

## Unallowable Costs Guidelines

### Purpose

These guidelines provide information about identify and allocating unallowable costs as defined in Uniform Guidance 2 CFR 200.

### Background

The Uniform Guidance establishes principles for determining costs applicable to grants, contracts and other agreements with institutions of higher education. In order to meet these federal requirements, it is necessary to identify and correctly allocate unallowable expenses as defined in Uniform Guidance 2 CFR 200. All costs, both direct and indirect, are part of the Facilities and Administrative (F&A) rate calculations, therefore it is essential that all RFCUNY and CUNY staff including principal investigators (PIs) understand and consistently follow the stated guidelines, to ensure unallowable costs are properly segregated when calculating F&A rates.

Except where otherwise authorized by statute, the Federal Uniform Guidance (Section 200.403) establishes principles for determining the allowability of costs to federal awards. Costs must meet the following criteria in order to be allowable:

- Be necessary and reasonable for the performance of the award;
- Be allowable under the Uniform Guidance and the terms of the award;
- Be allocable;
- Be consistently applied, and
- Be adequately documented.

If an expense cannot meet the above criteria, it is not eligible for inclusion in the F&A rate calculation regardless of its purpose.

A cost may be allowable by RFCUNY or a sponsor but unallowable for the purpose of calculating F&A rates based on Uniform Guidance 2 CFR 200. The federal government will not reimburse these costs, however, they may be entirely appropriate and permissible activities.

### Definitions of Terms

#### **Direct costs** (Section 200.413)

Costs that can be identified specifically with a particular cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

#### **Allocable** (Section 200.405)

A cost is allocable to a particular award if the goods or services involved can be directly assigned to the award in accordance with the relative benefits received.

#### **Allowable** (Section 200.410)

Costs deemed to be unallowable under OMB shall be identified and excluded from booking to a sponsored research project. Payments made for costs determined to be unallowable, must be refunded (including interest) to the federal government.

#### **Consistently treated** (Section 200.412)

All costs incurred for the same purpose, in like circumstances, must be treated uniformly either as direct costs or indirect costs to avoid double charging the federal government. Since certain costs, such as utilities cost (heat, light, and power) are normally treated as indirect costs, these costs cannot be charged directly to federal awards unless the circumstances related to a particular project are clearly different from the normal operations of the institution and approved by the funding sponsor.

**Indirect (F&A) costs** (Section 200.414)

Facilities and Administrative costs represent those expenses that are incurred for common or joint objectives and therefore cannot be readily assigned to a specific sponsored project or other institutional activity. "Facilities" is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvement, and operation and maintenance expense. "Administration" is defined as general administration and general expenses such as accounting, library, etc.

**Reasonable** (Section 200.404)

A cost may be considered reasonable if the nature of the goods or services and the price paid for the goods or services, reflect the action that a prudent person would have taken given the prevailing circumstances at the time the decision to incur the cost was made.

**Guidelines**

Unallowable costs generally fall into two categories, those costs which are unallowable in and of themselves such as entertainment or lobbying, and costs related to activities that are unallowable such as alumni activity or public relations.

All unallowable costs should be recorded in a transparent manner. Accordingly, unallowable costs should be identified to the correct object code or department/account name which makes them readily identifiable.

For the list of Unallowable Costs Categories per the Federal Uniform Guidelines see Appendix A.

**Compliance Responsibilities**

Responsibility for these guidelines lies primarily with principal investigators, grants officers and fiscal personnel at the colleges of CUNY.

Grants and Contracts personnel monitor award activity against sponsored agreements to ensure that the charges to an award are allowable according to the specific agreement. This is an after the fact review and should be seen as a stop gap precaution. The first and foremost responsibility for identifying and segregating unallowable costs is at the College when the costs are incurred and recorded. In the event that an unallowable cost is charged to a federal project in error, it should be transferred to an unrestricted college account.

RFCUNY's finance department is responsible for preparing F&A proposals. The following methods are used to identify and allocate unallowable costs:

- All unallowable costs that can be readily identified by object code listed on RFCUNY and CUNY's Chart of Accounts are excluded from the F&A proposal.
- Any departments/accounts that are identified as being solely or almost solely used for an unallowable activity are identified and moved to Other Institutional Activities (OIA). In this way these activities, which are legitimate for university purposes, are not included in the organized research base and still draw their share of general administrative and other costs.
- All additional departments/accounts in CUNY First are reviewed with fiscal personnel at the College to ensure proper segregation of cost to OIA.

## Appendix A

### Unallowable Cost Categories (in alphabetical order)

The following items of cost are considered Unallowable according to the Federal Uniform Guidance:

#### Advertising (200.421)

The only allowable advertising costs are:

- Recruitment of personnel.
- Procurement of goods and services.
- Disposal of scrap or surplus materials.
- Those advertising costs specifically required by a sponsored agreement.

#### Alcoholic beverages (200.423)

The cost of alcoholic beverages is unallowable.

#### Alumni activities (200.424)

Costs incurred for, or in support of, alumni/alumnae activities and similar services are unallowable.

#### Bad debt expense (200.426)

Any losses, whether actual or estimated, arising from uncollectible accounts and other claims, and any related collection and legal costs are unallowable.

#### Commencement and convocation costs (200.429)

Costs incurred for commencement and convocations are unallowable as a direct charge to a federal sponsor but may be included as an indirect cost for the purpose of calculating a college's F&A rate.

#### Contingency provisions (200.433)

Any contingency reserve or similar provision made for events, the occurrence of which cannot be foretold with certainty, is unallowable.

#### Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringements (200.435)

Generally, these costs are unallowable. The only exception is when the federal government specifically authorizes the condition causing the action.

#### Donations or contributions (200.434)

All donations and contributions made by CUNY, regardless of the recipient, are unallowable.

#### Entertainment (200.438)

Costs of activities where the primary purpose is amusement, diversion (such as tickets to shows or sports events), or social activities, and any associated costs, such as transportation, meals, etc., are unallowable. Any exceptions require a programmatic purpose as well as written prior approval from the federal awarding agency.

#### Fines and penalties (200.441)

Costs resulting from violations of, or failure of the institution to comply with federal, state, and local or foreign laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the federal award, or with prior approval of the federal awarding agency.

#### Fundraising (200.442)

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. This includes salary, printing, room charge, travel, meal, and supply costs of fundraising.

#### Goods or services for personal use (200.445)

All costs for goods or services for personal use by CUNY employees, including housing expenses (e.g. depreciation, rent, maintenance, utilities, furnishings, etc.), housing allowances, and personal living expenses for CUNY officers, are unallowable.

### **Insurance against defects (200.447)**

- Costs of insurance required or approved and maintained, pursuant to the federal award, are allowable.
- Costs for insurance against defects, including the costs of insurance or any other costs incurred to correct defects in the College's materials or workmanship, are unallowable.
- If research involves human subjects, medical liability or malpractice insurance costs can only be directly charged to sponsored projects according to the risk of the population covered. Therefore, if medical liability or malpractice insurance costs occur on a budget classified as general or departmental administration for the purposes of the F&A proposal, they must be identified and reported to RFCUNY when an F&A or indirect cost proposal is prepared.

### **Interest (200.449)**

The only allowable interest costs are those paid to an external party if associated with:

- Financing costs to acquire, construct, or replace capital assets.
- Intangible assets including patents and computers for fiscal years beginning on or after January 1, 2016. (Note: For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.)

### **Investment management (200.442)**

The investment expenses incurred for the physical custody and control of monies and securities is allowable. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include federal participation.

### **Lobbying (200.450)**

In general, lobbying costs are unallowable, including:

- The cost of influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost.
- 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.
- 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 election.
- Attempts to influence the:
  - Introduction of federal or state legislation.
  - Enactment or modification of any pending federal or state legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign.
  - Any government official or employee in connection with a decision to sign or veto legislation.
- 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. Legislative liaison activities include:
  - Attendance at legislative sessions or committee hearings.
  - Gathering information regarding legislation.
  - Analyzing the effect of legislation.

A few lobbying costs are allowable if specifically related to the performance of a sponsored agreement.

- Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement.
- Activities to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the institution's authority to perform under a grant, contract, or other agreement.

### **Losses on other sponsored agreements or contracts (200.451)**

Any excess of costs over income under any other sponsored agreement or contract of any nature is unallowable. This includes, but is not limited to, the College's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for F&A costs.

**Memberships, subscriptions and professional activity costs (200.454)**

Note: Membership and subscription costs must not be directly charged to sponsored agreements, unless specifically allowed by the sponsor.

Membership in any civic or community organization, or in any country, social or dining club is unallowable. The only allowable membership costs are for a membership in business, technical, or professional organizations.

- The only allowable subscription costs are for subscriptions to business, professional, and technical periodicals.
- Costs of meetings and conferences are only allowable when the primary purpose is the dissemination of technical information. This includes the costs of meals, transportation, rental of facilities, etc.

**Pre-agreement costs (200.458)**

Pre-award costs are those incurred prior to the effective date of the award, where such costs are necessary for efficient and timely performance of the scope of work. Such costs are only allowable 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.

**Public relations (200.421)**

The only allowable public relations costs are those for the cost of:

- Public relations specifically required by a sponsored agreement.
- Conducting general liaison with news media to keep the public informed on matters of public concern, such as notices of financial matters, contract/grant awards, etc.
- Communicating with public and press pertaining to specific activities or accomplishments resulting from the performance of sponsored agreements.

**Selling and marketing (200.467)**

Costs of selling and marketing any services or products of the institution are unallowable, unless included in allowable advertising costs above (200.421) or permitted by the awarding agency with prior approval.

**Student activity costs (200.469)**

Unless specifically allowed for in the sponsored agreement, costs incurred for intramural activities, student publications, student clubs, and other student activities are unallowable.

**Travel costs (200.474)**

Airfare costs in excess of the lowest available commercial discount airfare, federal government contract airfare (where authorized and available), or customary standard (coach or equivalent) airfare, are unallowable except when such accommodations would: require circuitous routing; require travel during unreasonable hours; excessively prolong travel; greatly increase the duration of the flight; result in increased costs that would offset transportation savings; or offer accommodations not reasonably adequate for the medical needs of the traveler.