HEWLETT-WOODMERE UFSD **Policy 6700**

(X) Required
( ) Local
(X) Notice

PURCHASING POLICY

The Board of Education recognizes its responsibility to ensure the development of procedures for the procurement of goods and services not required by law to be made pursuant to competitive bidding requirements.

The function of purchasing is to serve the educational program by providing the necessary supplies, equipment and related services. It shall be the goal of the Board of Education to focus on the educational welfare of the students, in conjunction with seeking maximum value for each dollar expended. In pursuit of this goal, the Board of Education shall purchase competitively, without prejudice, all goods and services necessary to support the educational and auxiliary departments of the School District. The Board of Education designates the Assistant Superintendent for Finance and Personnel as the Purchasing Agent for the School District. The Assistant Superintendent for Finance and Personnel, under the general supervision of the Superintendent of Schools, will be responsible for administering all purchasing activities and ensuring the quality and quantity of purchases made by the School District.

All purchases shall be made through the Business Office by the Purchasing Agent or his/her designee. The Purchasing Agent shall be responsible for reviewing all bid specifications and a statement of general bidding conditions to be included in every notice or invitation to bid.

The Superintendent of Schools, with the assistance of the Assistant Superintendent for Business Finance and Personnel, shall will be responsible for the establishment and implementation of the procedures and standard forms for use in all purchasing and related activities in the School District. Such procedures shall comply with all applicable laws and regulations of the State of New York and the Commissioner of Education.

Individuals or organizations in the School District are not permitted to enter into contracts for goods or services (a) independent of the involvement of the Assistant Superintendent for Finance and Personnel; or (b) without Board approval; or (c) without the approval of the Superintendent of Schools where the Board of Education has authorized such approval. Contracts entered into by individuals or organizations (a) independent of the involvement of the Assistant Superintendent for Finance and Personnel; or (b) without Board approval; or (c) without the approval of the Superintendent of Schools where the Board of Education has authorized such approval shall not be enforceable.

The School District's purchasing activity will strive to meet the following objectives:

1. to effectively supply all administrative units in the school system with needed materials, supplies, and contracted services;
2. to obtain materials, supplies and contracted services at the lowest prices possible consistent with the quality and standards needed, as determined by the Assistant Superintendent for Finance and Personnel in cooperation with the requisitioning authority. The educational welfare of the pupils is the foremost consideration in making any purchase;
3. to ensure that all purchases fall within the framework of budgetary limitations and that they are consistent with the educational goals and programs of the School District;
4. to maintain an appropriate and comprehensive accounting and reporting system to record and document all purchasing transactions; and
5. to ensure, through the use of proper internal controls, that loss and/or diversion of School District property is prevented.
6. Any non-consumable supplies, materials, or equipment purchased for a private school Title I-A AIS, Title II, Title III, or Title IV program will be first shipped to the district, inventoried, and labeled before sending the items to the private school(s).

The General Municipal Law requires that purchase contracts for materials, equipment and supplies involving an estimated annual expenditure exceeding $20,000 and public work contracts for services, labor or construction involving an expenditure of more than $35,000 will be awarded only after responsible bids have been received in response to a public advertisement soliciting formal bids. In determining the necessity for competitive bidding, the aggregate (total combined District-wide) cost of a commodity estimated to be purchased in a fiscal year must be considered. Similar procurements to be made in a fiscal year will be grouped together for the purpose of determining whether a particular item must be bid.

The Assistant Superintendent for Finance and Personnel or his/her designee is authorized to conduct bid openings. All contracts which require public advertising and competitive bidding shall be awarded by resolution of the Board of Education. Written recommendations for the award of all such contracts shall be submitted to the Assistant Superintendent for Finance and Personnel. When purchases or annual anticipated purchases for items or categories of items reach statute-specified amounts, bid specifications shall be developed and bids taken as required by statute. Purchases shall not be manipulated to avoid taking bids as required by statute. Small orders of similar commodities or significant underestimation of needs shall be considered an attempt to avoid the bid process.

Goods and services which are not required by law to be procured by the School District through competitive bidding will be procured in a manner so as to ensure the prudent and economical use of public monies, in the best interests of the taxpayers, to facilitate the acquisition of goods and services of

maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption and shall be made in accordance with the Board of Education's purchasing regulation.

The Board of Education shall have reported to it all bids taken for purchase or equipment, furniture, supplies and services and shall take action approving contracts to the lowest responsible bidder meeting specifications. When it is in the best interests of the School District, contracts for purchases of materials, supplies or equipment (except printed material), may be awarded to a responsive and responsible bidder on the basis of "best value" in accordance with the requirements of General Municipal Law, section 103 and State Finance Law, section 163. When the School District determines to award a purchase contract on the basis of "best value," the bid specifications shall identify the criteria and rating system to be utilized in making a "best value" determination. The purchasing agent shall maintain documentation reflecting said criteria and rating system, as well as the evaluation of each bidder's bid in connection with same.

Whenever it is feasible, in the best interests of the School District and permitted by applicable contract terms, purchases of materials, supplies or equipment (except printed material), will be made through New York State and County Government contracts. Prior to making such purchases or contracts, the School District shall consider whether such contract will result in cost savings after all factors, including charges for service, material, and delivery, have been considered. The School District, may, when permitted by law and applicable contract terms, utilize contracts let by the United States of America, any agency thereof, any state or any other county or political subdivision or district therein if such contract was let in a manner consistent with New York State law and made available for use by the School District.

The District, upon the advice of counsel, will determine whether such contract does not conflict with State law or regulations, and meets the following requirements:

1. The contract must have been let by the United States, or any agency thereof, any state, or any other political subdivision or district therein;
2. The contract must have been made available for use by other governmental entities; including New York State local governments;
3. The contract must have been let to the lowest responsible bidder or on the basis of best value, in a manner consistent with General Municipal Law §103. Those main elements are: (a) public solicitation of bids or offers; (b) secure or confidential bids or offers; (c) use of a common standard for bidders or offers to compete fairly; and (d) awarded to the lowest responsible bidder, or responsible offeror of best value, which optimizes quality, cost and efficiency.

In addition, the District will make purchases from correctional institutions, qualified veterans' workshops and severely disable persons through charitable or non-profit making agencies, as provided by the State Finance Law.

Contracts and agreements for capital projects and professional services, not governed by sections 103 and 104 of General Municipal Law, between the School District and contractors shall be approved by resolution of the Board of Education and shall be signed by the Board of Education President and/or the Superintendent of Schools on behalf of the Board of Education.

No Board of Education member, officer or employee of the School District shall have an interest

in any contract entered into by the Board of Education or the School District, as provided in Article 18 of the General Municipal Law.

All School District policies regarding the procurement processes will be reviewed by the Board of Education at least annually. Comments regarding the purchasing process shall be solicited from appropriate School District personnel involved in the procurement process as is deemed necessary. New regulations and procedures must then be adopted by Board of Education resolution.

Purchasing agents for the Hewlett-Woodmere Union Free School District shall be appointed annually at the Organization meeting.

The unintentional failure to fully comply with the provisions of section 104-b of the General Municipal Law or the School District's policies regarding procurement will not be grounds to void action taken or give rise to a cause of action against the School District or any officer or employee of the School District.

Ref: Education Law §§305(14); 409-i; 1604(29-a); 1709(4-a)(9)(14)(22);
General Municipal Law §§102; 103; 104-b; 109-a; 800 et seq.
State Finance Law §§ 163-b, 162

Policy Adopted: February 13, 1992
ANNUAL APPROVAL - July 12, 2006; June 20, 2007; December 19, 2007; July 7, 2008; June 17, 2009; July 14, 2010; June 18, 2013; Sept. 12, 2018, July 5, 2023
Amended: February 16, 2011; June 18, 2014, July 7, 2015, July 11, 2016,
March 15, 2017, July 2, 2019, June 17, 2020, July 5, 2023

The following sets forth the procedures for the procurement of goods and services by the School District:

I Definitions

Purchase Contract: a contract involving the acquisition of commodities, materials, supplies or equipment.

Public Work Contract: a contract involving services, labor or construction.

II General Municipal Law

The General Municipal Law requires that purchase contracts for materials, equipment and supplies involving an estimated annual expenditure exceeding $20,000 and public work contracts involving an expenditure of more than $35,000 will be awarded only after responsible bids have been received in response to a public advertisement soliciting formal bids. Similar procurement to be made in a fiscal year will be grouped together for the purpose of determining whether a particular item must be bid.

If in excess of bid limits, the following is also subject to General Municipal Law 103:

- Lease/rental of personal property (Section 1725 of Education Law);
  All leases and rental agreements shall be signed by the Superintendent of Schools and/or the Assistant Superintendent for Finance and Personnel.
- "Lease Purchasing" agreement for instructional equipment (Section 1725-A of Education Law);
- "Installment Purchase" of equipment, machinery and apparatus (Section 109-B of General Municipal Law);
- Cooperative Bid Arrangements (Section 119-0 of General Municipal Law);
- Standardization (Section 103 of General Municipal Law); and
- Transportation contracts and cafeteria contracts covered by "Education Law" are subject to same limits as "Purchase Contracts" under Section 103 of General Municipal Law 9 Section 305, Subdivision 14, Education Law.

III Competitive Bidding Required

A. Method of Determining Whether Procurement is Subject to Competitive Bidding

1. The School District will first determine if the proposed procurement is a purchase contract or a contract for public work.
2. If the procurement is either a purchase contract or a contract for public work, the School District will then determine whether the amount of the procurement is above the applicable monetary threshold as set forth above.
3. The School District will also determine whether any exceptions to the competitive bidding requirements (as set forth below) exist.
4. All advertised bids must include the following statement required by General Municipal Law 103-g: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

B. Contract Combining Professional Services and Purchase

In the event that a contract combines the provision of professional services and a purchase, the School District, in determining the appropriate monetary threshold criteria to apply to the contract, will determine whether the professional service or the purchase is the predominant part of the transaction.

C. Opening and Recording Bids; Awarding Contracts

Only the Purchasing Agent or his/her designee will be authorized to open and record bids and to commit the School District to a purchase. Appropriate School District administrators shall be consulted in making purchasing recommendations to the Purchasing Agent and to the Board of Education for bid award recommendations. Contracts will be awarded to the lowest responsible bidder.

When it is in the best interests of the School District, contracts for purchases or materials, supplies or equipment (except printed materials), may be awarded to a responsive and responsible bidder on the basis of "best value" in accordance with the requirements of General Municipal Law, section 103 and State Finance Law, section 163. When the School District determines to award a purchase contract on the basis of "best value," the bid specifications shall identify the criteria and rating system to be utilized in making a "best value" determination. The purchasing agent shall maintain documentation reflecting said criteria and rating system, as well as the evaluation of each bidder's bid in connection with same.

Opportunity will be provided to all responsible suppliers to do business with the School District. Suppliers whose place of business is located within the School District may be given preferential consideration only when the bids or quotation on an item or service submitted are identical to the low bidder as to price, quality and other factors. The School

District will give a preference in the purchase of instructional material to those vendors who agree to provide such materials in alternative formats for students with disabilities.

In order to be considered a responsible bidder, entities must certify that they are not on the list created and maintained by the State Office of General Services (OGS)_ cataloging significant investment in the Iranian energy sector. Such statement may be submitted electronically pursuant to General Municipal Law §103(1). Entities that cannot make this certification may only be awarded the bid if:

(1) The entity's investment activities in Iran were made before April 12, 2012; the investment activities in Iran have not been expanded or renewed after that date; and the entity has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) The School District makes a determination, in writing, that the goods or services are necessary for the School District to perform its functions and that, absent such an exemption, the School District would be unable to obtain the goods or services for which the contract is offered.

D. Documentation of Competitive Bids

The School District shall maintain written documentation which shall include, but not be limited to, purchase or a public work contract, Board of Education Resolutions, Memoranda, Written Quotes, Telephone Logs, Requests for Proposals (RFP's), Proposals, Contracts, References, Original Bids and all related data including documentation when a contract is not awarded to the vendor submitting the lowest quote, setting forth the reasons therefore.

For all purchase contracts involving the expenditure of federal funds, federal grants and/or federal awards, the District shall comply with the Uniform Guidance procurement rules issued by the United States Office of Management and Budget.

IV Quotes When Competitive Bidding Not Required

Goods and services which are not required by law to be procured by the School District through competitive bidding will be procured in a manner so as to ensure the prudent and economical use of public monies in the best interests of the taxpayers.

The Purchasing Agent shall handle routine purchasing and shall have authorization to purchase supplies, equipment and services, not subject to the New York State bid law consistent with all appropriate provisions of law and as described in the Purchasing Policy. The Purchasing Agent, in cooperation with appropriate administrators, shall have authorization to purchase equipment, furniture, supplies and services not subject to the New York State bid law.

Alternative proposals or quotations will be secured by requests for proposals, written or verbal quotations or any other appropriate method of procurement, as set forth below. A quote which exceeds the budgetary limit will be awarded only when such award is in the best interests of the School District and otherwise furthers the purposes of section 104-b of the General Municipal Law. The School District will provide justification and documentation of any such contract awarded. The School District will also provide and document any contract awarded to a vendor other than the lowest dollar offeror.

A. Methods of Documentation

1. Verbal Quotations: the telephone log or other record will set forth, at a minimum, the date, item or service desired, price quoted, name of vendor, name of vendor's representative. Quotations may be requested by either the Business Office or the ordering department, as appropriate, from the vendors who can provide the item or service required. Quotations must be documented by the ordering department and maintained on file.

2. Written Quotations: vendors shall provide, at a minimum, the date, description of the item or details of service to be provided, price quoted and name of contact. Written formal quotations shall be required as per the Board of Education established guidelines. Written quotations shall be attached to the purchase order.

Quotations from prospective bidders who are unable to supply the required goods or service and offer a "No Quote" response to a request, or are unresponsive to a request for a quote, are to be counted toward compliance with this requirement. In the best interest of the School District the Purchasing Agent may initiate the formal sealed bid process for any product or service, based on market conditions, an awareness of competitive advantage or an anticipated increase in cumulative purchased totals for a given commodity or class or materials;

3. Requests for Proposals (RFP): The School District will prepare a well-planned RFP which will contain critical details of the goods/services, procurement, including the methods which it will use in selecting the service. The School District will consider the following factors in developing its RFP:

- the special knowledge or expertise of the professional or consultant service;
- the quality of the service to be provided;
- the staffing of the service; and
- the suitability for the School District's needs

The School District may locate prospective qualified firms by:
- advertising in trade journals;
- internet listings
- checking listings of professionals; and/or
- making inquiries of other school districts and/or other appropriate sources.

4. Procurement of Professional Services

The School District may engage the services of professionals without the need for seeking alternative proposals as set forth in the list annexed to this policy. The individual or company should be chosen based on accountability, reliability, responsibility, skill and expertise, education and training, professional judgment, integrity, and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

B. Purchases/Public Work: Methods of Competition to be Used for Non-Bid Procurement; Documentation to be Maintained

Quotes/ bids should be used only when all other means of purchasing have been exhausted. Quotes must be obtained for all purchases under the bid limits listed below. Limits are total cost of similar items/services to be purchased in a fiscal year — not per purchase order or per job. Quotes will be processed at the discretion of the Purchasing Agent.

The School District will require the following methods of competition be used and sources of documentation maintained when soliciting non-bid procurement in the most cost-effective manner possible:

1. District-Wide Purchase Contracts Below $20,000 *(including, service contracts for work not covered by Article 8 of the Labor Law):*

$1 to $2,500 No quote required unless requested by the purchasing department.

$2,501 to $5,000 Verbal quotes to include all vendor discounts and fees. Paperwork to be completed by budget supervisor, at their location. Documentation must be attached to purchase order.

The Board of Education delegates the authority to the Superintendent to approve contracts from $1 to $5,000.

$5,001 to $19,999 A minimum of three written quotes to include all vendor discounts and fees. Paperwork to be completed by budget supervisor at their location. Documentation must be attached to purchase order.

Any purchases over $20,000 require the Business Office to go out for a formal bid.

2. District-Wide Public Works Contract below $35,000

All price quotes for public work contracts must contain a prevailing wage schedule. Please contact the Business Office for prevailing wage schedule information

Limits below are total cost of similar services to be performed during the entire fiscal year.

$1 to $2,500: No quote required unless requested by the purchasing department.

$2,501 to $5,000 Three verbal quotes to include all vendor discounts and fees. Paperwork to be completed by budget supervisor, at their location. Documentation must be attached to purchase order.

The Board of Education delegates the authority to the Superintendent to approve contracts from $1 to $5,000.

$5,001 to $9,999 A minimum of three written quotes to include all vendor discounts and fees. Paperwork will be completed by budget supervisor at their location. Documentation must be attached to purchase order.

$10,000 to $34,999 Request for Proposals with a response from at least three separate vendors.

Payment to vendors will not be processed without certified payroll.

Any public works contract over $35,000 requires the Business Office to get competitive bids in accordance with General Municipal Law section 103.

C. Purchases/Public Works: Methods of Competition for Procurements Specifically Exempted from Competitive Bidding Requirements:

Competitive bidding, as set forth in General Municipal Law, section 103, is not required where procurements are made in the following situations. The School District will not be required to secure alternative proposals or quotations for these procurements. However, documentation from the vendors supplying said goods/services, as indicated, will be maintained by the School District:

1. in emergency situations where:
a. the situation arises out of an accident or unforeseen occurrence or condition.
b. a School District building, property, or the life, health, or safety of an individual on School District property is affected; or
c. the situation requires immediate action which cannot await competitive bidding.

The Board of Education will pass a resolution which shall declare an emergency prior to the purchase, if feasible. However, when the Board of Education passes such a resolution that an emergency situation exists, the School District will make purchases at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances.

When it is not feasible to obtain a resolution passed by the Board of Education prior to the purchase, the Assistant Superintendent for Finance and Personnel and the Superintendent of Schools must be notified that an emergency situation exists. Approval to make necessary purchases must be obtained from the Assistant Superintendent for Finance and Personnel and/or Superintendent of Schools. They will then be responsible for notifying the Board of Education of the emergency situation.

Documentation: A memorandum may be filed with a copy of the purchase order attached which will explain how the purchase meets the criteria for an emergency exception. The School District shall maintain records of verbal (or written) quotes. Documentation must be attached to the purchase order showing that proper notifications were made and approvals were obtained.

2. when the School District purchases surplus or second-hand supplies, materials or equipment from the federal or State governments or from any other political subdivision or public benefit corporation within the state.

Documentation: The School District will maintain market price comparisons (verbal or written quotes) and the name of the government entity.

3. when the School District separately purchases eggs, livestock, fish and dairy products (other than milk), juice, grains and species of fresh fruits and vegetables directly from New York State producers or growers or associations of producers and growers, subject to the requirements of General Municipal Law §103(9) and Commissioner's Regulations §114.3.

Documentation: The School District will maintain documentation consistent with section 114.3 of the Regulations of the Commissioner of Education;

4. when the School District separately purchases milk directly from licensed milk processors employing less than forty (40) people. The amount expended in any fiscal year by the district may not exceed an amount equal to twenty-five cents multiplied by the number of days in the school year multiplied by the total enrollment of the district or exceed the current market price.

Documentation: The School District will maintain documentation consistent with section 114.4 of the Regulations of the Commissioner of Education;

5. when the district purchases goods, supplies and services from municipal hospitals under joint contracts and arrangements entered into pursuant to section 2803-a of the Public Health Law.

Documentation: The School District will maintain the legal authorization, Board of Education authorization and market price comparisons.

4. when there is only one possible source from which to procure goods or services required in the public interest.

Documentation: The School District will maintain written documentation of the unique benefits of the item or service purchased as compared to other items or services available in the marketplace; that no other item or service provides substantially equivalent or similar benefits; and that, considering the benefits received, the cost of the item or service is reasonable, when compared to conventional methods. In addition, the documentation will provide that there is no possibility of competition for the procurement of the good. Such documentation shall be attached to the purchase order.

5. when the School District purchases goods, supplies and services from New York State Office of General Services.

Documentation: The School District will maintain written documentation of the New York State Office of General Services contract award, including the OGS award number and date.

6. when the School District procures goods/services pursuant to the County contract for which the School District is eligible for participation.

Documentation: The School District will maintain written legal authorization, and

documentation from the County concerning the terms of use and scope of said contract.

7. when the School District procures goods/ services pursuant to participation in a cooperative bidding consortium.

Cooperative purchasing shall be promoted with other school districts, Board of Cooperative Educational Services and Government Entities whenever feasible. The School District shall participate in such bids when opportunities arise that will have cost-effective results.

Documentation: shall include contact number and name of governmental agency. The School District will maintain legal authorization for the procurement.

8. when the School District procures goods/ services pursuant to a contract let by the United States of America or any agency thereof, any state or any other county or political subdivision therein.

Whenever it is feasible, in the best interests of the School District and permitted by applicable contract terms, purchases of materials, supplies or equipment (except printed material), shall be made through New York State and County Government contracts. Prior to making such purchases, the School District shall consider whether such contract will result in cost savings after all factors, including chargers for service, material, and delivery, have been considered. The School District, may, when permitted by law and applicable contract terms, utilize contracts let by the United States of America, any agency thereof, any state or any other county or political subdivision or School District therein if such contract was let in a manner consistent with New York State law and made available for use by the School District.

Documentation: shall include contact number and name of governmental agency. The School District will maintain legal authorization for the procurement.

9. when the School District procures goods manufactured in state correctional institutions, Industries for the Blind of NYS, and NYS Industries for the Disabled.

Documentation: shall include contract number and name of governmental agency;

10. when the School District procures professional services or services requiring special or technical skills, training, or expertise, such as: legal and medical services; property appraisals; engineers and architects; investment management; auditing; and claims management. The Board of Education may solicit requests for proposals if it is in the best interest of the School District.

Documentation: shall include quotes and proposals and all related data.

11. when the School District purchases food items exempt from bidding as indicated under General Municipal Law section 103(9).

Documentation: shall include documentation consistent with section 114.3 and 114.4 of the Regulations of the Commissioner of Education.

12. when the School District purchases insurance, as there is an obligation to the taxpayer to adopt insurance practices that will obtain the best coverage for the lowest cost.

Documentation: shall include quotes and proposals and all related data.

13. when the School District purchases from monopolies. Competitive bidding is not required where object of the contract is controlled by a monopoly, such as in the case of natural gas and electric utilities.

Documentation: shall include name of governmental agency.

14. when the School District contracts for state-mandated operations that require certifications of contracts, such as inspection of underground gas tanks.

Documentation: shall include all related data.

15. When the School District purchases information technology and telecommunications hardware, software and professional services through cooperative purchasing permissible pursuant to Federal General Services Administration Information Technology Schedule 70 or any successor schedule.

Documentation: The School District will maintain legal authorization and Board of Education authorization for the procurement.

In all cases, the Board of Education may elect to solicit proposals, if it is deemed in the best interest of the School District.

V ***Procurement from Other than the "Lowest Responsible Dollar Offeror"***

Bids shall be awarded to the lowest responsible bidder whose product or service meets or exceeds specifications. The person or persons participating in the decision determining if a bidder is or is not responsible must provide written justification and documentation on such statements. This information will become part of the bid file.

The past performance and/or reliability of the bidder providing the product/service shall be a factor in determining the lowest responsible bidder.

It shall be the practice of this School District to maintain accurate and complete records as to the performance of any contractor/vendor so that "failure to perform" can be well documented.

Further, the School District shall cooperate fully with other school districts in providing such information between and amongst themselves for the purposes of selecting the lowest responsible bidder in future contracts or bids for goods or services.

The School District will provide justification and documentation of any contract awarded to an offeror other than the lowest responsible dollar offeror, setting forth the reasons why such award is in the best interests of the School District and otherwise furthers the purposes of section 104-b of the General Municipal Law.

VI Internal Control

The Board of Education authorizes the Assistant Superintendent for Finance and Personnel to establish and maintain an internal control structure to ensure, to the best of their ability, that the School District's assets will be safeguarded against loss from unauthorized use or disposition, that transactions will be executed in accordance with the law and School District policies and regulations, and recorded properly in the financial records of the School District.

The School District will not be responsible for purchases made without prior authorization. Employees deviating from this procedure will be notified immediately.

All School District regulations regarding the procurement processes will be reviewed by the Board of Education at least annually.

VII Standardization

The Board of Education may standardize by resolution on a particular type of material or equipment. Standardization restricts a purchase to a specific model or type of equipment or supply. For example, to limit the purchase of trucks to a specific manufacturer or model on the basis of past performance. The resolution shall state that for reasons of efficiency and/or economy there is a need for standardization. There shall be a full explanation supporting the action. Upon the adoption of the resolution, the School District may provide in its specifications for a particular make or brand of product to the exclusion of all other competitors.

The adoption of such a resolution does not eliminate the necessity for conformance to the competitive bidding requirements.

Implied authority shall not bind the School District to purchases not approved by the Purchasing Agent.

The following statement may be stamped on all purchase orders, and/or included in vendor notification of School District policy.

> "Please be advised that if you provide product or service to the Hewlett-Woodmere School District without a written Purchase Order, signed by the Purchasing Agent, you do so at your own risk. You have NO assurance of payment."

VIII Equipment Designation

Items meeting the following criteria shall be classified as equipment:

An equipment item is a movable or fixed unit of furniture or furnishing which meets all of the following conditions:

- it retains its original shape and appearance with use.

- it is non-expendable, that is, if the article is damaged or some of its parts are lost or worn out, it is usually more feasible to repair it rather than replace it with an entirely new unit.
- it does not lose its identity through incorporation into a different or more complex unit or substance.
- cost exceeds $4,000, as approved by the Board of Education.
  useful life of at least five (5) years.

IX Capital Equipment Purchasing

Capital equipment purchasing shall be the responsibility of the Assistant Superintendent for Finance and Personnel. Architects shall not purchase equipment for capital construction projects unless requested to do so by the School District. The same purchasing authority and policies of the Board of Education apply to capital equipment purchasing as purchasing goods and services from general budget funds.

X Quality, Cost Control, Repair, Replacement or Purchases

The Board of Education shall purchase the highest quality goods and services at the most reasonable cost within its budget limitations. Specifications will be reviewed by the Purchasing Agent, or his/her designee, after recommendations have been received from appropriate administrators. Cost control on all purchases of equipment, supplies and/or services is to be carried out by the Purchasing Agent with recommendations from appropriate administrators to obtain the quality desired and/or services requested.

If the cost of repair of an item exceeds 75% of the cost to replace the item, the Purchasing Agent may, in cooperation with the appropriate administrator and within the approved budget, authorize the purchase of a new item in lieu of repair if authorized by law.

XI Energy Efficient Purchasing

A. *Energy Efficient Items:* The Board of Education authorizes the purchase of energy efficient items, whenever practical.

B. *Recycled Materials:* The Board of Education authorizes the use of recycled products whenever practical.

C. *"Green" Product Purchasing:* In accordance with Education Law 409-I, the School District shall follow the guidelines, specifications and sample list of environmentally sensitive cleaning and maintenance products provided by the Commissioner of General Services when purchasing and utilizing such products in its facilities.

XII Purchase Orders

The Purchasing Agent shall be authorized to issue pre-numbered or computer generated purchase orders for all goods and services for which an appropriation has been made in the budget. Purchase orders will be issued after completion of the competitive procurement process and award of the contract by the Board of Education, when applicable. Bid proposals, specifications and/or contracts must be attached to the purchase orders, when applicable.

Purchase orders must reflect all information relevant to the purchase including the address for delivery. All goods delivered and received must be delivered to a building in the School District and accepted by an authorized School District employee who will certify that the goods were received in good condition before payment is approved.

Ref: General Municipal Law §§102; 103; 104-b; 109-a; 800 et seq.
State Finance Law §163 11
8 NYCRR §§114.3; 114.4; 170.2

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July 7, 2015, July 11, 2016, September 12, 2018, June 17, 2020, July 5, 2023

LISTING OF PROFESSIONAL SERVICES
TO BE AWARDED ON THE BASIS OF
MERIT AND RECOMMENDATIONS RATHER THAN PRICE
No requests for proposal required
As ADOPTED SCHOOL YEAR
2023-2024

1) District legal counsel
2) Special counsel for investigations and/or litigation not provided by property/casualty insurance carrier
3) Bond counsel
4) Financial services
5) Insurance broker services
6) Architect and/or engineers
7) School Consultants for professional development, staff development, curriculum development, special education evaluations and services, medical and psychiatric evaluations services, ad hoc projects and studies

LISTING OF PROFESSIONAL SERVICES
TO BE AWARDED ON THE BASIS OF
MEMBERSHIP OR OWNERSHIP
As Adopted SCHOOL YEAR
2023-2024

1) New York Schools Insurance Reciprocal (NYSIR) a. District as owner
2) New York Benefits for Employees and Students Trust a. District as member
3) Tri-State Consortium a. District as member
4) National School Boards Association (NSBA)
5) NYSSBA
6) School Leadership 2.0
7) Nassau Suffolk School Boards Association

ATTACHMENT A

In accordance with Uniform Guidance, THE DISTRICT implements policies and procedures, including, but not limited to:

1. The DISTRICT will use its own documented procurement procedures which reflect applicable State, local and tribal laws and regulations, provided that the procurements conform to applicable Federal law and Uniform Guidance. As such, The DISTRICT procurements related to Federal grants will be subject to New York State General Municipal Law, this policy, and Uniform Guidance Requirements.
2. Contract files will document the significant history of the procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis of contract price.
3. The DISTRICT will procure in accordance with the details of this policy and its attendant regulation and utilize one of the five acceptable procurement methodologies detailed in§ 200.320 which include:
    a. micro purchases
    b. small purchase procedures;
    c. sealed bids;
    d. competitive proposals; and
    e. non-competitive proposals (sole source).
4. Procurements will provide for full and open competition as set forth in the Uniform Guidance and State and local procurement thresholds. Some situations which are considered to be restrictive of competition include, but are not limited to, the following: (1) placing unreasonable requirements on firms in order for them to qualify to do business; (2) requiring unnecessary experience and excessive bonding; (3) noncompetitive pricing practices between firms or between affiliated companies; (4) noncompetitive contracts to consultants that are on retainer contracts; (5) organizational conflicts of interest; (6) specifying only "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and (7) any arbitrary action in the procurement process.
5. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents can neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. If the financial interest is not substantial or the gift is an unsolicited item of nominal value, no further action will be taken. Otherwise, however, disciplinary actions will be applied for violations of this section.
6. The DISTRICT will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical procurement approach. The DISTRICT will also analyze other means, as described in § 200.318 of the Uniform Guidance, to ensure appropriate and economical acquisitions.
7. The DISTRICT will enter into State and local intergovernmental agreements or inter-entity agreements, where appropriate.
8. The DISTRICT will only utilize Time and Materials contracts only when it has been determined, in writing that no other contract type is suitable, and the contract includes a ceiling price that the contractor exceeds at its own risk.
9. Vendors/Contractors that develop or draft specifications, requirements, statements of work, or invitation to bids or requests for proposals must be excluded from competing for such procurements.
10. The DISTRICT will make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed.
11. Agency Programs are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. "Covered Transactions" include those procurement contracts for goods and services awarded under a non-procurement transaction (e.g.., grant or cooperative agreement) that are expected to equal or exceed

$25,000. All non-procurement transactions, irrespective of award amount, are considered covered transactions, except for those transactions identified in 2 CFR § 180.215.

12. The DISTRICT will include a suspension/debarment clause in all written contracts in which the vendor/contractor will certify that it is not suspended or debarred. The contract will also contain language requiring the vendor/contractor to notify the DISTRICT immediately upon becoming suspended or debarred. This will serve as adequate documentation as long as the contract remains in effect.
13. The DISTRICT program staff will be required to notify the Purchasing Department that Federal funding will be used for a certain procurement/contract. When requesting a written bid or contract, the DISTRICT program staff will be responsible for running the name of the vendor/contractor through the System for Award Management (SAM) to determine any exclusions. A copy of the SAM search will be included with the contract request. Prior to issuing a Purchase Order using Federal funds, the Purchasing Department will check the SAM to determine if any exclusions exist for the vendor/contractor. If a vendor/contractor is found to be suspended or debarred, the DISTRICT will immediately cease to do business with the vendor.
14. The DISTRICT will not use statutorily or administratively impose State, local or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statues expressly mandate or encourage geographical preference.
15. The DISTRICT shall ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. The DISTRICT shall not preclude potential bidders from qualifying during the solicitation period.
16. The DISTRICT will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor area surplus firms are used when possible. Such affirmative steps shall include: (1) placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) establishing delivery schedules, where the requirements permit, which encourage participation by small and minority owned business, and women's business enterprises; (5) using the services and assistance, as appropriate, of such organization as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.
17. The DISTRICT shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act as per § 200.322. That is, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000, the District shall procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 (e.g., paper and paper products; playground and park equipment; non-paper office products) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level ofcompetition.
18. The DISTRICT shall perform a cost or price analysis relating to every procurement more than the Simplified Acquisition Threshold ($150,000 at latest review, January 2020). While the method and degree of analysis is dependent on the facts surrounding the particular situation, as a starting point, the DISTRICT shall make independent estimates before receiving bids or proposals.
19. For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, Federal awarding agency or pass-through entity may accept the DISTRICT'S bonding policy and requirements upon the Federal awarding agency or pass-through entity determining that the Federal interest is adequately protected. When the Federal awarding agency or pass-through entity has not made such a determination, the minimum requirements for bonding shall be: (1) a bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required; (2) a performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and (3) a payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided in the contract.

20. The DISTRICT will only award contracts to Responsible Vendors possessing the ability to perform successfully under the terms and conditions of a proposed procurement, and will document, in writing, such determination. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
21. The DISTRICT contracts will contain the applicable provisions described in Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
22. The DISTRICT shall maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts and/or purchase orders.
23. Copies of executed contracts will be maintained in the Purchasing Department and Purchase Orders will be maintained in the WinCap Procurement System.
24. The DISTRICT shall be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. Such issues include, but are not limited to, source evaluation, protests, disputes, and claims.
25. The DISTRICT's purchasing policy and regulation detail procedure to ensure all solicitations: (1) identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals; and (2) incorporate a clear and accurate description of the technical requirements for material, product, or service to be procured; said description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. If possible, detailed product specifications will be avoided. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by others must be clearly stated.
26. The DISTRICT shall negotiate profit as a separate element of the price for each contract in which there is not price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration shall be given to: the complexity of the work performed; the risk borne by the contractor; the contractor's investment; the amount of subcontracting; the quality of its record of past performance; and industry profit rates inthe surrounding geographical area for similar work.
27. The DISTRICT shall not use the cost plus a percentage of cost and percentage of construction cost methods of contracting for procurements governed by the Uniform Guidance requirements.
28. The DISTRICT'S financial management system shall provide for the following: (1) identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. The Federal program and Federal award identification must include, as applicable, the CFDA titles and number, Federal award identification number and year, name of Federal agency, and name of pass-through entity, if any; (2) accurate, current, and complete disclosure of financial results of each Federal award or program in accordance with the reporting requirements set forth in Section 200.327 Financial Reporting and Section 200.328 Monitoring and reporting program performance; (3) records that identify adequately the source and application of funds for federally-funded activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation; (4) effective control over, and accountability for, all funds, property, and other assets. The DISTRICT shall adequately safeguard all assets and assure that they are used solely for authorized purposes; (5) comparison of expenditures with budget amounts for each Federal award; (6) written procedures to implement the requirements of Section
    200.305 payment *(see* Paragraphs 29-36); and (7) written procedure for determining the allowability of costs in accordance with Subpart E - Cost Principles and the terms and conditions of the Federal award *(see* Paragraphs 37-51).
29. For procurements governed by the requirements of the Uniform Guidance, the DISTRICT's payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the DISTRICT whether payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. Federal agencies must require recipients to use only OMB-approved standard govemmentwide information collection requests to request payment.
30. For procurements governed by the requirements of the Uniform Guidance, the DISTRICT shall be paid in advance, provided it maintains or demonstrates the willingness to maintain (1) written procedures that minimize the time elapsing between the transfer of funds and disbursement by the DISTRICT and (2) financial management systems that meet the standards for fund control and accountability. Advance

payments to the DISTRICT shall be limited to the amounts needed and be timed in accordance with the actual, immediate cash requirements of the DISTRICT in carrying out the purpose of the approved program or project. The timing and amount of advance payments shall be as close as is administratively feasible to the actual disbursements by the DISTRICT for direct program or project costs and the proportionate share of any allowable indirect costs. The DISTRICT shall make timely payment to contractors in accordance with the contract provisions.

31. Whenever possible, advance payments shall be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the DISTRICT. The DISTRICT shall be authorized to submit requests for advance payments and reimbursement at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act.
32. To the extent available, the DISTRICT shall disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.
33. Unless otherwise required by Federal statutes, payments for allowable costs by the DISTRICT shall not be withheld at any time during the period of performance unless the conditions of §§ 200.207 Specific conditions, Subpart D---Post Federal Award Requirements of this part, 200.338 Remedies for Noncompliance, or one or more of the following applies: (1) the DISTRICT has failed to comply with the project objectives, Federal statutes, regulations or the terms and conditions of the Federal award; (2) the DISTRICT is delinquent in a debt to the United States. Under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the DISTRICT that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government liquidated; (3) a payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, shall be released upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with 2 CFR
§200.342; (4) a payment shall not be made to the DISTRICT for amounts that are withheld by the DISTRICT from payment to contractors to assure satisfactory completion of work. A payment shall be made when the DISTRICT actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.
34. While the Federal awarding agency or pass-through entity shall not require separate depository accounts for funds provided to the DISTRICT or establish any eligibility requirements for depositories for funds provided to the non-Federal entity, the DISTRICT must be able to account for the receipt, obligation and expenditure of funds. Advance payments of Federal funds shall be deposited and maintained in insured accounts whenever possible.
35. The DISTRICT shall maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply: (1) the DISTRICT receives less than $120,000 in Federal awards per year; (2) the best reasonably available interest-bearing account would not be expected to earn interest in excess of $500 per year on Federal cash balances; (3) the depository would require an average minimum balance so high that it would not be feasible within the expected Federal and non-Federal cashresources.
36. Interest earned amounts up to $500 per year may be retained by the DISTRICT for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area. Pertinent details include the Payee Account Number if the payment originated from PMS or Agency information if the payment originated from ASAP, NSF or another payment system.
37. Except where otherwise authorized by statute, costs must meet the following criteria to be allowable under Federal awards: (1) be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles; (2) conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items; (3) 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; (4) be determined in accordance with generally accepted accounting principles (GAAP); (5) 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 prior period; and (6) be adequately documented.

38. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration shall be given to: (1) whether the cost is of a type generally recognized as ordinary and necessary for the operation of the DISTRICT of the proper and efficient performance of the Federal award; (2) the restraints or requirements imposed by such factors as: (i) sound business practices, (ii) arms-length bargaining, (iii) federal state, local, tribal, and other laws and regulations, and (iv) terms and conditions of the Federal award; (3) market prices for comparable goods or services in the geographic area; (4) whether individuals concerned acted with prudence in the circumstance considering their responsibilities to the DISTRICT, its employees, its students, the public at large and the Federal Government; and (5) whether the DISTRICT significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.
39. A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. The standard is met if the cost: (1) is incurred specifically for the Federal award; (2) benefits both the Federal award and other work of the DISTRICT and can be distributed in proportions that may be approximated using reasonable methods; and (3) is necessary to the overall operation of the DISTRICT and is assignable in part to the Federal award.
40. Any cost allocable to a particular Federal award may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. This prohibition would not preclude the DISTRICT from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of Federal awards.
41. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost shall be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.
42. If the contract is subject to cost accounting standards, costs shall be allocated to the contract pursuant to cost accounting standards. To the extent cost accounting standards are applicable, the allocation of costs in accordance with cost accounting standards takes precedence over the allocation provisions detailed herein.
43. Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded, including interest, to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise.
44. Negotiated indirect cost rates based on a proposal later found to have included costs that (1) are unallowable as specified by Federal statutes, regulations or the terms and conditions of a Federal award or (2) are unallowable because they are not allocable to the Federal award(s) shall be adjusted or a refund shall be made in accordance with this paragraph. For rate covering a future fiscal year of the DISTRICT, the unallowable costs will be removed from the indirect cost pools and the rates appropriately adjusted. For rates covering a past period, the Federal share of the unallowable costs will be computed for each year involved and a cash refund (including interest chargeable in accordance with applicable regulations) will be made to the Federal Government. If cash refunds are made for past periods covered by provisional or fixed rates, appropriate adjustments will be made when the rates are finalized to avoid duplicate recovery of the unallowable costs by the Federal Government. For rates covering the current period, either a rate adjustment or refund as detailed above must be required by the cognizant agency for indirect costs. The choice of method must be at the discretion of the cognizant agency for indirect costs. The amount or proportion of unallowable costs included in each year's rate will be assumed to be the same as the amount or proportion of unallowable costs included in the base year proposal used to establish the rate.
45. To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the DISTRICT, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts

are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise."

46. Each cost allocation plan or indirect cost rate proposal shall comply with the following: (1) A proposal to establish a cost allocation plan or an indirect cost rate, whether submitted to a Federal cognizant agency for indirect costs or maintained on file by the DISTRICT, must be certified by the DISTRICT using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Appendices III through VII, and Appendix IX of the Federal Uniform Guidance. The certificate must be signed on behalf of the DISTRICT by an individual at a level no lower than vice president or chief financial officer of the DISTRICT; and (2) the Federal Government may either disallow all indirect costs or unilaterally establish such a plan or rate when the DISTRICT fails to submit a certified proposal for establishing such a plan or rate in accordance with the requirements.
47. For the DISTRICT, which constitutes a "local government" under 2 CFR Part 200 (2 CFR § 200.64), certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provide to operating agencies on a centralized basis. The central service cost allocation process provides the process whereby central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis as Federal awards are performed within the individual operating agencies.
48. Individual operating agencies normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under Federal awards. Such indirect costs include: (1) the indirect costs originating in each department or agency of the government carrying out Federal awards; (2) the costs of central government services distributed through the central service allocation plan and not otherwise treated as direct cots; and
(3) the requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in appendices *N*, V, and VI.
49. Sections 200.420 through 200.475 detail provisions for selected items of cost and should be consulted when analyzing allowable costs. (2 CFR §§ 200.420 - 200.475).
50. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees: (1) is reasonable for the services rendered and conforms to the established written policies of the DISTRICT consistently applied to both Federal and non-Federal activities; (2) follows an appointment made in accordance with the DISTRICT's laws and/or rules or written policies to meet the requirements of Federal statute, where applicable; and (3) is determined and supported as provided in Paragraph 49 below, when applicable. 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 DISTRICT. In cases where the kinds of employees required for Federal awards are not found in other activities of the DISTRICT, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work.
51. Charges to Federal awards for salaries and wages shall be based on records that accurately reflect the work performed. These records shall: (1) be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated; (2) be incorporated into the official records of the DISTRICT; (3) reasonably reflect the total activity for which the employee is compensated by the DISTRICT, not exceeding 100% for compensated activities; (4) encompass both federal assisted and all other activities compensated by the DISTRICT on an integrated basis, but may include the use of subsidiary records as defined in the DISTRICT's policy; (5) comply with the DISTRICT's established accounting policies and practices; (6) support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity; (7) budget estimates may be used for interim accounting purposes provided that (i) the system for establishing the estimates produces reasonable approximations of activity actually performed, (ii) significant changes in the corresponding work activity, as defined in the DISTRICT's policy, are identified and entered into the records in a timely manner. Short term (1-2 months) fluctuation between workload categories need not be considered as long as distribution of salaries and wages is reasonable over the longer term; and (iii) the DISTRICT's system of internal controls includes

processes to review after-the-fact interim charges made to Federal awards based on budget estimates. All necessary adjustments shall be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

ELECTRONIC CODE OF FEDERAL REGULATIONS

e -CFR data is current as of January 24, 2020

Title 2- Subtitle A- Chapter II- Part 200-Subpart F- Appendix

Title 2: Grants and Agreements
PART 200-·UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS
Subpart F – Audit Requirements

APPENDIX Ill TO PART 200-INOIRECT (F&A) COSTS IDENTIFICATION AND ASSIGNMENT, AND RATE DETERMINATION FOR INSTITUTIONS OF HIGHER EDUCATION (IHES)

A. GENERAL

This appendix provides criteria for identifying and computing indirect (or indirect (F&A)) rates at IHEs (institutions). Indirect (F&A) costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifi cally with a particular sponsored project, an instructional activity, or any other institutional activity. See subsection B.1, Definition of Facilities and Administration, for a discussion of the components of indirect (F&A) costs.

1. Major Functions of an Institution

Refers to Instruction, organized research, other sponsored activities and other institutional activities as defined in this section:

a. *Instruction* means the teaching and training activities of an institution. Except for research training as provided in subsection b, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a non-credit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division. Also considered part of this major function are departmental research, and, where agreed to, university research.

(1) *Sponsored instruction and training* means specific instructional or training activity established by grant, contract, or cooperative agreement. For purposes of the cost principles, this activity may be considered a major function even though an institution's accounting treatment may include it In the instruction function.

(2) *Departmental research* means research, development and scholarly activities that are not organized research and, consequently, *are* not separately budgeted and accounted for. Departmental research, for purposes of this-document, is not considered as a major function, but as a part of the instruction function of the institution.

(3) Only mandatory cost sharing or cost sharing specifically committed in the project budget must be Included in the organized research base for computing the indirect (F&A) cost rate or reflected in any allocation of indirect costs. Salary costs above statutory limits are not considered cost sharing.

b. *Organized research* means all research and development activities of an institution that are separately budgeted and accounted for. lt includes:

(1) *Sponsored research* means all research and development activities that are sponsored by Federal and non-Federal agencies and organizations. This term includes activities involving the training of individuals in research techniques (commonly called re search training) where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(2) *University research* means all research and development activities that are separately budgeted and accounted for by the institution under an internal application of institutional funds. University research, for purposes of this document, must be combined wi th sponsored research under the function of organized research.

c. *Other sponsored activities* means programs and projects financed by Federal and non-Federal agencies and organizations which involve the performance of work other than instruction and organized research. Examples of such programs and projects are health service projects and community service programs. However, when any of these activities are undertaken by the institution without outside support, they may be classified as other institutional activities.

d. *Other Institutional activities* means all activities of an Institution except for instruction, departmental research, organized research, and other sponsored activities, as defined in this section; indirect (F&A) cost activities identified in this Appendix paragraph 8, Identification and assignment of Indirect (F&A) costs; and specialized services facilities described in §200.468 Specialized service facilities of this Part.

Examples or other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar auxiliary enterprises. This definition also includes any other categories of activities, costs of which are "unallowable" to Federal awards, unless otherwise indicated in an award.

2. Criteria tor Distribution

a. *Base period.* A base period for distribution of Indirect (F&A) costs is the period during which the costs are incurred. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so s elected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the indirect (F&A} cost allocation process is to distribute the indirect (F&A) costs described in Section B, Identification and assignment of indirect (F&A) costs, to the major functions of the Institution in proportions reasonably consistent with the nature and extent of their use or the institution's resources. In order to achieve this objective, It may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the Indirect (F&A) cost categories referred to In subsection 8.1, Definition of Facilities and Administration. In general, the cost groupings established within a category should constitute, in each case, a pool of those items of expense that are considered to be of like nature in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution Is appropriate. Cost groupings should be established considering the general guides provided in subsection c of this section. Each such pool or cost grouping should then be distributed individually to the related cost objectives, using the distribution base or method most appropriate in light of the guidelines set forth in subsection d of this section.

c. *General considerations on cost groupings* .The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groupings (based on account classification or analysis) within an indirect (F&A) cost category Include but are not limited to the following:

(1) If certain items or categories of expense relate solely to one of the major functions of the institution or to less than all functions, such expenses should be set aside as a separate cost grouping for direct assignment or selective allocation in accordance with the guides provided in subsections b and d.

(2) If any types of expense ordinarily treated as general administration or departmental administration are charged to Federal awards as direct costs, expenses applicable to other activities of the Institution when incurred *for* the same purposes in like circumstances must, through separate cost groupings, be excluded from the Indirect (F&A) costs allocable to those Federal awards and included in the direct cost of other activities for cost allocation purposes.

(3) If it is determined that certain expenses are for the support of a se1Yice unit or facility whose output Is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research, instructional, and other activities at the institution or within the department.

(4) If activities provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses, or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect (F&A) costs (such as for overall management) which are properly allocable to such activities.

(5) If the institution elects to treat fringe benefits as indirect (F&A) charges, such costs should be set aside as a separate cost grouping for selective distribution to related cost objectives.

(6) The number of separate cost groupings within a category should be held within practical limits, after taking into consideration the materiality of the amounts Involved and the degree of precision attainable through less selective methods of distribution.

d. Selection of distribution method.

(1) Actual conditions must be taken into account in selecting the method or base to be used in distributing individual cost groupings. The essential consideration in selecting a base is that it be the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; with a traceable cause-and-effect relationship; or with logic and reason, where neither benefit nor a cause-and-effect relationship is determinable.

(2) If a cost grouping can be identified directly with the cost objective benefitted, it should be assigned to that cost objective.

(3) If the expenses in a cost grouping are more general in nature, the distribution may be based on a cost analysis study which results in an equitable distribution of the costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if appropriate. Cost analysis studies, however, must (a) be appropriately documented in sufficient detail for subsequent review by the cognizant agency for indirect costs, (b) distribute the costs to the related cost objectives In accordance with the relative benefits derived, (c) be statistically sound, (d) be performed specifically at the institution at which the results are to be used, and (e) be reviewed periodically, but not less frequently than rate negotiations, updated if necessary,

and used consistently. Any assumptions made in the study must be stated and explained. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(4) If a cost analysis study is not performed, or if the study does not result in an equitable distribution of the costs, the distribution must be made in accordance with the appropriate base cited in Section B, Identification and assignment of indirect (F&A) costs, unless one of the following conditions ls met

(a) 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 Federal awards, or

(b) The institution qualifies for, and elects to use, the simplified method for computing indirect (F&A) cost rates described in Section D, Simplified method for small institutions.

{5) Notwithstanding subsection (3), effective July 1, 1998, a cost analysis or base other than that in Section B must not be used to distribute utility or student services costs. Instead, subsections 8.4.c Operation and maintenance expenses, may be used in the recovery of utility costs.

e. Order of distribution.

(1) indirect (F&A) costs are the broad categories of costs discussed in Section B.1, Definitions of Facilities and Administration

(2) Depreciation, interest expenses, operation and maintenance expenses, and _general administrative and general! expenses should be allocated in that order to the remaining indirect (F&A) cost categories as well as to the major functions and specialized service facilities of the institution. Other cost categories may be allocated in the order determined to be most appropriate by the institutions. When cross allocation of costs is made as provided in subsection (3), this order of allocation does not apply.

(3) Normally an indirect (F&A) cost category will be considered closed once it has been allocated to other cost objectives, and costs may not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect (F&A) cost categories may 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 (F&A) cost categories described in Section B is required.

B. IDENTIFICATION AND ASSIGNMENT OF INDIRECT (F&A) COSTS

1. Definition of Facilities and Administration

See §200.414 Indirect (F&A) costs which provides the basis for these indirect cost requirements.

2. Depreciation

a. The expenses under this heading are the portion of the costs of the institution's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with §200.436 Depreciation.

b. In the absence of the alternatives provided for In Section A.2.d, Selection of distribution method, the expenses Included in this category must be allocated in the following manner;

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

(2) Depreciation on buildings used for more than one function, and on capital improvements and equipment used In such buildings, must 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 rest rooms.

(3) Depreciation on buildings, capital improvements and equipment related to space (e.g., individual rooms, laboratories) used jointly by more than one function (as determined by the users of the space} must be treated as follows. The cost of each jointly used unit of space must be allocated to benefitting functions on the basis of:

(a) The employee full-time equivalents (FTEs) or salaries and wages of those individual functions benefitting from the use of that space: or

(b) Institution-wide employee FTEs or salaries and wages applicable to the benefitting major functions (see Section A.1) of the institution.

(4) Depreciation on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, must be allocated to user categories of students and employees on a full-time equivalent basis. The amount allocated to the student category must be assigned to the instruction function of the institution. The amount allocated to the employee category must be further allocated to the major functions of the institution in proportion to the salaries and wages of all employees applicable to those functions.

3. Interest

Interest on debt associated with certain buildings, equipment and capital improvements, as defined in §200 .449 Interest, must be classified as an expenditure under the category Facilities. These costs must be allocated in the same manner as the depreciation on the buildings, equipment and capital improvements to which the interest relates.

4. Operation and Maintenance Expenses

a. The expenses under this heading are those that have been incurred for the administration, supervision, operation, maintenance, preservation, and protection of the institution'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: haardous waste disposal; property, liability and all other insurance relating to property: space and capital leasing; facility planning and management; and central receiving. The operation and maintenance expense category should also include its allocable share of fringe benefit costs, depreciation, and interest costs.

b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated in the same manner as described in subsection 2.b for depreciation.

c. A utility cost adjustment of up to 1.3 percentage points may be included in the negotiated indirect cost rate of the IHE for organized research, per the computation alternatives in paragraphs (c)(1) and (2) of this section:

(1) Where space is *devoted* to a single function and metering allows unambiguous measurement of usage related to that space, costs must be assigned to the function located in that space.

(2) Where space is allocated to different functions and metering does not allow unambiguous measurement of usage by function, costs must be allocated as follows:

(i) Utilities costs should be apportioned to functions in the same manner as depreciation, based on the calculated difference bet ween the site or building actual square footage for monitored research laboratory space (site, building, floor, or room), and a separate calculation prepared by the IHE using the "effective square footage· described in subsection (c}(2)(ii) of this section.

(ii} "Effective square footage' allocated to research laboratory space must be calculated as the actual square footage times the relative energy utilization Index (REUi) posted on the 0MB Web site at the time of a rate determination.

A. This Index is the ratio of a laboratory energy use Index (lab EUI) to the corresponding index for overall average college or university space (college EUI).

B. In July 2012, values for these two indices (taken respectively from the Lawrence Berkeley Laboratory "Labs for the 21st Century" benchmarking tool *http:///a bs21b enchmarking.lbl.gov/ CompareData.php* and the US Department of Energy 'Buildings Energy Databook' and *http://buildlngsdatabook.eren.doe.gavl CBECS.aspx)* were 310 kBtu/sq ft-yr. and 155 kBtu/sq ft-yr., so that the adjustment ratio is 2.0 by this methodology. To retain currency, 0MB will adjust the EUI numbers from time to time (no more often than annually nor less often than every 5 years), using reliable and publicly disclosed data. Current values of both the EU ls and the REUi will be posted on the 0MB Web site.

5. General Administration and General Expenses

a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major function of the institution; I.e., solely to (1) Instruction, (2) organized research, (3) other sponsored activities, or (4) other Institutional activities. The general administration and general expense category should also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, and interest costs. Examples of general administration and general expenses include: those expenses incurred by administrative offices that serve the entire university system of which the institution is a part; central offices of the institution such as the President's or Chancellor's office, the offices for institution-wide financial management, business services, budget and planning, personnel management, and safety and risk management; the office of the General Counsel; and the operations of the central administrative management information systems. General administration and general expenses must not include expenses incurred within non-university-wide deans' offices, academic departments, organized research units, or similar organizational units. (See subsection 6, Departmental administration expenses.)

b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be grouped first according to common major functions of the institution to which they render services or provide benefits. The aggregate expenses of each group must then be allocated to serviced or benefitted functions on the modified total cost basis. Modified total costs consist of the same elements as those in Section C.2. When an activity Included in this indirect (F&A) cost category provides a service or product to another institution or organization, an appropriate adjustment must be made to either the expenses or the basis of allocation or both, to assure a proper allocation of costs.

6. Departmental Administration Expenses

a. The expenses under this heading are those that have been incurred for administrative and supporting services that benefit common or joint departmental activities or objectives in academic deans' offices, academic departments and divisions, and organized research units. Organized research units include such units as institutes, study centers, and research centers. Departmental administration expenses are subject to the following limitations.

(1) Academic deans' offices. Salaries and operating expenses are limited to those attributable to administrative functions.

(2) Academic departments:

(a) Salaries and fringe benefits attributable to the administrative work (including bid and proposal preparation) of faculty (including department heads} and other professional personnel conducting research and/or instruction, must be allowed at a rate of 3.6 percent of modified total direct costs. This category does not include professional business or professional administrative officers. This allowance must be added to the computation of the indirect (F&A} cost rate for major functions in Section C, Determination and application of indirect (F&A} cost rate or rates; the expenses covered by the allowance must be excluded from the departmental administration cost pool. No documentation is required to support this allowance.

(b) Other administrative and supporting expenses incurred within academic departments are allowable provided they are treated consistently in like circumstances. This would include expenses such as the salaries of secretarial and clerical staffs, the salaries of administrative officers and assistants, travel, office supplies, stockrooms, and thelike.

(3) Other fringe benefit costs applicable to the salaries and wages included in subsections (1) and (2) are allowable, as well as an appropriate share of general administration and general expenses, operation and maintenance expenses, and depreciation.

(4) Federal agencies may authorize reimbursement of additional costs for department heads and faculty only in exceptional cases where an institution can demonstrate undue hardship or detriment to project performance.

b. The following guidelines apply *to* the determination of departmental administrative costs as direct orindirect (F&A) costs.

(1) In developing the departmental administration 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 (F&A) costs. For example, salaries of technical staff, laboratory supplies (e.g., chemicals), telephone toll charges, animals, animal care costs, computer costs, travel costs, and specialized shop costs must be treated as direct costs wherever identifiable to a particular cost objective. Direct charging of these costs may be accomplished through specific identification of individual costs to benefitting cost objectives, or through recharge centers or specialized service facilities, as appropriate under the circumstances. See §§200.413 Direct costs, paragraph (c) and 200.468 Specialized service facilities.

(2) Items such as office supplies, postage, local telephone costs, and memberships must normally be treated as indirect (F&A) costs.

c. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated as fol101NS:

(1) The administrative expenses of the dean's office of each college and school must be allocated to the academic departments within that college or school on the modified total cost basis.

(2) The administrative expenses of each academic department, and the department's share of the expenses allocated in subsection (1) must be allocated to the appropriate functions of the department on the modified total cost basis.

7. Sponsored Projects Administration

a. The expenses under this heading are limited to those incurred by a separate organization(s) established primarily to administer sponsored projects, including such functions as grant and contract administration (Federal and non-Federal), special security, purchasing, personnel, administration, and editing and publishing of research and other reports. They include the salaries and expenses of the head of such organization, assistants, and immediate staff, together with the salaries and expenses of personnel engaged in supporting activities maintained by the organization, such as stock rooms, print shops, and the like. This category also includes an allocable share of fringe benefit costs, general administration and general expenses, operation and maintenance expenses, and depreciation. Appropriate adjustments wi ll be made for services provided to other functions or organizations.

b. In the absence of the alternatives provided for In Section A.2.d, the expenses Included in this category must be allocated to the major functions of the institution under which the sponsored projects are conducted on the basis of the modified total cost of sponsored projects.

c. An appropriate adjustment must be made *to* eliminate any duplicate charges to Federal awards when this category includes similar or identical activities as those included in the general administration *and* general expense category or other Indirect (F&A) cost items, such as accounting, procurement, or personnel administration.

8. Library Expenses

a. The expenses under this heading are those that have been incurred for the operation of the library, including the cost of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under §200.406 Applicable credits. The library expense category should also include the fringe benefits applicable to the salaries and wages included therein, an appropriate share of general administration and general expense, operation and maintenance expense, and depreciation. Costs incurred in the purchases of rare books (museum-type books) with no value to Federal awards should not be allocated to them.

b. In the absence of the alternatives provided for in Section A.2.d, tt1e expenses included in this category must be allocated first on the basis of primary categories of users, including students, professional employees, and other users.

(1) The student category must consist of full-time equivalent students enrolled at the institution, regardless of whether they earn credits toward a degree or certificate.

(2) The professional employee category must consist of all faculty members and other professional employees ofthe institution, on a full-time equivalent basis. This category mayalso include post-doctoratefellows and graduate students.

(3) The other users category must consist of a reasonable factor as determined by institutional records to account for all other users of library facilities.

o. Amount allocated in paragraph b of this section must be assigned further as follows:

(1) The amount in the student category must be assigned to the instruction function of the Institution.

(2) The amount in the professional employee category must be assigned to the major functions of the institution in proportion to the salaries and wages of all faculty members and other professional employees applicable to those functions.

(3) The amount in the other users category must be assigned to the other Institutional activities function of the institution.

9. Student Administration and Se/Vices

a. The expenses under this heading arethosethathavebeenincurred forthe administrationofstudent affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student healthandinfirmary services, catalogs, and commencements and convocations. Thesalariesofmembersoftheacademic staffwhoseresponsibilitiestotheinstitutionrequireadministrativeworkthatbenefits sponsored projects may alsobeincluded to the extentthatthe portioncharged to student administration is determined in accordance with Subpart E-Cost Principles of this Part. This expense category also Includes the fringe benefit costs applicable to the salaries and wages Included therein, an appropriate share of general administration and general expenses, operation and maintenance, interest expense, and depreciation.

b. In the absence of the alternatives provided for in Section A2.d, the expenses in this category must be allocated to the instruction function, and subsequently to Federal awards in that function.

10. Offset for Indirect (F&A) Expenses Otherwise Provided for by the Federal Government

a. The items to be accumulated under this heading are the reimbursements and other payments from the Federal Government which are made to the institution to support solely, specifically, and directly, in whole or in part, any of the administrative or service activities described in subsections 2 through 9.

b. The items in this group must be treated as acredit to the affected individual indirect (F&A) costcategory before that category is allocated to benefitting functions.

C. DETERMINATION ANO APPLICATION OF INDIRECT (F&A) COST RATE OR RATES

1. Indirect (F&A) Cost Poofs

a. (1) Subject to subsection b, the separate categories of indirect (F&A) costs allocated to each major function of the institution as prescribed in paragraph B of this paragraph C.1 Identification and assignment of indirect (F&A) costs, must be aggregated and treated as a common pool for that function. The amount in each pool must be divided by the distribution base described in subsection 2 to arrive at a single Indirect (F&A) cost rate for each function.

(2) The rate for each function is used to distribute indirect (F&A} costs to individual Federal awards *of* that function. Since a common pool is established for each major function of the institution, a separate indirect (F&A) cost rate would be established for each of the major functions described in Section A.1 under which Federal awards are carried out.

(3) Each institution's indirect (F&A) cost rate process must be appropriately designed to ensure that Federal sponsors do not in any way subsidize the indirect (F&A) costs of other sponsors, specifically activities sponsored by industry and foreign governments. Accordingly, each allocation method used to identify and allocate the indirect (F&A} cost pools, as described in

Sections A.2, Criteria for distribution, and B.2 through B.9, must contain the full amount of the institution's modified total costs or other appropriate units of measurement used to make the computations. In addition, the final rate distribution base (as defined in subsection 2) for each major function (organized research, instruction, etc., as described in Section A.1, Major functions of an institution) must contain all the programs or activities which utilize the indirect (F&A) costs allocated to that major function . At the time an indirect (F&A) cost proposal is submitted to a cognizant agency for indirect costs, each institution must describe the process it uses to ensure that Federal funds are not used to subsidize industry and foreign government funded programs.

b. In some instances a single rate basis for use across the board on all work within a major function at an institution may not be appropriate. A single rate for research, for example, might not take into account those different environmental factors and other conditions which may affect substantially the indirect (F&A) costs applicable to a particular segment of research at the institution. A particular segment of research may be that performed under a single sponsored agreement or it may consist of research under a group of Federal awards performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature o f the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, *or* any combination thereof. If a particular segment or a sponsored agreement is performed within an environment which appears to generate a significantly different level of indirect (F&A) costs, provisions should be made for a separate in direct (F&A) cost pool applicable to such work. The separate indirect (F&A) cost pool should be developed during the regular course of the rate determination process and the separate indirect (F&A) cost rate resulting therefrom should be utilized; provided it is determined that (1) such indirect (F&A) cost rate differs significantly from that which would have been obtained under subsection a, and (2) the volume of work to which such rate would apply is material In relation to other Federal awards at the institution.

2. The Distribution Basis

Indirect (F&A) costs must be distributed to applicable Federal awards and other benefitting activities within each major function (see section A 1, Major functions of an institution) on the basis of modified total direct costs (MTOC), consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period covered by the subaward). MTOC is defined in §200.68 Modified Total Direct Cost (MTDC). For this purpose, an indirect (F&AJ cost rate should be determined for each of the separate indirect (F&A) cost pools developed pursuant to subsection 1. The rate in each case should be stated as the percentage which the amount of the particular indirect (F&A) cost pool is of the modified total direct costs identified with such pool.

3. Negotiated Lump Sum for Indirect (F&A) Costs

A negotiated fixed amount in lieu of indirect (F&A) costs may be appropriate for self-contained, off-campus, or primarily subcontracted activities where the benefits derived from an institution's Indirect (F&A) services cannot be readily determined. Such negotiated indirect (F&A) costs will be treated as an offset before allocation to instruction, organized research, other sponsored activities, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. Predetermined Rates for Indirect (F&A) Costs

Public Law 87-638 (76 Stat 437) as amended {41 U.S.C. 4708) authorizes the use of predetermined rates in determining the "indirect costs" (indirect (F&A) costs) applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for indirect (F&A) costs for a period of two to four years should be the norm in those situations where the cost experience a nd other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect (F&A) costs during the ensuing accounting periods.

5. Negotiated Fixed Rates end Carry-Forward Provisions

When a fixed rate Is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect (F&A) cost for the next rate negotiation. When the rate is negotiated before the carry-forward adjustment is determined, the carry-forward amount may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected Indirect (F&A) costs allocable to Federal awards for the forecast period plus or minus the carry-forward adjustment (over- or under-recovery) *from* the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years must not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant agency for indirect costs as to whether these differences will be considered in the rate negotiation rather than making the determinatio n after the differences are known. Further, institutions electing to use this carry-forward provision may not subsequently change without prior approval of the cognizant agency for indirect costs. In the event that an institution returns to a post-determined rate, any over- or under-recovery during the period in which negotiated fixed rates and carry-forward provisions were followed will be included in the subsequent post-determined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate.

6. Provisional and Final Rates tor Indirect (F&A) Costs

Where the cognizant agency for indirect costs determines that cost experience and other pertinent facts do not justify the use of predetermined rates, or a fixed rate with a carry-forward, or if the parties cannot agree on an equitable rate, a provisional rate must be established. To prevent substantial overpayment or underpayment, the provisional rate may be adjusted by the cognizant agency for indirect costs during the institution's fiscal year. Predetermined or fixed rates may replace provisiona l rates at any time prior to the close of the institution's fiscal year. If a provisional rate is not replaced by a predetermined or fixed rate prior to the end of the institution's fiscal year, a final rate will be established and upward or downward adjustments will b e made based on the actual allowable costs incurred for the period involved.

7. Fixed Rates for the Life of the Sponsored Agreement

7. Except as provided In paragraph (c)(1) of §200.414 Indirect (F&A) costs, Federal agencies must use the negotiated rates in effect at the time of the initial award throughout the life of the Federal award. Award levels for Federal awards may not be adjusted in future years as a result of changes in negotiated rates. "Negotiated rates• per the rate agreement include final, fixed,and predetermined rates and exclude provisional rates."Life" for the purpose of this subsection means each competitive segment of a project. A competitive segmen t is a period of years approved by the Federal awarding agency at the time of the Federal award. If negotiated rate agreements do not extend through the life of the Federal award at the time of the initial award, then the negotiated rate for the last year of the Federal award must be extended through the end of the life of the Federal award.

b. Except as provided in §200.414 Indirect (F&A) costs, when an educational institution does not have a negotiated rate With the Federal Government at the lime of an award (because the educational institution is a new recipient or the parties cannot reach agreement on a rate-), the provisional rate used at the time of the award must be adjusted once a rate is negotiated and approved by the cognizant agency for indirect costs.

8. *Limitation on Reimbursement of Administrative* Costs

a. Notwithstanding the provisions of subsection C.1.a, the administrative costs charged to Federal awards awarded or amended (including continuation and renewal awards) with effective dates beginning on or after the start of the institution's first f iscal year which begins on or after October 1, 1991, must be limited to 26% of modified total direct costs (as defined in subsection 2) for the total of General Administration and General Expenses, Departmental Administration, Sponsored Projects Administration, and Student Administrati on and services (including their allocable share of depreciation, interest costs, operation and maintenance expenses, and fringe benefits costs, as provided by Section 8, Identification and assignment of indirect **(F&A)** costs, and all other types of expenditures not listed specifically under one of the subcategories of facilities in Section B.

b. Institutions should not change their accounting or cost allocation methods If the effect ls to change the charging of a parti cular type of cost from F&A *to* direct, or to reclassify costs, or increase allocations from the administrative pools identified in paragraph B.1 of this Appendix to the other F&A cost pools or fringe benefits. Cognizant agencies for indirect cost are authorized to allow changes where an institution's charging practices are at variance with acceptable practices followed by a substantial majority of other institutions.

9. Alternative Method for Administrative Costs

a. Notwithstanding the provisions of subsection C.1.a, an institution may elect to claim a fixed allowance for the • Administration• portion of indirect (F&A) costs. The allowance could be either 24% of modified total direct costs or a percentage equal to 95% of the most recently negotiated fixed or predetermined rate for the cost pools included under Administration• as defined in Section B.1, whichever is less. Under this alternative, no cost proposal need be prepared for the • Administration· portion of the indirect (F&A) cost rate nor is further identification or documentation of these costs required (see subsection c). Where a negotiated indirect (F&A) cost agreement includes this alternative, an institution must make no further charges f or the expenditure categories described in Section 8.5, General administration and general expenses, Section B.6, Departmental administration expenses, Section B.7, Sponsored projects administration, and Section B.9, Student administration and services.

b. In negotiations of rates for subsequent periods, an institution that has elected the option of subsection a may continue to exercise it at the same rate without further identification or documentation of costs.

c. If an institution elects to accept a threshold rate as defined ln subsection a of this section, it is not required to perform a detailed analysis of its administrative costs. However, In order to compute the facilities components of its indirect (F&A) cost rate, the institution must reconcile lts indirect (F&A) cost proposal to its financial statements and make appropriate adjustments and reclassifica tions to identify the costs of each major function as defined in Section A.1, as well as to identify and allocate the facilities components. Administrative costs that ate not identified as such by the institution's accounting system (such as those Incurred in academic departments) will be classified as instructional costs for purposes of reconciling indirect (F&A) cost proposals to financial statements and allocating facilities costs.

10. Individual Rate Components

In order to provide mutually agreed-upon information for management purposes, each indirect (F&A) cost rate negotiation or determination must include development of a rate for each indirect (F&A) cost pool as well as the overall indirect (F&A) cost rate.

11. Negotiation and Approval of Indirect (F&A) Rate

a. Cognizant agency for indirect costs is defined in Subpart A-Acronyms and Definitions.

(1) Cost negotiation cognizance is assigned to the Department of Health and Human Services (HHS) or the Department of Defense's Office of Naval Research (DOD), normally depending on which of the two agencies (HHS or DOD) provides more funds to the educational institution for the most recent three years. Information on funding must be derived from relevant data gathered by the National Science Foundation. In cases where neither HHS nor DOD provides Federal funding to an educational Institution, the cognizant agency for indirect costs assignment must default to HHS. Notwithstanding the method for cognizance determination described in this section, other arrangements for cognizance of a particular educational Institution may also be based In part on the types of research performed at the educational institution and must be decided based on mutual agreement between HHS and DOD. Where a non-Federal entity only receives funds as a subrecipient, see §200.331 Requirements for pass-through entities.

(2) After cognizance is established, it must continue for a five-year period.

b. Acceptance of rates. See §200.414 Indirect (F&A) costs.

c. Correcting deficiencies. The cognizant agency for indirect costs must negotiate changes needed to correct systems deficiencies relating to accountability for Federal awards. Cognizant agencies for indirect costs must address the concerns of other affected agencies, as appropriate, and must negotiate special rates for Federal agencies that are required to limit recovery of indirect costs by statute.

d. Resolving questioned costs. The cognizant agency for indirect costs must conduct any necessary negotiations with an educational institution regarding amounts questioned by audit that are due the Federal Government related to costs covered by a negotiated agreement.

e. Reimbursement. Reimbursement to cognizant agencies for indirect costs for work performed under this Part may be made by reimbursement billing under the Economy Act, 31 U.S.C. 1535.

f. Procedure for establishing facilities and administrative rates must be established by one of the following methods:

(1) Formal negotiation. The cognizant agency for indirect costs is responsible for negotiating and approving rates for an educational institution on behalf of all Federal agencies. Federal awarding agencies that do not have cognizance for indirect costs must notify the cognizant agency for indirect costs of specific concerns **(i.e.,** a need to establish special cost rates) which could affect the negotiation process. The cognizant agency for indirect costs must address the concerns of all interested agencies, as appropriate. A pre-negotiation conference may be scheduled among all interested agencies, if necessary. The cognizant agency for indirect costs must then arrange a negotiation conference with the educational institution.

(2) Other than formal negotiation. The cognizant agency for Indirect costs and educational institution may reach an agreement on rates without a formal negotiation conference; for example, through correspondence or use of the simplified method described in this section D of this Appendix.

g. Formalizing determinations and agreements. The cognizant agency for indirect costs must formalize all determinations or agreements reached with an educational institution and provide copies to other agencies having an Interest. Determinations should include a description of any adjustments, the actual amount, both dollar and percentage adjusted, and the reason for making adjustments.

h. Disputes and disagreements. Where the cognizant agency for indirect costs is unable to reach agreement with an educational institution with regard to rates or audit resolution, the appeal system of the cognizant agency for indirect costs must be followed for resolution of the disagreement.

12. Standard Format for Submission

For facilities and administrative (indirect (F&A)) rate proposals, educational institutions must use the standard format, shown in section E of this appendix, to submit their indirect (F&A) rate proposal to the cognizant agency for indirect costs. The cognizant agency for indirect costs may, on an Institution-by-institution basis, grant exceptions from all or portions of Part II of the standard format requirement. This requirement does not apply to educational institutions that use the simplified method for calculating indirect (F&A) rates, as described in Section D of this Appendix.

As provided in section C.10 of this appendix, each F&A cost rate negotiation or determination must include development of a rate *for* each F&A cost pool as well as the overall F&A rate.

0. SIMPLIFIED METHOD FOR SMALL INSTITUTIONS

1. General

a. Where the total direct cost of work covered by this Part at an institution does not exceed $10 million in a fiscal year, the simplified procedure described in subsections 2 or 3 may be used in determining allowable indirect (F&A) costs. Under this simplified procedure, the institution's most recent annual financial report and immediately available supporting information must be utilized as a basis for determining the indirect (F&A) cost rate applicable to all Federal awards. The institution may use either the salaries and wages (see sub section 2) or modified total direct costs (see subsection 3) as the distribution basis.

b. The simplified procedure should *not* be used where it produces results which appear inequitable to the Federal Government or the institution. In any such case, indirect (F&A) costs should be determined through use of the regular procedure.

2. Simplified Procedure-Salaries and Wages *Base*

a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect (F&A) cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student activities, student aid, and scholarships).

(2) Operation and maintenance of physical plant and depreciation (after appropriate adjustment for costs applicable to other institutional activities).

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under subsection (1) have previously been allocated to other Institutional activities, they may be included in the indirect (F&A) cost pool. The total amount of salaries and wages included In the indi rect (F&A) cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established in subsection a from the amount of salaries and wages Included under subsection b.

d. Establish the indirect (F&A) cost rate, determined by dividing the amount in the indirect (F&A) cost pool, subsection b, by the amount of the distribution base, subsection c.

e. Apply the indirect (F&A) cost rate to direct salaries and wages for individual agreements to determine the amount of indirect (F&A) costs allocable to such agreements.

3. *Simplified Procedure- Modified Total Direct* Cost Base

a. Establish the total costs incurred by the institution for the base period.

b. Establish an indirect (F&A) cost pool consisting of the expenditures {exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles *or* their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student activities, student aid, and scholarships).

(2) Operation and maintenance of physical plant and depreciation (after appropriate adjustment for costs applicable to other institutional activities).

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries andexpenses of deans and heads of departments. In those cases where expenditures classified under subsection (1) have previously been allocated to other institutional activities, they may be included in the indirect (F&A) cost pool. The modified total direct costs amount included in the indirect (F&A) cost pool must be separately identified.

c. Establish a modified total direct cost distribution base, as defined in Section C. 2, The distribution basis, that consists of all institution's directfunctions.

d. Establish the indirect (F&A) cost rate, determined by dividing the amount in the indirect {F&A) cost pool, subsection b, by the amount of the distribution base, subsection c.

e. Apply the indirect (F&A) cost rate to the modified total direct costs for individual agreements to determine the amount of indirect (F&A) costs allocable to such agreements.

E. DOCUMENTATION REQUIREMENTS

The standard format for documentation requirements for indirect (indirect (F&A)) rate proposals for claiming costs under the regular method is available on the 0MB Web site here: *http://www.whitehouse.gov/omblgrants_torms.*

F. CERTIFICATION

1. Certification of Charges

To assure that expenditures for Federal awards are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under the agreements will include a certification, signed by an authorized official of the university, which reads "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and intent set forth in the award documents. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, f alse statements, false claims or otherwise. (U.S. Code, Title 18, Section 1001 and Title 31, Sections 37 29-3733 and 3801-3812)".

2. Certification of Indirect (F&A) Costs

a. *Policy.* Cognizant agencies must not accept a proposed indirect cost rate unless such costs have been certified by the educational institution using the Certificate of indirect (F&A) Costs set forth in subsection F.2.c

b. The certificate must be signed on behalf of the institution by the chief financial officer or an individual designated by an individual at a level no lower than vice president or chief financial officer.

An indirect (F&A) cost rate is not binding upon the Federal Government if the most recent required proposal from the institution has not been certified. Where it Is necessary to establish indirect (F&A) cost rates, and the Institution has not submitted a certified proposal for establishing such rates In accordance with the requirements of this section, the Federal Government must unilaterally establish such rates. Such rates may be based upon audited historical data or such other data that have been furnished to the cognizant agency for indirect costs and for which it can be demonstrated that all unallowable costs have been excluded. When indirect (F&A) cost rates are unilaterally established by the Federal Government because of failure of the institution to submit a certified proposal for establishing such rates in accordance with this section, the rates established will be set at a level low enough to ensure that potentially unallowable costs will not be reimbursed.

c. *C8ltiffcate.* The certificate required by this section must be in the following form:

CERTIFICATE OF INDIRECT (F&A) COSTS

This is to certify that to the best of my knowledge and belief:

(1) I have reviewed the indirect (F&A) cost proposal submitted herewith;

(2) All costs included in this proposal [Identify date} to establish billing or final indirect (F&A) costs rate for [identify period covered by rate] are allowable in accordance with the requirements of the Federal agreement(s) to which they apply and with the cost principles applicable to those agreements.

(3) This proposal does not include any costs which are unallowable under applicable cost principles such as (without limitation): public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, and defense of fraud proceedings; and

(4) All costs included in this proposal are properly allocable to Federal agreements 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.

I declare that the foregoing is true and correct.

Institution of Higher Education:

Signature: _____

Narne of Official: _____

Title: _____

Date of Execution: _____

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec, 19, 2014; 80 FR 544D9, Sept 10, 2015]

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Title 2- Subtitle A-Chapter 11- Part 200--> Subpart F --> Appendix

Title 2: Grants and Agreements
PNH 200-UI\IIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REOUIREMENTS FOR FEDERAL AWARDS
Subpart F--Audit Requirements

APPENDIX IV TO PART 200-INDIRECT (F&A) COSTS IDENTIFICATION AND ASSIGNMENT, AND RATE DETERMINATION FOR NONPROFIT 0RGANIZATIONS

A GENERAL

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a parti cular final cost objective. Direct cost of minor amounts may be treated as indirect costs under the conditions described in §200.413 Direct costs paragraph {d) of this Part. 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 benefitting cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

2. "Major nonprofit organizations" are defined in paragraph (a) of §200.414 Indirect (F&A} costs. See indirect cost rate reporting requirements in sections 8.2.e and 8.3.g of this Appendix.

8. ALLOCATION OF INDIRECT COSTS AND DETERMINATION *OF* INDIRECT COST RATES

1. General

a. If a nonprofit 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 section B.2 of this Appendix.

b. If an organization has several major functions which benefit from Its Indirect costs in varying degrees, allocation of Indire ct costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitting functions by means of a base which best measures the relative degree of benefit The indirect costs allocated to each function are then dis tributed to individual Federal 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 ser vices 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 section 8.2 through B.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, must 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 (i) separating the organization's total costs for the base period as either direct or indirect, and {ii) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process Is an indirect cost rate which is used to distribute Indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where an organization has only one major funct ion 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 must exclude capital expenditures and unallowable costs. However, unallowable costs which represent activities must be included in the direct costs under the conditions described In §200.413 Direct costs, para graph (e) of this Part.

c. The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such as subawards for $25,000 or more), direct salaries and wages, or other base whlct1 results in an equitable distribution. The distribution base must exclude participant support costs as defined in §200.75 Participant support costs.

d. Except where a special rate(s) is required in accordance with section 8.5 of this Appendix, the indirect cost rate developed under the above principles is applicable to all Federal awards of the organization. If a special rate(s) is required, appropriate modifications must be made in order to develop the special rate(s).

e. For an organization that receives more than $10 million in direct Federal funding in a fiscal year, a breakout of the indirect cost component into two broad categories, Facilities and Administration as defined in paragraph (a) of §200.414 Indirect (F&A} costs, is required . The rate in each case must 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. Mump/e Allocation Base *Method*

a. General. Where an organization's indirect costs benefit its major functions In varying degrees, indirect costs must be accumulated into separate cost groupings, as described in subparagraph b. Each grouping must then be allocated individually to benefitting functions by means of a base which best measures the relative benefits. The default allocation bases by cost pool are described in section 8.3.c of this Appendix.

b. Identification of indirect costs. Cost groupings must be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping must 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 section A.3 of this Appendix. The indirect cost pools are defined as follows:

(1) Depreciation. 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 §200.436 Depreciation.

(2) Interest. Interest on debt associated with certain buildings, equipment and capital improvements are computed in accordance with §200.449 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; environmen tal safety; hazardous waste disposal; property, liability andother insurance relating to property; space and capital leasing; facility planning and management; and central receiving. The operation and maintenance expenses category must also include its allocable share of fringe benefit costs, depreciation, and interest costs.

(4) General administration and general expenses. 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 must also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, 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.

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 must 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 as described in §200.413 Direct Costs. Items such as office supplies, postage, local telephone costs, periodicals and memberships should normally be treated as indirect costs.

c. Allocation bases. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefitting 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 benefitted, the allocation must be made in that manner. When the expenses in a cost grouping are more general in nature, the allocation must be made through the use or a selected base which produces results that are equitable to both the Federal Government and the organization. The distribution must 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 Federal awards. The results of special cost studies (such as an engineering utility study) must not be used to determine and allocate the indirect costs to Federal awards.

(1) Depreciation. Depreciation expenses must be allocated in the following manner:

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

(b) Depreciation on buildings used for more than one function, and on capital Improvements and equipment used in such buildings, must 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 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) must be treated as follows. The cost of each Jointly used unit of space must be allocated to the benefitting functions on the basis of:

(i) the employees and other users on a full-time equivalent (FTE) basis or salaries and wages of those individual functions benefitting from the use of that space: or

(ii) organization-wide employee FTEs or salaries and wages applicable to the benefitting functions of the organization.

(d) Depreciation on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, must 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 must be allocated in the same manner as the depreciation on the buildings, equipment and capital equipment to which the interest relates.

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

(4) General administration and general expenses. General administration and general expenses must be allocated to benefitting functions based on modified total costs (MTC). The MTC is the modified total direct costs (MTDC), as described in Subpart A-Acronyms and Definitions of Part 200, plus the allocated indirect cost proportion. 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 must then be allocated to benefitting functions based on MTC.

d. Order of distribution.

(1) Indirect cost categories consisting of depreciation, Interest, operation and maintenance, and general administration and general expenses must be allocated in that order to the remaining indirect cost categories as well as to the major functions of the organization. Other cost categories should be allocated in the order determined to be most appropriate by the organization. This order of allocation does not apply if cross allocation of costs is made as provided in section B.3.d.2 of this Appendix.

(2) Normally, an indirect cost category will be considered closed once it has been allocated to other cost objectives, and costs must 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 section 8.5 of this Appendix, the separate groupings of indirect costs allocated to each major function must be aggregated and treated as a common pool for that function. The costs in the common pool must then be distributed to individual Federal awards included in that function by use of a single indirect cost rate.

f. Distribution basis. Indirect costs must be distributed to applicable Federal awards and other benefitting activities within each major function on the basis of MTDC (see definition in §200.68 Modified Total Direct Cost (MTDC) of Part 200.

g. Individual Rate Components. An indirect cost rate must be determined for each separate indirect cost pool developed. The rate in each case must 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 must include development of the rate for each indirect cost pool as well as the overall indirect cost rate. The indirect cos1 pools must be classified within two broad categories: "Facilities· and "Administration," as described paragraph (a) of §200.414 Indirect (F&) costs.

4. Direct Allocation Method

a. Some nonprofit organizations treat all costs as direct costs except general administration and general expenses. These organizations generally separate their costs into three basic categories: (i) General administration and general expenses, (ii) fundraising, and (iii) 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 Federal 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 Federal 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 must be computed in the same manner as that described in section B.2 Simplified allocation method 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 Federal award or it may consist of work under a group of Federal 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 (i) the *rate* differs significantly from that which would have been obtained under sections 8.2, 8.3, and B.4 of this Appendix, and (ii) the volume of work to which the rate would apply is material.

C. NEGOTIATION AND APPROVAL OF INDIRECT COST RATES

1. Definitions

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

a. *Cognizant agency for indirect* costs means the Federal agency responsible for negotiating and approving indirect cost rates for a nonprofit 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 Federal 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, Federal award, 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 Federal agencies concerned, the Federal agency with the largest dollar value of Federal awards with an organization will be designated as the cognizant agency for indirect costs 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 nonprofit organization, the assignment will not be changed unless there is a shift in the dollar volume of the Federal awards to the organization for at least three years. All concerned Federal agencies must 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 Federal awards necessitate special indirect cost rates in accordance with section 8.5 of this Appendix, it will, prior to the time the rates are negotiated, notify the cognizant agency for indirect costs. (See also §200.414 Indirect (F&A)

costs of Part 200.) Where a non-Federal entity only receives funds as a subrecipient, see the requirements of §200.331 Requirements for pass-through entities.

b. Except as otherwise provided In §200.414 Indirect (F&A) costs paragraph (f) of this Part, a nonprofit organization which has not previously established an Indirect cost rate with a Federal agency must submit its initial indirect cost proposal immediately after the organization is advised that a Federal award will be made *and,* in no event, later than three months after the effective date of the Federal award.

c. Unless approved by the cognizant agency for indirect costs in accordance with §200.414 Indirect (F&A) costs paragraph (g) of this Part, organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency for indirect costs within six months after the close of each fiscal year.

d. A predetermined rate may be negotiated for use on Federal 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 act ual costs.

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

f. Provisional and final rates must be negotiated where neither predetermined nor fixed rates are appropriate. Predetermined or fixed rates may replace provisional rates at any time prior to the close of the organization's fiscal year. If that event does not occur, a fin al rate will be established and upward or downward adjustments will be made based on the actual allowable costs Incurred for the period involved.

g. The results of each negotiation must be formalized in a written agreement between the cognizant agency for indirect costs and the nonprofit organization. The cognizant agency for *indirect* costs must make available 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 for indirect costs and the nonprofit organization, the dispute must be resolved In accordance with the appeals procedures of the cognizant agency for indirect costs.

i. To the extent that problems are encountered among the Federal agencies in connection with the negotiation and approval process, 0MB will lend assistance as required to resolve such problems in a timely manner.

D. Certification of Indirect (F&A) Costs

(1) Required Certification. No proposal to establish Indirect (F&A) cost rates must be acceptable unless such costs have been certified by the non-profit organization using the Certificate of Indirect {F&A) Costs set forth in section j. of this appendix. The certificate must be signed on behalf of the organization by an individual at a level no lower than vice president or chief financial officer for the organization.

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

Certificate of Indirect (F&A) Costs

This is to certify that to the best of my knowledge and belief:

(1) I have reviewed the indirect (F&A) cost proposal submitted herewith;

(2) All costs included in this proposal (Identify date] to establish billing or final indirect (F&A) costs rate for [identify period covered by rate] are allowable in accordance with the requirements of the Federal awards to which they apply and with Subpart E-Cost Principles of Part 200.

(3) This proposal does not include any costs which are unallowable under Subpart E-Cost Principles of Part 200 such as (without limitation): public relations costs, contributions and donations. entertainment costs, fines and penalties, lobbying costs, and defense of fraud proceedings; and

(4) 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 Federal awards to which they are allocated in accordance with applicable requirements.

I declare that the foregoing is true and correct.

Nonprofit Organization:

Signature

Title 2-Subtitle A-Chapter 11 Part 200-Subpart F-Appendix

Title 2: Grants and Agreements
PART 20(}-UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND /\UDIT REQUIREMENTS FOR FEDERAL AWARDS
Subpart F- Audit Requirements

APPENDIX V TO PART 200-STATE/LOCAL GOVERNMENTWIOE CENTRAL SERVICE COST ALLOCATION PLANS

A. GENERAL

1. Most governmental units provide certain services, such as motor pools, computer centers, 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 used to distribute the costs included in the plan should be supported by formal accounting and other records that will support the propriety ofthe costs assigned to Federal awards.

2. 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, Local and Indian Tribal Governments: Cost Principles and Procedures for Developing* Cost *Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government."* A copy ofthis brochure may be obtained from the HHS Cost Allocation Services or at their Web site at *https:llrates.psc.gov.*

B. DEFINITIONS

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

2. *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.

3. *Billed central services* means central services that are billed to benefitted agencies 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.

4. *Cognizant agency for indirect costs* is defined in §200.19 Cognizant agency for indirect costs of this Part. The determination of cognizant agency for Indirect costs for states and local governments ls described in section F.1, Negotiation and Approval of Central Service Plans.

5. *Major local government* means local government that receives more than $100 million in direct Federal awards subject to this Part.

C. 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.

D. SUBMISSION REQUIREMENTS

1. 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) 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 (b) 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.

2. Each major local government is also required to submit a plan to its cognizant agency for indirect costsannually.

3. All other local governments claiming central service costs must develop a plan in accordance with the requirements described in this Part 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 for indirect costs. Where a local government only receives funds as a subrecipient, the pass-through entity will be responsible for monitoring the subrecipient's plan.

4. 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 for indirect costs on a case-by-case basis.

E. DOCUMENTATION REQUIREMENTS FOR SUBMITTEDPLANS

The documentation requirements described in this section rnay be modified, expanded, or reduced by the cognizant agency for indirect costs on a case-by-case basis. For example, the requirements may be reduced for those central services which have little or no impact on Federal awards. Conversely, if a review of a plan indicates that certain additional informa tion is needed, and 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.

1. General

Alf proposed plans must be accompanied by the following: an organization chart sufficiently detailed to show operations including the central service activities of the state/focal government whether or not they are shown as benefitting from cent ral service functions; a copy of the Comprehensive Annual Financial Report (or a copy of the Executive Budget if budgeted costs are being proposed) to support the allowable costs of each central service activity included in the plan; and, a certificatio n (see subsection 4.) that the plan was prepared In accordance with this Part, contains only allowable costs, and was prepared in a manner that treated similar costs consistently among the various Federal awards and between Federal and non-Federal awards/activities.

2. Allocated Central Services

For each allocated central service•, the plan must also include the following: a brief description of the service, an identification of the unit rendering the service and the operating agencies receiving the service, the items of expense inclu ded in the cost of the service, the method used to distribute the cost of the service to benefitted agencies, and a summary schedule showing the allocation of each service to the specific benefitted agencies. If any self-Insurance funds or fringe benefits costs are treated as allocated (rather than billed) central services, documentation discussed in subsections 3.b. and c. must also be included.

3.** Billed **Services

a. *General.* The information described in this section must be provided for all billed central services, including internal service funds, self-insurance funds, and fringe benefit funds.

b. Internal service funds.

(1) For each Internal service fund or similar activity with an operating budget of $5 million or more, the plan must include: a brief description of each service; a balance sheet for each fund based on individual accounts contained in the governmental unit's accounting system; a revenue/expenses statement, with revenues broken out by source, e.g., regular billings, interest earned, etc.; a fisting of all non-operating transfers (as defined by Generally Accepted Accounting Principles (GAAP)) into and out of the fund; a description of the procedures (methodology) used to charge the costs of each service to users, including how billing rates are determined; a sch edule of current rates; and, a schedule comparing total revenues (including imputed revenues) generated by the service to the allowable costs of the service, as determined under this Part, with an explanation of how variances will be handled.

(2) Revenues must consist of all revenues generated by the service, including unbilled and uncollected revenues. If some users were not billed for the services (or were not billed at the full rate for that class of users), a schedule showing the full imputed revem1es associated with these users must be provided. Expenses must be broken out by object cost categories (e.g., salaries, supplies, etc.).

c. *Self-insurance funds.* For each self-insurance fund, the plan must include: the fund balance sheet; a statement of revenue and expenses including a summary of billings and claims paid by agency; a listing of all non-operating transfers into and out of the fund; the type(s) of risk (s) covered by *the* fund (e.g., automobile liability, workers' compensation, etc.); an explanation of how the level of fund contributions are determined, including a copy of the current actuarial report (w ith the actuarial assumptions used) if the contributions are determined on an actuarial basis; and, a description of the procedures used to charge or allocate fund contributions to benefitted activities. Reserve levels In excess of claims (1) submitted and adjudica ted but not paid, (2) submitted but not adjudicated, and (3) incurred but not submitted must be identified and explained.

d. *Fringe benefits.* For fringe benefit costs, the plan must include: a listing of fringe benefits provided to covered employees, and the overall annual cost of each type of benefit; current fringe benefit policies; and procedures used to charge or allocate the costs of the benefits to benefitted activities. In addition, for pension and post-retirement health insurance plans, the following information must be provided: the governmental unit's funding policies, e.g., legislative bills, trust agreements, or

state-mandated contribution rules, if different from actuarially determined rates; the pension plan's costs accrued for the year; the amount funded, and date(s) of funding; a copy of the current actuarial report (including the actuarial assumptions); the plan trustee's report; and, a schedule from the activity showing the value of the interest cost associated with /ate funding.

4. Required Certification

Each central service cost allocation plan will be accompanied by a certification in the following form:

CERTIFICATE OF COST ALLOCATION PLAN

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

(1) 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 this Part and the Federal award(s) to which they apply. Unallowable costs ha ve 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 relationsh ip between the expenses incurred and the Federal awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been a ccounted for consistently.

I declare that the foregoing is true and correct.

Governmental Unit•

Signature

Name of Official·

Date of Execution:·

F. NEGOTIATION AND APPROVAL OF CENTRAL SERVICE PLANS

1. Federal Cognizant Agency for *Indirect* Costs *Assignments for Cost Negotiation*

In general, unless different arrangements are agreed to by the concerned Federal agencies, for central service cost allocation plans, the cognizant agency responsible for review and approval is the Federal agency with the largest dollar valu e of total Federal awards with a governmental unit. For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is the Federal agency with the largest dollar value of direct Federal awards with a governmental unit or component, as appropriate. Once designated as the cognizant agency for indirect costs, the Federal agency must remain so for a period of five years. In addition, the following Federal agencies continue to be responsible for the indicated governmental entities:

Department of Health and Human Services-Public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico), state and local hospitals, libraries and health districts.

Department of the Interior-Indian tribal governments, territorial governments, and state and local park and recreational districts.

Department of Labor-State and local labor departments.

Department of Education-School districts and state and local education agencies.

Department of Agriculture-State and local agriculture departments.

Department of Transportation-State and local airport and port authorities and transit districts.

Department of Commerce-State and local economic development districts.

Department of Housing and Urban Development-State and local housing and development districts.

Environmental Protection Agency-State and local water and sewer districts.

2. Review

All proposed central service cost allocation plans that are required to be submitted will be reviewed, negotiated, and approved by the cognizant agency for indirect costs on a timely basis. The cognizant agency for indirect costs will review th e 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 awarding agency has reason to believe that special operating factors affecting its Federal awards necessitate special consideration, the funding agency will, prior to the time the plans are negotiated, notify the cognizant agency for indirect costs.

3. Agreement

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

4. Adjustments

Negotiated cost allocation plans based on a proposal later found to have included costs that: (a) are unallowable (i) as specified by law or regulation, {ii) as identified in subpart F, General Provisions for selected Items of Cost of this Part, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards, must be adjusted, or a refund must be made at the option of the cognizant agency for indirect costs, including earned or imputed Interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable Federal cognizant agency for Indirect costs regulations. Adjustments or cash refunds may include, at the option of the cognizant agency for indirect costs, earned or imputed interest from the date of expenditure and delinquent debt interest, if applicable, chargeable in accordance with applicable cognizant agency claims collection regulations. These adjustments or refunds are designed to correct tile plans and do not constitute a reopening of the negotiation.

G. OTHER POLICIES

1. 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.

2. 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 tile full recovery of costs, are allowable. A working capital reserve as part of retained earnings of up to 60 calendar days cash expenses for normal operating purposes is considered reasonable. A working capital reserve exceeding 60 calendar days may be approved by the cognizant agency for indirect costs in exceptional cases.

3. 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 that year. However, when 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.

4. Adjustments of Billed Central Services

Billing rates used to charge Federal awards must 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) a cash refund including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable In accordance with applicable Federal cognizant agency for Indirect costs regulations to the Federal Government for the Federal share of the adjustment, (b) credits to the amounts charged to the individual programs, (c) adjustments to future billing rates, or (d) 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. Adjustment methods may include, at the option of the cognizant agency, earned or Imputed interest from the date of expenditure and delinquent debt interest. If applicable, chargeable in accordance with applicable cognizant agency claims collection regulations.

5. 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 Subpart O-Post Federal Award Requirements, of Part 200.

6. Appeals

If a dispute arises in the negotiation of a plan between the cognizant agency for indirect costs and the governmental unit, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

7. 0MB Assistance

To the extent that problems are encountered among the Federal agencies or governmental units in connection with the negotiation and approval process, 0MB will lend assistance, as required, to resolve such problems in a timely manner.

[78 FR 78608, Dec. 26, 2013, as amended at 80 FR 54410, Sept. 10, 2015)

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Title 2-Subtitle A -4 Chapter II -4 Part 200-> Subpart F-Appendix

Title 2: Grants and Agreements
PART 200—UNIFORM ADMINISGTRATIVE REQUIREMENTS, COST PRINCIPLES, /\ND AUDIT REQUIREMENTS FOR FEDERAL AWARDS
Subpart F – Audit Requirements

APPENDIX VI TO PART 200-PUBLIC ASSISTANCE COST ALLOCATION PLANS

A. GENERAL

Federally-financed programs administered by state public assistance agencies are funded predominately 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 awarding agencies whose programs are administered by a state public assistance agency. Major federally-financed programs typically administered by state public assistance agencies include: Temporary Aid to Needy Families (TANF), Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

B. DEFINITIONS

1. *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.

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

C. POLICY

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.

D. SUBMISSION, DOCUMENTATION, AND APPROVAL OF PUBLIC ASSISTANCE COST ALLOCATION PLANS

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

2. Under the coordination process outlined in section E, Review of Implementation of Approved Plans, 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 calendar quarter following the event that required the amendment, unless another date is specifi cally approved by HHS. HHS, as the cognizant agency for indirect costs 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.

E. REVIEW OF IMPLEMENTATION OF APPROVED PLANS

1. 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 Federal awarding agencies, single audits, or audits conducted by the cognizant agency for indirect costs.

2. Where inappropriate charges affecting more than one Federal awarding agency are identified, the cognizant HHS 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.

3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more Federal awarding agencies, the dispute must be resolved in accordance with the appeals procedures set out in 45 CFR Part 16. Disputes involving only one Federal awarding agency will be resolved in accordance with the Federal awarding agency's appeal process.

4. To the extent that problems are encountered among the Federal awarding agencies 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.

F. UNALLOWABLE COSTS

Claims developed under approved cost allocation plans will be based on allowable costs as identified in this Part. 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) a cash refund, (b) offset to a subsequent claim, or (c) credits to the amounts charged to individual Federal awards. Cash refunds, offsets, and credits may include at the option of the cognizant agency for indirect cost, earned or imputed interest from the date of expenditure and delinquent debt Interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect cost claims collection regulations.

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Title 2: Grants and Agreements
PART 200-UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRII\ICIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS
Subpart F-----Audit Requirements

APPENDIX VII TO PART 200-STATES AND LOCAL GOVERNMENT AND INDIAN TRIBE INDIRECT COST PROPOSALS

A. GENERAL

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

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

3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each department or agency of the governmental unit claiming Indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals areprovided in a brochure published bythe Department of Health and HumanServicesentitled *"A Guidefor Statesand Local Government Agencies:* Cost *Principlesand Procedures for Establishing* Cost *A/location Plans and Indirect Cost Rates for Grantsand Contracts with the Federal Government."* Acopy of this brochure may be obtained from HHS Cost Allocation Services or at their Web site at *https:llrates.psc.gov*.

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

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

B. DEFINITIONS

1. *Base* means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost ba se selected should result in each Federal award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

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

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

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

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

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

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

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

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

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

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

1. General

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

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

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

2. Simplified Method

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

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

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

3, Multiple Allocation Base Method

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

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

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

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

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

4. Special Indirect Cost Rates

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

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

D. SUBMISSION AND DOCUMENTATION OF PROPOSALS

1. Submission of Indirect Cost Rate Proposals

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

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

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

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

2. Documentation of Proposals

The following must be included with each indirect cost proposal:

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

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

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

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

3. Required certification.

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

CERTIFICATE OF INDIRECT COSTS

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

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

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

I declare that the foregoing is true and correct.

Governmental Unit· Name

Signature

ot Official·

Date of Execution·

E. NEGOTIATION AND APPROVAL OF RATES

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

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

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

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

F. OTHER POLICIES

1. Fringe Benefit Rates

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

2. Billed Services Provided by the Recipient Agency

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

3. Indirect Cost Allocations Not Using Rates

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

4. Appeals

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

5. Collection of Unallowable Costs *and Erroneous Payments*

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

6. 0MB Assistance

To the extent that problems are encountered among the Federal agencies or governmental units in connection with the negotiation and approval process, 0MB will lend assistance, as required, to resolve such problems in a timely manner.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75889, Dec. 19, 2014]

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Tiile 2-+ Subtitle A_. Chapter 11-, Part 200- Subpart F - Appendix

Title 2: Grants and Agreements
PART 200--UNIFORM ADMINISTRATIVE REOUIREMENTS. COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDE.RAL AWARDS
Subpart F-•Audit Requirements

APPENDIX II TO PART 200-CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering tl1e following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, ail contracts that meet the definition of "federally assisted construction contract in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), In accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part , 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity,• and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department ofLabor.

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141.-3144, and 3146 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified In a wage determination made by the Secretar y of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination Issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland •Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3,•Contractors and Subcontractors on Public Building or Public Work Financed In Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she Is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked In excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that " funding agreement,· the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, •Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency .

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions In the System for Award Management (SAM), in accordance with the 0MB guidelines at 2 CFR 180 that Implement Executive Orders 12549 (3 CFR part 1986 Comp. p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply *or* bid for an award exceeding $100,000 must file the required certification. Each tier certifies lo the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to Influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded *from* tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

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