored awards. The results of special cost studies (such as an engineering utility study) shall not be used to determine and allocate the indirect costs to sponsored awards.

(1) Depreciation and use allowances. Depreciation and use allowances expenses shall be allocated in the following manner:

(a) Depreciation or use allowances on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings, shall be assigned to that function.

(b) Depreciation or use allowances on buildings used for more than one function, and on capital improvements and equipment used in such buildings, shall be allocated to the individual functions performed in each building on the basis of usable square feet of space, excluding common areas, such as hallways, stairwells, and restrooms.

(c) Depreciation or use allowances on buildings, capital improvements and equipment related space (e.g., individual rooms, and laboratories) used jointly by more than one function (as determined by the users of the space) shall be treated as follows. The cost of each jointly used unit of space shall be allocated to the benefiting functions on the basis of either the employees and other users on a full-time equivalent (FTE) basis or salaries and wages of those individual functions benefiting from the use of that space; or organization-wide employee FTEs or salaries and wages applicable to the benefiting functions of the organization.

(d) Depreciation or use allowances on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and

the like, not included in the cost of buildings, shall be allocated to user categories on a FTE basis and distributed to major functions in proportion to the salaries and wages of all employees applicable to the functions.

(2) Interest. Interest costs shall be allocated in the same manner as the depreciation or use allowances on the buildings, equipment and capital equipments to which the interest relates.

(3) Operation and maintenance expenses. Operation and maintenance expenses shall be allocated in the same manner as the depreciation and use allowances.

(4) General administration and general expenses. General administration and general expenses shall be allocated to benefiting functions based on modified total direct costs (MTDC), as described in subparagraph D.3.f of this appendix. The expenses included in this category could be grouped first according to major functions of the organization to which they render services or provide benefits. The aggregate expenses of each group shall then be allocated to benefiting functions based on MTDC.

d. Order of distribution. (1) Indirect cost categories consisting of depreciation and use allowances, interest, operation and maintenance, and general administration and general expenses shall be allocated in that order to the remaining indirect cost categories as well as to the major functions of the organization. Other cost categories could be allocated in the order determined to be most appropriate by the organization. When cross allocation of costs is made as provided in subparagraph D.3.d.(2) of this appendix, this order of allocation does not apply.

(2) Normally, an indirect cost category will be considered closed once it has been allocated to other cost objectives, and costs shall not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect costs categories could be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the indirect cost categories is required.

e. Application of indirect cost rate or rates. Except where a special indirect cost rate(s) is required in accordance with subparagraph D.5 of this appendix, the separate groupings of indirect costs allocated to each major function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall then be distributed to individual awards included in that function by use of a single indirect cost rate.

f. Distribution basis. Indirect costs shall be distributed to applicable sponsored awards and other benefiting activities within each major function on the basis of MTDC. MTDC consists of all salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Equipment, capital expenditures, charges for patient care, rental costs and the portion in excess of \$25,000 shall be excluded from MTDC. Participant support costs shall generally be excluded from MTDC. Other items may only be excluded when the Federal cost cognizant agency determines that an exclusion is necessary to avoid a serious inequity in the distribution of indirect costs.

g. Individual Rate Components. An indirect cost rate shall be determined for each separate indirect cost pool developed. The rate in each case shall be stated as the percentage which the amount of the particular indirect cost pool is of the distribution base identified with that pool. Each indirect cost rate negotiation or determination agreement shall include development of the rate for each indirect cost pool as well as the overall indirect cost rate. The indirect cost pools shall be classified within two broad categories: "Facilities" and "Administration," as described in subparagraph C.3 of this appendix.

4. Direct allocation method. a. Some non-profit organizations treat all costs as direct costs except general administration and general expenses. These organizations generally separate their costs into three basic categories: General administration and general expenses, fundraising, and other direct functions (including projects performed under Federal awards). Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and the like are prorated individually as direct costs to each category and to each award or other activity using a base most appropriate to the particular cost being prorated.

b. This method is acceptable, provided each joint cost is prorated using a base which accurately measures the benefits provided to each award or other activity. The bases must be established in accordance with reasonable criteria, and be supported by current data. This method is compatible with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations issued jointly by the National Health Council, Inc., the National Assembly of Voluntary Health and Social Welfare Organizations, and the United Way of America.

c. Under this method, indirect costs consist exclusively of general administration and general expenses. In all other respects, the organization's indirect cost rates shall be computed in the same manner as that described in subparagraph D.2 of this appendix.

5. Special indirect cost rates. In some instances, a single indirect cost rate for all activities of an organization or for each major function of the organization may not be appropriate, since it would not take into account those different factors which may substantially affect the indirect costs applicable to a particular segment of work. For this purpose, a particular segment of work may be that performed under a single award or it may consist of work under a group of awards performed in a common environment.

These 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 scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. When a particular segment of work is performed 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 such work. 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 it is determined that the rate differs significantly from that which would have been obtained under subparagraphs D.2, 3, and 4 of this appendix, and the volume of work to which the rate would apply is material.

E. Negotiation and Approval of Indirect Cost Rates

1. Definitions. As used in this section, the following terms have the meanings set forth below:

- a. Cognizant agency means the Federal agency responsible for negotiating and approving indirect cost rates for a non-profit organization on behalf of all Federal agencies.
- b. Predetermined rate means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.
- c. 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 costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.
- d. Final rate means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment.
- e. Provisional rate or billing rate means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on awards pending the establishment of a final rate for the period.
- f. Indirect cost proposal means the documentation prepared by an organization to substantiate its claim for the reimbursement of indirect costs. This proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate.
- g. Cost objective means a function, organizational subdivision, contract, grant, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, projects, jobs and capitalized projects.

2. Negotiation and approval of rates. a. Unless different arrangements are agreed to by the agencies concerned, the Federal agency with the largest dollar value of awards with an organization will be designated as the cognizant agency for the negotiation and approval of the indirect cost rates and, where necessary, other rates such as fringe benefit and computer charge-out rates. Once an agency is assigned cognizance for a particular non-profit organization, the assignment will not be changed unless there is a major long-term shift in the dollar volume of the Federal awards to the organization. All concerned Federal agencies shall be given the opportunity to participate in the negotiation process but, after a rate has been agreed upon, it will be accepted by all Federal agencies. When a Federal agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates in accordance with subparagraph D.5 of this appendix, it will, prior to the time the rates are negotiated, notify the cognizant agency.

b. A non-profit organization which has not previously established an indirect cost rate with a Federal agency shall submit its initial indirect cost proposal immediately after the organization is advised that an award will be made and, in no event, later than three months after the effective date of the award.

c. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each fiscal year.

d. A predetermined rate may be negotiated for use on awards where there is reasonable assurance, based on past experience and reliable projection of the organization's costs, that the rate is not likely to exceed a rate based on the organization's actual costs.

e. Fixed rates may be negotiated where predetermined rates are not considered appropriate. A fixed rate, however, shall not be negotiated if all or a substantial portion of the organization's awards are expected to expire before the carry-forward adjustment can be made; the mix of Federal and non-Federal work at the organization is too erratic to permit an equitable carry-forward adjustment or the organization's operations fluctuate significantly from year to year.

f. Provisional and final rates shall be negotiated where neither predetermined nor fixed rates are appropriate.

g. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the non-profit organization. The cognizant agency shall distribute copies of the agreement to all concerned Federal agencies.

h. If a dispute arises in a negotiation of an indirect cost rate between the cognizant agency and the non-profit organization, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

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

Appendix B to Part 230—Selected Items of Cost



Selected Items of Cost

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Appendix B to Part 230—Selected Items of Cost

Paragraphs 1 through 52 of this appendix provide principles to be applied in establishing the allowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. Failure to mention a particular item of cost is not intended to imply that it is unallowable; rather, determination as to allowability in each case should be based on the treatment or principles provided for similar or related items of cost.

1. Advertising and public relations costs. 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 term public relations includes community relations and means those activities dedicated to maintaining the image of the non-profit organization or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

c. The only allowable advertising costs are those which are solely for:

- (1) The recruitment of personnel required for the performance by the non-profit organization of obligations arising under a Federal award (See also paragraph 41, Recruiting costs, and paragraph 42, Relocation costs, of this appendix);
- (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-profit organizations are reimbursed for disposal costs at a predetermined amount; or
- (4) Other specific purposes necessary to meet the requirements of the Federal award.

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 Federal awards (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 keep the public informed on matters of public concern, such as notices of

Federal contract/grant awards, financial matters, etc.

e. Costs identified in subparagraphs c and d if incurred for more than one Federal award or for both sponsored work and other work of the non-profit organization, are allowable to the extent that the principles in Appendix A to this part, paragraphs B. ("Direct Costs") and C. ("Indirect Costs") are observed.

f. Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in subparagraphs c, d, and e;

(2) Costs of meetings, conventions, convocations, or other events related to other activities of the non-profit organization, including:

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

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

(c) 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-profit organization.

2. Advisory Councils. Costs incurred by advisory councils or committees are allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.

3. Alcoholic beverages. Costs of alcoholic beverages are unallowable.

4. Audit costs and related services. a. The costs of audits required by, and performed in accordance with, the Single Audit Act, as implemented by Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" are allowable. Also see 31 U.S.C. 7505(b) and section 230 ("Audit Costs") of Circular A-133.

b. Other audit costs are allowable if included in an indirect cost rate proposal, or if specifically approved by the awarding agency as a direct cost to an award.

c. The cost of agreed-upon procedures engagements to monitor subrecipients who are exempted from A-133 under section 200(d) are allowable, subject to the conditions listed in A-133, section 230 (b)(2).

5. Bad debts. Bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable.

6. Bonding costs. a. Bonding costs arise when the Federal Government requires assurance against financial loss to itself or others by reason of the act or default of the non-profit organization. They arise also in instances where the non-profit organization requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

b. Costs of bonding required pursuant to the terms of the award are allowable.

c. Costs of bonding required by the non-profit organization in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

7. Communication costs. Costs incurred for telephone services, local and long distance telephone calls, telegrams, postage, messenger, electronic or computer transmittal services and the like are allowable.

8. Compensation for personal services. a. Definition. Compensation for personal services includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the award (except as otherwise provided in subparagraph 8.h of this appendix). It includes, but is not limited to, salaries, wages, director's and executive committee member's fees, incentive awards, fringe benefits, pension plan costs, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differentials.

b. Allowability. Except as otherwise specifically provided in this paragraph, the costs of such compensation are allowable to the extent that:

(1) Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both Federal and non-Federal activities; and

(2) Charges to awards whether treated as direct or indirect costs are determined and supported as required in this paragraph.

c. Reasonableness. (1) When the organization is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally-sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.

(2) When the organization is predominantly engaged in federally-sponsored activities and in cases where the kind of employees required for the Federal activities are not found in the organization's other activities, compensation for employees on federally-sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.

d. Special considerations in determining allowability. Certain conditions require special consideration and possible limitations in determining costs under Federal awards where amounts or types of compensation appear unreasonable. Among such conditions are the following:

(1) Compensation to members of non-profit organizations, trustees, directors, associates, officers, or the immediate families thereof. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an organization's compensation policy resulting in a substantial increase in the organization's level of compensation, particularly when it was concurrent with an increase in the ratio of Federal awards to other activities of the organization or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

e. Unallowable costs. Costs which are unallowable under other paragraphs of this appendix shall not be allowable under this paragraph solely on the basis that they constitute personal compensation.

f. Overtime, extra-pay shift, and multi-shift premiums. Premiums for overtime, extra-pay shifts, and multi-shift work are allowable only with the prior approval of the awarding agency except:

(1) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of equipment, or occasional operational bottlenecks of a sporadic nature.

(2) When employees are performing indirect functions, such as administration, maintenance, or accounting.

(3) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed.

(4) When lower overall cost to the Federal Government will result.

g. Fringe benefits. (1) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, and the like, are allowable, provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each.

(2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, pension plan costs (see subparagraph 8.h of this appendix), and the like, are allowable, provided such benefits are granted in accordance with established written organization policies. Such benefits whether treated as indirect costs or as direct costs, shall be distributed to particular awards and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to such awards and other activities.

(3)(a) 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 shall not exceed the present value of the liability.

(b) Where an organization follows a consistent policy of expensing actual payments to, or on behalf of, employees or former employees for unemployment compensation or workers' compensation, such payments are allowable in the year of payment with the prior approval of the awarding agency, provided they are allocated to all activities of the organization.

(4) 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 organization is named as beneficiary are unallowable.

h. Organization-furnished automobiles. That portion of the cost of organization-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect costs regardless of whether the

cost is reported as taxable income to the employees. These costs are allowable as direct costs to sponsored award when necessary for the performance of the sponsored award and approved by awarding agencies.

i. Pension plan costs. (1) Costs of the organization's pension plan which are incurred in accordance with the established policies of the organization are allowable, provided:

(a) Such policies meet the test of reasonableness;

(b) The methods of cost allocation are not discriminatory;

(c) The cost assigned to each fiscal year is determined in accordance with generally accepted accounting principles (GAAP), as prescribed in Accounting Principles Board Opinion No. 8 issued by the American Institute of Certified Public Accountants; and

(d) 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 days after each quarter of the year to which such costs are assignable are unallowable.

(2) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (Pub. L. 93-406) are allowable. Late payment charges on such premiums are unallowable.

(3) Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.

j. Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., are 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 organization and the employees before the services were rendered, or pursuant to an established plan followed by the organization so consistently as to imply, in effect, an agreement to make such payment.

k. Severance pay. (1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by organizations 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 organization's part, or

(d) Circumstances of the particular employment.

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

(a) Actual normal turnover severance payments shall be allocated to all activities; or, where the organization 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 organization.

(b) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs 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. Thus, allowability will be considered on a case-by-case basis in the event or occurrence.

(c) Costs incurred in certain severance pay packages (commonly known as "a golden parachute" payment) which are in an amount in excess of the normal severance pay paid by the organization 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 organization's assets are unallowable.

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

(e) Severance payments to foreign nationals employed by the organization 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 organization in that country, are unallowable, unless they are necessary for the performance of Federal programs and approved by awarding agencies.

l. Training costs. See paragraph 49 of this appendix.

m. Support of salaries and wages.

(1) Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to awards must be supported by personnel activity reports, as prescribed in subparagraph 8.m.(2) of this appendix, except when a substitute system has been approved in writing by the cognizant agency. (See subparagraph E.2 of Appendix A to this part.)

(2) Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s) (e.g., an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by non-profit organizations to satisfy these requirements must meet the following standards:

(a) The reports must reflect an after-the-fact determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards.

(b) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.

(c) The reports must be signed by the individual employee, or by a responsible supervisory official having first hand knowledge of the activities performed by the employee, that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports.

(d) The reports must be prepared at least monthly and must coincide with one or more pay periods.

(3) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in subparagraphs (1) and (2), must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516). For this purpose, the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under FLSA.

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

9. Contingency provisions. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see Appendix B to this part, paragraphs 8.g.(3) and 22.a(2)(d)); pension funds (see paragraph 8.i); and reserves for normal severance pay (see paragraph 8.k.)

10. Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement.

a. Definitions. (1) Conviction, as used herein, means a judgment or a conviction of a criminal offense by any court of competent jurisdiction, whether entered upon as a verdict or a plea, including a conviction due to a plea of nolo contendere.

(2) Costs include, but are not limited to, administrative and clerical expenses; the cost of legal services, whether performed by in-house or private counsel; and the costs of the services of accountants, consultants, or others retained by the organization to assist it; costs of employees, officers and trustees, and any similar costs incurred before, during, and after commencement of a judicial or administrative proceeding that bears a direct relationship to the proceedings.

(3) Fraud, as used herein, means acts of fraud corruption or attempts to defraud the Federal Government or to corrupt its agents, acts that constitute a cause for debarment or suspension (as specified in agency regulations), and acts which violate the False Claims Act, 31 U.S.C., sections 3729-3731, or the Anti-Kickback Act, 41 U.S.C., sections 51 and 54.

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

(5) Proceeding includes an investigation:

b. (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, or a State, local or foreign government, are not allowable if the proceeding: Relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation by the organization (including its agents and employees), and 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 organizational

liability.

(c) In the case of any civil or administrative proceeding, the imposition of a monetary penalty.

(d) A final decision by an appropriate Federal official to debar or suspend the organization, to rescind or void an award, or to terminate an award for default by reason of a violation or failure to comply with a law or regulation.

(e) A disposition by consent or compromise; if the action could have resulted in any of the dispositions described in subparagraphs 10.b.(1)(a), (b), (c) or (d) of this appendix.

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings shall be unallowable if any one of them results in one of the dispositions shown in subparagraph 10.b.(1) of this appendix.

c. If a proceeding referred to in subparagraph 10.b of this appendix is commenced by the Federal Government and is resolved by consent or compromise pursuant to an agreement entered into by the organization and the Federal Government, then the costs incurred by the organization in connection with such proceedings that are otherwise not allowable under subparagraph 10.b of this appendix may be allowed to the extent specifically provided in such agreement.

d. If a proceeding referred to in subparagraph 10.b of this appendix is commenced by a State, local or foreign government, the authorized Federal official may allow the costs incurred by the organization for such proceedings, if such authorized official determines that the costs were incurred as a result of a specific term or condition of a federally-sponsored award, or specific written direction of an authorized official of the sponsoring agency.

e. Costs incurred in connection with proceedings described in subparagraph 10.b of this appendix, but which are not made unallowable by that subparagraph, may be allowed by the Federal Government, but only to the extent that:

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

(2) Payment of the costs incurred, as allowable and allocable costs, is not prohibited by any other provision(s) of the sponsored award;

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

(4) The percentage of costs allowed does not exceed the percentage determined by an authorized Federal official to be appropriate, considering the complexity of the litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate. Such percentage shall not exceed 80 percent. However, if an agreement reached under subparagraph 10.c of this appendix has explicitly considered this 80 percent limitation and permitted a higher percentage, then the full amount of costs resulting from that agreement shall be allowable.

f. Costs incurred by the organization in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (Pub. L. 100-700), including the cost of all relief necessary to make such employee whole where the organization was found liable or settled, are unallowable.

g. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with defense against Federal Government claims or appeals, antitrust suits, or the prosecution of claims or appeals against the Federal Government, 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 sponsored awards.

i. Costs which may be unallowable under this paragraph, including directly associated costs, shall be segregated and accounted for by the organization separately. During the pendency of any proceeding covered by subparagraphs 10.b and f of this appendix, the Federal Government shall generally withhold payment of such costs. However, if in the best interests of the Federal Government, the Federal Government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreements by the organization to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

11. Depreciation and use allowances. a. Compensation for the use of buildings, other capital improvements, and equipment on hand may be made through use allowance or depreciation. However, except as provided in paragraph 11.f of this appendix, a combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.).

b. The computation of use allowances or depreciation shall be based on the acquisition cost of the assets involved. The acquisition cost of an asset donated to the non-profit organization by a third party shall be its fair market value at the time of the donation.

c. The computation of use allowances or depreciation 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 presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the non-profit organization in satisfaction of a statutory matching requirement.

d. General criteria where depreciation method is followed:

(1) The period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular program area, and the renewal and replacement policies followed for the individual items or classes of assets involved. The method of depreciation used to assign the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life.

(2) In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in the later portions, the straight-line method shall be presumed to be the appropriate method.

(3) Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency. When the depreciation method is introduced for application to assets previously subject to a use allowance, the combination of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets.

e. When the depreciation method is used for buildings, a building's shell may be segregated from each building component (e.g. , plumbing system, heating, and air conditioning system, etc.) and each item depreciated over its estimated useful life; or the entire building (i.e. , the shell and all components) may be treated as a single asset and depreciated over a single useful life.

f. When the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that, under subparagraph 11.d of this appendix, would be viewed as fully depreciated. However, a reasonable use allowance may be negotiated for such assets if warranted after taking into consideration the amount of depreciation previously charged to the Federal Government, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

g. Criteria where the use allowance method is followed:

(1) The use allowance for buildings and improvement (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost.

(2) The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g. , plumbing system, heating and air conditioning, etc.) cannot be segregated from the building's shell.

(3) The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g. , dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the need for costly or extensive alterations or repairs to the building or the equipment. Equipment that meets these criteria will be subject to the 62/3percent equipment use allowance limitation.

h. Charges for use allowances or depreciation must be supported by adequate property records and physical inventories must be taken at least once every two years (a statistical sampling basis is acceptable) to ensure that assets exist and are usable and needed. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be maintained.

12. Donations and contributions.

a. Contributions or donations rendered. Contributions or donations, including cash, property, and services, made by the organization, regardless of the recipient, are unallowable.

b. Donated services received:

(1) Donated or volunteer services may be furnished to an organization by professional and technical personnel, consultants, and

other skilled and unskilled labor. The value of these services is not reimbursable 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 Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the non-profit organization's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs when the following exist:

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

(b) The services are supported by a significant amount of the indirect costs incurred by the non-profit organization; and

(c) The direct cost activity is not pursued primarily for the benefit of the Federal Government.

(3) In those instances where there is no basis for determining the fair market value of the services rendered, the recipient and the cognizant agency shall negotiate an appropriate allocation of indirect cost to the services.

(4) Where donated services directly benefit a project supported by an 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 award or used to meet cost sharing or matching requirements.

(5) The value of the donated services may be used to meet cost sharing or matching requirements under conditions described in Section 215.23 of 2 CFR part 215 (OMB Circular A-110). Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

c. Donated goods or space. (1) Donated goods; *i.e.*, expendable personal property/supplies, and donated use of space may be furnished to a non-profit organization. The value of the goods and space is not reimbursable 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 part 215 (OMB Circular A-110). Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

13. Employee morale, health, and welfare costs.

a. The costs of employee information publications, health or first-aid clinics and/or infirmaries, recreational activities, employee counseling services, and any other expenses incurred in accordance with the non-profit organization's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance are allowable.

b. Such costs will be equitably apportioned to all activities of the non-profit organization. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

14. Entertainment costs. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

15. Equipment and other capital expenditures.

a. For purposes of this subparagraph, the following definitions apply:

(1) "Capital Expenditures" means expenditures for the acquisition cost of capital assets (equipment, buildings, land), or expenditures to make improvements to capital assets that materially increase their value or useful life. Acquisition cost means the cost of the asset including the cost to put it in place. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from the acquisition cost in accordance with the non-profit organization's regular accounting practices.

(2) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-profit organization for financial statement purposes, or \$5000.

(3) "Special purpose equipment" means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

(4) "General purpose equipment" means equipment, which is not limited to research, medical, scientific or other technical activities.

Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

b. The following rules of allowability shall apply to equipment and other capital expenditures:

- (1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except where approved in advance by the awarding agency.
- (2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5000 or more have the prior approval of the awarding agency.
- (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 approval of the awarding agency.
- (4) When approved as a direct charge pursuant to paragraph 15.b.(1), (2), and (3) above, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate by and negotiated with the awarding agency.
- (5) Equipment and other capital expenditures are unallowable as indirect costs. However, see paragraph 11., Depreciation and use allowance, of this appendix for rules on the allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see paragraph 43., Rental costs of buildings and equipment, of this appendix for rules on the allowability of rental costs for land, buildings, and equipment.
- (6) 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 use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

16. Fines and penalties. Costs of fines and penalties resulting from violations of, or failure of the organization to comply with Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency.

17. 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 solely to raise capital or obtain contributions are unallowable.

b. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in subparagraph B.3 of Appendix A to this part.

18. Gains and losses on depreciable assets. a. (1) Gains and losses on sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to cost grouping(s) in which the depreciation applicable to such property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under paragraph 11 of this appendix.

(b) 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.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in paragraph 22 of this appendix.

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation in accordance with paragraph 9 of this appendix.

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

b. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subparagraph a shall be excluded in computing award costs.

19. Goods or services for personal use. Costs of goods or services for personal use of the organization's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

20. Housing and personal living expenses. a. Costs of housing (e.g. , depreciation, maintenance, utilities, furnishings, rent, etc.), housing allowances and personal living expenses for/of the organization's officers are unallowable as fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees. These costs are allowable as direct costs to sponsored award when necessary for the performance of the sponsored award and approved by awarding agencies.

b. The term "officers" includes current and past officers and employees.

21. Idle facilities and idle capacity. a. As used in this section the following terms have the meanings set forth below:

(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-profit organization.

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

(3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between: 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 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, property taxes and depreciation or use allowances.

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

(1) They are necessary to meet fluctuations in workload; 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 subparagraph, 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 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.

22. Insurance and indemnification. a. Insurance includes insurance which the organization is required to carry, or which is approved, under the terms of the award and any other insurance which the organization maintains in connection with the general conduct of its operations. This paragraph does not apply to insurance which represents fringe benefits for employees (see subparagraphs 8.g and 8.i(2) of this appendix).

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

(2) Costs of other insurance maintained by the organization in connection with the general conduct of its operations are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances.

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees.

(c) Costs of insurance or of any provisions for a reserve covering the risk of loss or damage to Federal property are allowable only to the extent that the organization is liable for such loss or damage.

(d) Provisions for a reserve under a self-insurance program are allowable to the extent that types of coverage, extent of coverage, rates, and premiums would have been allowed had insurance 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, shall not exceed the present value of the liability.

(e) 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 subparagraph 8.g(4) of this appendix). The cost of such insurance when the organization is identified as the beneficiary is unallowable.

(f) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the organization's materials or workmanship are unallowable.

(g) 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 shall be treated as a direct cost and shall be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance.

(3) Actual losses which could have been covered by permissible insurance (through the purchase of insurance or a self-insurance program) are unallowable unless expressly provided for in the award, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice are allowable.

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of operations, are allowable.

b. Indemnification includes securing the organization against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the organization only to the extent expressly provided in the award.

23. Interest. a. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-profit organization's own funds, however represented, are unallowable. However, interest on debt incurred after September 29, 1995 to acquire or replace capital assets (including renovations, alterations, equipment, land, and capital assets acquired through capital leases), acquired after September 29, 1995 and used in support of Federal awards is allowable, provided that:

(1) For facilities acquisitions (excluding renovations and alterations) costing over \$10 million where the Federal Government's reimbursement is expected to equal or exceed 40 percent of an asset's cost, the non-profit organization prepares, prior to the acquisition or replacement of the capital asset(s), a justification that demonstrates the need for the facility in the conduct of federally-sponsored activities. Upon request, the needs justification must be provided to the Federal agency with cost cognizance authority as a prerequisite to the continued allowability of interest on debt and depreciation related to the facility. The needs justification for the acquisition of a facility should include, at a minimum, the following:

(a) A statement of purpose and justification for facility acquisition or replacement.

(b) A statement as to why current facilities are not adequate.

(c) A statement of planned future use of the facility.

(d) A description of the financing agreement to be arranged for the facility.

(e) A summary of the building contract with estimated cost information and statement of source and use of funds.

(f) A schedule of planned occupancy dates.

(2) For facilities costing over \$500,000, the non-profit organization prepares, prior to the acquisition or replacement of the facility, a lease/purchase analysis in accordance with the provisions of §§215.30 through 215.37 of 2 CFR 215 (OMB Circular A-110), which shows that a financed purchase or capital lease is less costly to the organization than other leasing alternatives, on a net present value basis. Discount rates used should be equal to the non-profit organization's anticipated interest rates and should be no higher than the fair market rate available to the non-profit organization from an unrelated ("arm's length") third-party. The lease/purchase analysis shall include a comparison of the net present value of the projected total cost comparisons of both alternatives over the period the asset is expected to be used by the non-profit organization. The cost comparisons associated with purchasing the facility shall include the estimated purchase price, anticipated operating and maintenance costs (including property taxes, if applicable) not included in the debt financing, less any estimated asset salvage value at the end of the period defined above. The cost comparison for a capital lease shall include the estimated total lease payments, any estimated bargain purchase option, operating and maintenance costs, and taxes not included in the capital leasing arrangement, less any estimated credits due under the lease at the end of the period defined above. Projected operating lease costs shall be based on the anticipated cost of leasing comparable facilities at fair market rates under rental agreements that would be renewed or reestablished over the period defined above, and any expected maintenance costs and allowable property taxes to be borne by the non-profit organization directly or as part of the lease arrangement.

(3) The actual interest cost claimed is predicated upon interest rates that are no higher than the fair market rate available to the non-profit organization from an unrelated ("arm's length") third party.

(4) Investment earnings, including interest income, on bond or loan principal, pending payment of the construction or acquisition costs, are used to offset allowable interest cost. Arbitrage earnings reportable to the Internal Revenue Service are not required to be offset against allowable interest costs.

(5) Reimbursements are limited to the least costly alternative based on the total cost analysis required under subparagraph 23.b. of this appendix. For example, if an operating lease is determined to be less costly than purchasing through debt financing, then reimbursement is limited to the amount determined if leasing had been used. In all cases where a lease/purchase analysis is performed, Federal reimbursement shall be based upon the least expensive alternative.

(6) Non-profit organizations are also subject to the following conditions:

(a) Interest on debt incurred to finance or refinance assets acquired before or reacquired after September 29, 1995, is not allowable.

(b) Interest attributable to fully depreciated assets is unallowable.

(c) For debt arrangements over \$1 million, unless the non-profit organization makes an initial equity contribution to the asset purchase of 25 percent or more, non-profit organizations shall reduce claims for interest expense by an amount equal to imputed interest earnings on excess cash flow, which is to be calculated as follows. Annually, non-profit organizations shall prepare a cumulative (from the inception of the project) report of monthly cash flows that includes inflows and outflows, regardless of the funding source. Inflows consist of depreciation expense, amortization of capitalized construction interest, and annual interest expense. For cash flow calculations, the annual inflow figures shall be divided by the number of months in the year (usually 12) that the building is in service for monthly amounts. Outflows consist of initial equity contributions, debt principal payments (less the pro rata share attributable to the unallowable costs of land) and interest payments. Where cumulative inflows exceed cumulative outflows, interest shall be calculated on the excess inflows for that period and be treated as a reduction to allowable interest expense. The rate of interest to be used to compute earnings on excess cash flows shall be the three month Treasury Bill closing rate as of the last business day of that month.

(d) Substantial relocation of federally-sponsored activities from a facility financed by indebtedness, the cost of which was funded in whole or part through Federal reimbursements, to another facility prior to the expiration of a period of 20 years requires notice to the Federal cognizant agency. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation and interest charged to date may require negotiation and/or downward adjustments of replacement space charged to Federal programs in the future.

(e) The allowable costs to acquire facilities and equipment are limited to a fair market value available to the non-profit organization from an unrelated ("arm's length") third party.

b. For non-profit organizations subject to "full coverage" under the Cost Accounting Standards (CAS) as defined at 48 CFR 9903.201, the interest allowability provisions of subparagraph a do not apply. Instead, these organizations' sponsored agreements are subject to CAS 414 (48 CFR 9903.414), cost of money as an element of the cost of facilities capital, and CAS 417 (48 CFR 9903.417), cost of money as an element of the cost of capital assets under construction.

c. The following definitions are to be used for purposes of this paragraph:

(1) Re-acquired assets means assets held by the non-profit organization prior to September 29, 1995 that have again come to be held by the organization, whether through repurchase or refinancing. It does not include assets acquired to replace older assets.

(2) Initial equity contribution means the amount or value of contributions made by non-profit organizations for the acquisition of the asset or prior to occupancy of facilities.

(3) Asset costs means the capitalizable costs of an asset, including construction costs, acquisition costs, and other such costs capitalized in accordance with GAAP.

24. Labor relations costs. Costs incurred in maintaining satisfactory relations between the organization and its employees, including costs of labor management committees, employee publications, and other related activities are allowable.

25. Lobbying. a. Notwithstanding other provisions of this appendix, costs associated with the following activities are unallowable:

(1) 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;

(2) 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;

(3) Any attempt to influence: The introduction of Federal or State legislation; or 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), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation;

(4) Any attempt to influence: The introduction of Federal or State legislation; or 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, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

(5) 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.

b. The following activities are excepted from the coverage of subparagraph 25.a of this appendix:

(1) Providing a technical and factual presentation of information on a topic 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 recipient member, legislative body or 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 hearing.

(2) Any lobbying made unallowable by subparagraph 25.a.(3) of this appendix to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

(3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. (1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of subparagraph B.3 of Appendix A to this part.

(2) Organizations shall submit, as part of the annual indirect cost rate proposal, a certification that the requirements and standards of this paragraph have been complied with.

(3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to paragraph 25 complies with the requirements of this Appendix.

(4) Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this paragraph during any particular calendar month when: the employee engages in lobbying (as defined in subparagraphs 25.a. and b. of this appendix) 25 percent or less of the employee's compensated hours of employment during that calendar month, and within the preceding five-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When the conditions described in this subparagraph are met, organizations are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when the conditions described in this subparagraph 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.

(5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of paragraph 25. Any such advance resolution shall be binding in any subsequent settlements, audits or investigations with respect to that grant or contract for purposes of interpretation of this Appendix; provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

d. 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 sponsored agreement 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 federally-sponsored agreement or regulatory matter on any basis other than the merits of the matter.

26. Losses on other sponsored agreements or contracts. Any excess of costs over income on any award is unallowable as a cost on any other award. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or

any under-recoveries through negotiation of lump sums for, or ceilings on, indirect costs.

27. Maintenance and repair costs. Costs incurred for necessary maintenance, 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 shall be treated as capital expenditures (see paragraph 15 of this appendix).

28. Materials and supplies costs. a. Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable.

b. Purchased materials and supplies shall be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should 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. Only materials and supplies actually used for the performance of a Federal award may be charged as direct costs.

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

29. Meetings and conferences. Costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, speakers' fees, and other items incidental to such meetings or conferences. But see paragraphs 14., Entertainment costs, and 33., Participant support costs of this appendix.

30. Memberships, subscriptions, and professional activity costs. a. Costs of the non-profit organization's membership in business, technical, and professional organizations are allowable.

b. Costs of the non-profit organization'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 Federal cognizant agency.

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

31. Organization costs. Expenditures, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the awarding agency.

32. Page charges in professional journals. Page charges for professional journal publications are allowable as a necessary part of research costs, where:

a. The research papers report work supported by the Federal Government; and

b. The charges are levied impartially on all research papers published by the journal, whether or not by federally-sponsored authors.

33. Participant support costs. Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects. These costs are allowable with the prior approval of the awarding agency.

34. Patent costs. a. The following costs relating to patent and copyright matters are allowable: cost 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; cost 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 general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements (but see paragraphs 37., Professional services costs, and 44., Royalties and other costs for use of patents and copyrights, of this appendix).

b. The following costs related to patent and copyright matter are unallowable:

(1) Cost of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures not required by the award.

(2) 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 (but see paragraph 45., Royalties and other costs for use of patents and copyrights, of this appendix).

35. Plant and homeland security costs. Necessary and reasonable expenses incurred for routine and homeland security to protect 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; contractual security services; consultants; etc. Capital expenditures for homeland and plant security purposes are subject to paragraph 15., Equipment and other capital expenditures, of this appendix.

36. Pre-agreement costs. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

37. Professional services 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-profit organization, are allowable, subject to subparagraphs 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 paragraph 10 of this appendix.

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-profit organization'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-profit organization's business (i.e., what new problems have arisen).
- (5) Whether the proportion of Federal work to the non-profit organization's total business is such as to influence the non-profit organization 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 grants and contracts.
- (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-Federal awards.
- (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 subparagraph 37.b of this appendix, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered

38. Publication and printing costs. a. Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling. Publication costs also include page charges in professional publications.

b. 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-profit organization.

c. Page charges for professional journal publications are allowable as a necessary part of research costs where:

- (1) The research papers report work supported by the Federal Government; and
- (2) The charges are levied impartially on all research papers published by the journal, whether or not by federally-sponsored authors.

39. Rearrangement and alteration costs. Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of the awarding agency.

40. Reconversion costs. Costs incurred in the restoration or rehabilitation of the non-profit organization'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.

41. Recruiting costs. a. Subject to subparagraphs 41.b, c, and d of this appendix, 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

any under-recoveries through negotiation of lump sums for, or ceilings on, indirect costs.

27. Maintenance and repair costs. Costs incurred for necessary maintenance, 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 shall be treated as capital expenditures (see paragraph 15 of this appendix).

28. Materials and supplies costs. a. Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable.

b. Purchased materials and supplies shall be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should 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. Only materials and supplies actually used for the performance of a Federal award may be charged as direct costs.

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

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a. The research papers report work supported by the Federal Government; and

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33. Participant support costs. Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects. These costs are allowable with the prior approval of the awarding agency.

34. Patent costs. a. The following costs relating to patent and copyright matters are allowable: cost 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; cost 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 general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements (but see paragraphs 37., Professional services costs, and 44., Royalties and other costs for use of patents and copyrights, of this appendix).

b. The following costs related to patent and copyright matter are unallowable:

(1) Cost of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures not required by the award.

(2) 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 (but see paragraph 45., Royalties and other costs for use of patents and copyrights, of this appendix).

35. Plant and homeland security costs. Necessary and reasonable expenses incurred for routine and homeland security to protect 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; contractual security services; consultants; etc. Capital expenditures for homeland and plant security purposes are subject to paragraph 15., Equipment and other capital expenditures, of this appendix.

36. Pre-agreement costs. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

37. Professional services 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-profit organization, are allowable, subject to subparagraphs 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 paragraph 10 of this appendix.

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-profit organization'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-profit organization's business (*i.e.* , what new problems have arisen).
- (5) Whether the proportion of Federal work to the non-profit organization's total business is such as to influence the non-profit organization 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 grants and contracts.
- (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-Federal awards.
- (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 subparagraph 37.b of this appendix, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered

38. Publication and printing costs. a. Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling. Publication costs also include page charges in professional publications.

b. 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-profit organization.

c. Page charges for professional journal publications are allowable as a necessary part of research costs where:

- (1) The research papers report work supported by the Federal Government; and
- (2) The charges are levied impartially on all research papers published by the journal, whether or not by federally-sponsored authors.

39. Rearrangement and alteration costs. Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of the awarding agency.

40. Reconversion costs. Costs incurred in the restoration or rehabilitation of the non-profit organization'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.

41. Recruiting costs. a. Subject to subparagraphs 41.b, c, and d of this appendix, 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 a well-managed recruitment program. Where the organization uses employment agencies, costs that are not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal organizational practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other organizations that do not meet the test of reasonableness or do not conform with the established practices of the organization, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within twelve months after being hired, the organization will be required to refund or credit such relocation costs to the Federal Government.

42. Relocation costs. 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 limitation described in subparagraphs 42.b, c, and d of this appendix, 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 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 days, including advance trip time.

(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 subparagraph 42.b.(4) of this appendix, are limited to 8 percent of the sales price of the employee's former home.

(4) The continuing costs of ownership 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, disconnecting and reinstalling household appliances, 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 subparagraph 42.b(1) and (2) of this appendix. When relocation costs incurred incident to the recruitment of new employees have been allowed either as a direct or indirect cost and the employee resigns for reasons within his control within 12 months after hire, the organization shall refund or credit the Federal Government for its share of the cost. However, the costs of travel to an overseas location shall be considered travel costs in accordance with paragraph 50 and not relocation costs 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.

43. Rental costs of buildings and equipment. a. Subject to the limitations described in subparagraphs 43.b. through d. of this appendix, 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-profit organization continued to own the property. This amount would include expenses such as depreciation or use allowance, maintenance, taxes, and insurance.

c. Rental costs under "less-than-arms-length" leases are allowable only up to the amount (as explained in subparagraph 43.b. of this appendix) that would be allowed had title to the property vested in the non-profit organization. For this purpose, a less-than-arms-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 divisions of a non-profit organization; non-profit organizations under common control through common officers, directors, or members; and a non-profit organization and a director, trustee, officer, or key employee of the non-profit organization or his immediate family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, a non-profit organization may establish a separate corporation for the sole purpose of owning property and leasing it back to the non-profit organization.

d. 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 subparagraph b) that would be allowed had the non-profit organization purchased the property on the date the lease agreement was executed. The provisions of Financial Accounting Standards Board Statement 13, Accounting for Leases, shall 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 paragraph 23 of this appendix. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-profit organization purchased the facility.

44. Royalties and other costs for use of patents and copyrights. a. 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 award are allowable unless:

- (1) The Federal Government has a license or the right to free use of the patent or copyright.
- (2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.
- (3) The patent or copyright is considered to be unenforceable.
- (4) The patent or copyright is expired.

b. Special care should be exercised in determining reasonableness where the royalties may have arrived at as a result of less-than arm's-length bargaining, e.g.:

- (1) Royalties paid to persons, including corporations, affiliated with the non-profit organization.
- (2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Federal award would be made.
- (3) Royalties paid under an agreement entered into after an award is made to a non-profit organization.

c. In any case involving a patent or copyright formerly owned by the non-profit organization, the amount of royalty allowed should not exceed the cost which would have been allowed had the non-profit organization retained title thereto.

45. Selling and marketing. Costs of selling and marketing any products or services of the non-profit organization are unallowable (unless allowed under paragraph 1. of this appendix as allowable public relations cost. However, these costs are allowable as direct costs, with prior approval by awarding agencies, when they are necessary for the performance of Federal programs.

46. Specialized service facilities. a. The costs of services provided by highly complex or specialized facilities operated by the non-profit organization, such as computers, wind tunnels, and reactors are allowable, provided the charges for the services meet the conditions of either paragraph 46 b. or c. of this appendix and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under subparagraph A.5. of Appendix A to this part.

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 does not discriminate against federally-supported activities of the non-profit organization, including usage by the non-profit organization for internal purposes, and is designed to recover only the aggregate costs of the services. The costs of each service shall consist normally of both its direct costs and its allocable share of all indirect costs. Rates shall be adjusted at least biennially, and shall 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 costs.

d. Under some extraordinary circumstances, where it is in the best interest of the Federal Government and the institution to establish alternative costing arrangements, such arrangements may be worked out with the cognizant Federal agency.

47. Taxes. a. In general, taxes which the organization 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 taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Federal Government and in the latter case when the awarding agency makes available the necessary exemption certificates, special assessments on land which represent capital improvements, and Federal income taxes.

b. Any refund of taxes, and any payment to the organization of interest thereon, which were allowed as award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the Federal Government.

48. Termination costs applicable to sponsored agreements. Termination of awards 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 below. They are to be used in conjunction with the other provisions of this appendix in termination situations.

a. The cost of items reasonably usable on the non-profit organization's other work shall not be allowable unless the non-profit organization 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-profit organization, the awarding agency should consider the non-profit organization's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the non-profit organization shall be regarded as evidence that such items are reasonably usable on the non-profit organization's other work. Any acceptance of common items as allocable to the terminated portion of the Federal award shall 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-profit organization, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this appendix, except that any such costs continuing after termination due to the negligent or willful failure of the non-profit organization to discontinue such costs shall be unallowable.

c. Loss of useful value of special tooling, machinery, and 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-profit organization,

(2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the awarding agency, 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, special 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-profit organization 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:

(a) The preparation and presentation to the awarding agency of settlement claims and supporting data with respect to the terminated portion of the Federal award, unless the termination is for default (see §215.61 of 2 CFR part 215 (OMB Circular A-110)); and

(b) 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, except when grantees or contractors are reimbursed for disposals at a predetermined amount in accordance with §215.32 through 215.37 of 2 CFR part 215 (OMB Circular A-110).

(3) Indirect costs related to salaries and wages incurred as settlement expenses in subparagraphs 48.e.(1) and (2) of this appendix. Normally, such indirect costs shall be limited to fringe benefits, occupancy cost, and immediate supervision.

f. Claims under sub awards, including the allocable portion of claims which are common to the Federal award, and to other work of the non-profit organization are generally allowable.

An appropriate share of the non-profit organization's indirect expense may be allocated to the amount of settlements with subcontractors and/or subgrantees, provided that the amount allocated is otherwise consistent with the basic guidelines contained in Appendix A. The indirect expense so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

49. Training costs. a. Costs of preparation and maintenance of a program of instruction including but not limited to on-the-job, classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, salaries or wages of trainees (excluding overtime compensation which might arise therefrom), and (i) salaries of the director of training and staff when the training program is conducted by the organization; or (ii) tuition and fees when the training is in an institution not operated by the organization, are allowable.

b. Costs of part-time education, at an undergraduate or post-graduate college level, including that provided at the organization's own facilities, are allowable only when the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work, and are limited to:

(1) Training materials.

(2) Textbooks.

(3) Fees charges by the educational institution.

(4) Tuition charged by the educational institution or, in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution.

(5) Salaries and related costs of instructors who are employees of the organization.

(6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year and only to the extent that circumstances do not permit the operation of classes or attendance at classes after regular working hours; otherwise, such compensation is unallowable.

c. Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time education, including that provided at the organization's own facilities, at a post-graduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which the employee is now working or may reasonably be expected to work, and only where the costs receive the prior approval of the awarding agency. Such costs are limited to the costs attributable to a total period not to exceed one school year for each employee so trained. In unusual cases the period may be extended.

d. Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees' salaries, subsistence, and travel. Costs allowable under this paragraph do not include those for courses that are part of a degree-oriented curriculum, which are allowable only to the extent set forth in subparagraphs b and c.

e. Maintenance expense, and normal depreciation or fair rental, on facilities owned or leased by the organization for training purposes are allowable to the extent set forth in paragraphs 11, 27, and 50 of this appendix.

f. Contributions or donations to educational or training institutions, including the donation of facilities or other properties, and scholarships or fellowships, are unallowable.

g. Training and education costs in excess of those otherwise allowable under subparagraphs 49.b and c of this appendix may be allowed with prior approval of the awarding agency. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.

50. **Transportation costs.** Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly charged as transportation costs or added to the cost of such items (see paragraph 28 of this appendix). Where identification with the materials received cannot readily be made, transportation costs may be charged to the appropriate indirect cost accounts if the organization follows a consistent, equitable procedure in this respect.

51. **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-profit organization. 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-profit organization's non-federally-sponsored activities.

b. **Lodging and subsistence.** Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the non-profit organization in its regular operations as the result of the non-profit organization's written travel policy. In the absence of an acceptable, written non-profit organization policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57, Title 5, United States Code ("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 shall apply to travel under Federal awards (48 CFR 31.205-46(a)).

c. **Commercial air travel.** (1) Airfare costs in excess of the customary standard commercial airfare (coach or equivalent), Federal Government contract airfare (where authorized and available), or the lowest commercial discount airfare are unallowable except when such accommodations would: require circuitous routing; require travel during unreasonable hours; excessively prolong travel; result in additional costs that would offset the transportation savings; or offer accommodations not reasonably adequate for the traveler's medical needs. The non-profit organization must justify and document these conditions on a case-by-case basis in order for the use of first-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-profit organization's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the non-profit organization can demonstrate either of the following: that such airfare was not available in the specific case; or that it is the non-profit organization's overall practice to make routine use of such airfare.

d. **Air travel by other than commercial carrier.** Costs of travel by non-profit organization-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 allowable commercial air travel, as provided for in subparagraph] c., is unallowable.

e. **Foreign travel.** Direct charges for foreign travel costs are allowable only when the travel has received prior approval of the awarding agency. Each separate foreign trip must receive such approval. For purposes of this provision, "foreign travel" includes any travel outside Canada, Mexico, the United States, and any United States territories and possessions. However, the term "foreign travel" for a non-profit organization located in a foreign country means travel outside that country.

52. **Trustees.** Travel and subsistence costs of trustees (or directors) are allowable. The costs are subject to restrictions regarding lodging, subsistence and air travel costs provided in paragraph 51 of this appendix.

Appendix C to Part 230—Non-Profit Organizations Not Subject to This Part



1. Advance Technology Institute (ATI), Charleston, South Carolina
2. Aerospace Corporation, El Segundo, California
3. American Institutes of Research (AIR), Washington DC
4. Argonne National Laboratory, Chicago, Illinois
5. Atomic Casualty Commission, Washington, DC
6. Battelle Memorial Institute, Headquartered in Columbus, Ohio
7. Brookhaven National Laboratory, Upton, New York

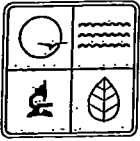
8. Charles Stark Draper Laboratory, Incorporated, Cambridge, Massachusetts
9. CNA Corporation (CNAC), Alexandria, Virginia
10. Environmental Institute of Michigan, Ann Arbor, Michigan
11. Georgia Institute of Technology/Georgia Tech Applied Research Corporation/Georgia Tech Research Institute, Atlanta, Georgia
12. Hanford Environmental Health Foundation, Richland, Washington
13. IIT Research Institute, Chicago, Illinois
14. Institute of Gas Technology, Chicago, Illinois
15. Institute for Defense Analysis, Alexandria, Virginia
16. LMI, McLean, Virginia
17. Mitre Corporation, Bedford, Massachusetts
18. Mitretek Systems, Inc., Falls Church, Virginia
19. National Radiological Astronomy Observatory, Green Bank, West Virginia
20. National Renewable Energy Laboratory, Golden, Colorado
21. Oak Ridge Associated Universities, Oak Ridge, Tennessee
22. Rand Corporation, Santa Monica, California
23. Research Triangle Institute, Research Triangle Park, North Carolina
24. Riverside Research Institute, New York, New York
25. South Carolina Research Authority (SCRA), Charleston, South Carolina
26. Southern Research Institute, Birmingham, Alabama
27. Southwest Research Institute, San Antonio, Texas
28. SRI International, Menlo Park, California
29. Syracuse Research Corporation, Syracuse, New York
30. Universities Research Association, Incorporated (National Acceleration Lab), Argonne, Illinois
31. Urban Institute, Washington DC
32. Non-profit insurance companies, such as Blue Cross and Blue Shield Organizations
33. Other non-profit organizations as negotiated with awarding agencies

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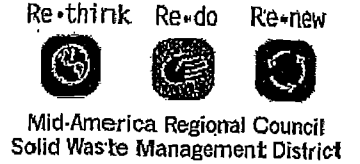
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MDNR and MARC SWMD Grants

Identifying the Department and the MARC Solid Waste Management District in Grant Projects for Public Distribution



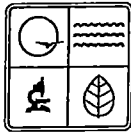
Recipients of grant funds from the MARC Solid Waste Management District and the Missouri Department of Natural Resources should identify the district and the department as a funding source on all grant projects for public distribution.

On most projects, identification should include the district and department logos with the full names. This applies to publications, news releases, videos, displays and all other projects from which information may be obtained by reading, watching, or simply seeing the material. Camera-ready copies of the logos may be obtained by calling the district grant administrator at 816-701-8226 or e-mailing karpilow@marc.org.

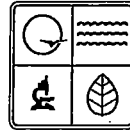
For other projects, such as audio cassette tapes and news releases, the department and the district should be identified audibly by including its full name. See the following guidelines for specific directions.

Logo Usage

Logo: The Missouri Department of Natural Resources logo and the MARC SWMD logo include the full name of the department and the graphic. The MDNR name should be placed below or to the right of the graphic. See examples below.



Missouri
Department of
Natural Resources



Missouri Department
of Natural Resources

Re•think Re•do Re•new



Mid-America Regional Council
Solid Waste Management District

Placement: The logos should be readily visible, either on the front or back cover of publications with separate covers. On folded publications, the logo should be visible on the back outer panel.

The logo should be aired at the end of video tapes long enough for easy visibility by viewers.

Size: Type size for the text of the logo in publications should be no smaller than 10 points. The logo art should be in proportion to the type size, as shown in examples above. When other sources of funding also are identified, the MDNR and MARC SWMD logo shall be no smaller than the type size of other funding sources listed.

ATTACHMENT 2E

The logos should be aired at the end of video tapes large enough for easy visibility by viewers.

Additional Credit: When space allows, the following verbiage should precede the logo: "This project was funded by the..."

Note: When only a portion of the project is funded by department grant funds, "funded" may be replaced with "funded in part."

Audible Identification of the Department

Name: The department and the district should be identified as follows:

The Missouri Department of Natural Resources
The MARC Solid Waste Management District

Credit: The following verbiage should be announced at the beginning and end of the project:

"This project was funded in part by the Missouri Department of Natural Resources and the MARC Solid Waste Management District."

Note: When only a portion of the project is funded by department grant funds, "funded" may be replaced with "funded in part."