E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), ''Debarment and Suspension.'' The Excluded Parties List System 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 E.O. 12549.

[FR Doc. 05–16647 Filed 8–30–05; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

2 CFR Parts 215 and 220

Cost Principles for Educational Institutions (OMB Circular A–21)

AGENCY: Office of Management and Budget.

ACTION: Relocation of policy guidance to 2 CFR chapter II.

SUMMARY: The Office of Management and Budget (OMB) is relocating OMB Circular A–21, ''Cost Principles for Educational Institutions,'' to Title 2 in the Code of Federal Regulations (2 CFR), subtitle A, chapter II, part 220. This relocation is part of our broader initiative to create 2 CFR as a single location where the public can find both OMB guidance for grants and agreements and the associated Federal agency implementing regulations. The broader initiative provides a good foundation for streamlining and simplifying the policy framework for grants and agreements, one objective of OMB and Federal agency efforts to implement the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107).

Furthermore, this document makes changes to 2 CFR part 215, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A–110). The changes will add to part 215 new references to 2 CFR parts 220, 225, and 230 for the cost principles in OMB Circulars A–21, A–87, and A–122, respectively; will update part 215 to include a citation for the Social Security Administration's grant regulation; and will correct part 215 to add the amendatory language of A–110 published on October 8, 1999, and to correct a typographic error.

DATES: This document is effective August 31, 2005. This document republishes the existing OMB Circular A–21, which already is in effect.

FOR FURTHER INFORMATION CONTACT: Gil Tran, Office of Federal Financial Management, Office of Management and Budget, telephone (202) 395–3052 (direct) or (202) 395–3993 (main office) and e-mail *Hai_M._Tran@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: On May 10, 2004 [69 FR 25970], we revised the three OMB circulars containing Federal cost principles. The purpose of those revisions was to simplify the cost principles by making the descriptions of similar cost items consistent across the circulars where possible, thereby reducing the possibility of misinterpretation. Those revisions resulted from OMB and Federal agency efforts to implement Public Law 106–107, and were effective on June 9, 2004.

In this document and the two documents immediately following this one, we relocate those three OMB circulars to the CFR, in Title 2 which was established on May 11, 2004 [69 FR 26276] as a central location for OMB and Federal agency policies on grants and agreements. When we established 2 CFR and relocated OMB Circular A–110 in that new title, we stated that we would relocate in the near future the other OMB circulars related to grants and agreements. Today's documents are a significant step toward that end.

Our relocation of OMB Circular A–21 does not change the substance of the circular. Other than adjustments needed to conform to the formatting requirements of the CFR, this notice relocates in 2 CFR the version of OMB Circular A–21 as revised by the May 10, 2004 notice.

Conforming changes to 2 CFR part 215. There is a need for conforming changes to 2 CFR part 215, which contains administrative requirements for grants and other financial assistance agreements with educational institutions and other nonprofit organizations. The amendments to § 215.25(c)(6) and (e), § 215.27, and § 215.29(b) add the new references to 2 CFR parts 220, 225, and 230 for the cost principles in OMB Circulars A–21, A–87, and A–122, respectively.

Update and corrections to 2 CFR part 215. Additional changes to 2 CFR part 215 are needed to update § 215.5 and to correct § 215.36 and § 215.72. The update to § 215.5 adds the CFR citation for the Social Security Administration's (SSA) implementation of the grants management common rule, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.'' The changes to § 215.36 provide the corrections needed to include the amendments to OMB Circular A–110 that were published as final on October 8, 1999 [64 FR 54926] and were inadvertently omitted from our publication of part 215 last year [69 FR 26281]. The change to § 215.72 provides correction for a long-standing typo.

List of Subjects

2 CFR Part 215

Accounting, Colleges and universities, Cooperative agreements, Grant programs, Grants administration, Hospitals, Nonprofit organizations, Reporting and recordkeeping requirements.

2 CFR Part 220

Accounting, Colleges and universities, Grant programs, Grant administrations, Reporting and recordkeeping requirements.

Dated: August 8, 2005.

Joshua B. Bolten,

Director.

Authority and Issuance

■ For the reasons set forth above, the Office of Management and Budget amends 2 CFR, subtitle A, chapter II, as follows:

PART 215—[AMENDED]

■ 1. The authority citation for part 215 continues to read as follows:

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

§ 215.5 [Amended]

■ 2. Section 215.5 is amended by adding ''20 CFR part 437,'' following ''15 CFR part 24,''.

■ 3. Section 215.25 is amended by revising paragraphs (c)(6) and (e) to read as follows:

§ 215.25 Revision of budget and program plans.

* * * * *

(c) * * *

(6) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with any of the following, as applicable:

(i) 2 CFR part 220, ''Cost Principles for Educational Institutions (OMB Circular A–21);''

(ii) 2 CFR part 230, ''Cost Principles for Non-Profit Organizations (OMB Circular A–122);''

(iii) 45 CFR part 74, Appendix E, ''Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals;'' and

(iv) 48 CFR part 31, ''Contract Cost Principles and Procedures.''

* * * * *

(e) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this

section, Federal awarding agencies are authorized, at their option, to waive cost-related and administrative prior written approvals required by 2 CFR parts 220 and 230 (OMB Circulars A–21 and A–122). Such waivers may include authorizing recipients to do any one or more of the following.

* * * * *

■ 4. Section 215.27 is revised to read as follows:

§ 215.27 Allowable costs.

For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of 2 CFR part 225, ''Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of 2 CFR part 230, ''Cost Principles for Non-Profit Organizations (OMB Circular A–122).'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of 2 CFR part 220, ''Cost Principles for Educational Institutions (OMB Circular A–21).'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'' The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

■ 5. Section 215.29 is amended by:

■ a. Revising paragraph (b) to read as set forth below; and

■ b. Revising ''the provisions of OMB Circular A–87 and extend such policies'' in paragraph (c) to read ''the provisions of 2 CFR part 225, ''Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87)'' and extend such policies''.

§ 215.29 Conditional exemptions.

* * * * *

(b) To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from:

(1) The requirements in 2 CFR part 225, ''Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87)'' other than the allocability of costs provisions that are contained in subsection C.3 of Appendix A to that part;

(2) The requirements in 2 CFR part 220, ''Cost Principles for Educational Institutions (OMB Circular A–21)'' other than the allocability of costs provisions that are contained in paragraph C.4 in section C of the Appendix to that part;

(3) The requirements in 2 CFR part 230, ''Cost Principles for Non-Profit Organizations (OMB Circular A–122)'' other than the allocability of costs provisions that are in paragraph A.4 in section A of Appendix A to that part;

(4) The administrative requirements provisions of part 215 (OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,''); and

(5) The agencies' grants management common rule (see § 215.5).

* * * * *

■ 6. Section 215.36 is amended as follows:

■ a. Paragraph (d) is redesignated as paragraph (e).

■ b. Paragraph (c) is amended by removing from the first sentence ''Unless waived by the Federal awarding agency,'' and capitalizing the new opening word ''The''.

■ c. A new paragraph (d) is added, as follows:

§ 215.36 Intangible property.

* * * * *

(d) (1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under an award that was used by the Federal Government in developing an agency action that has the force and effect of law, the Federal awarding agency shall request, and the recipient shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the agency, the recipient, and the applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

(2) The following definitions apply for purposes of paragraph (d) of this section:

(i) Research data is defined as the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: Preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This ''recorded'' material excludes physical objects (*e.g.*, laboratory samples). Research data also do not include:

(A) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(B) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

(ii) Published is defined as either when:

(A) Research findings are published in a peer-reviewed scientific or technical journal; or

(B) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

(iii) Used by the Federal Government in developing an agency action that has the force and effect of law is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

* * * * *

§ 215.72 [Amended]

■ 7. Section 215.72 is amended by removing from paragraph (b) the reference to ''§ 215.73(a),'' and adding ''paragraph (a) of this section,'' in its place.

■ 8. Part 220 is added to Chapter II to read as follows:

PART 220—COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (OMB CIRCULAR A–21)

Sec.
220.5 Purpose.

220.10 Scope.
220.15 Policy.
220.20 Applicability.
220.25 OMB responsibilities.
220.30 Federal agency responsibilities.
220.35 Effective date of changes.
220.40 Relationship to previous issuance.
220.45 Information contact.
Appendix A to Part 220—Principles for Determining Costs Applicable to Grants, Contracts, and Other Agreements with Educational Institutions

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

§ 220.5 Purpose.

This part establishes principles for determining costs applicable to grants, contracts, and other agreements with educational institutions.

§ 220.10 Scope.

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

§ 220.15 Policy.

The principles in this part are designed to provide that the Federal Government bear its fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law. Agencies are not expected to place additional restrictions on individual items of cost. The successful application of cost accounting principles requires development of mutual understanding between representatives of educational institutions and of the Federal Government as to their scope, implementation, and interpretation.

§ 220.20 Applicability.

(a) All Federal agencies that sponsor research and development, training, and other work at educational institutions shall apply the provisions of Appendix A to this part in determining the costs incurred for such work. The principles shall also be used as a guide in the pricing of fixed price or lump sum agreements.

(b) Each federal agency that awards defense-related contracts to a Federally Funded Research and Development Center (FFRDC) associated with an educational institution shall require the FFRDC to comply with the Cost Accounting Standards and with the rules and regulations issued by the Cost Accounting Standards Board and set forth in 47 CFR part 99.

§ 220.25 OMB responsibilities.

OMB is responsible for:

(a) Issuing and maintaining the guidance in this part.

(b) Interpreting the policy requirements in this part and providing assistance to ensure effective and efficient implementation.

(c) Granting any deviations to Federal agencies from the guidance in this part, as provided in Appendix A to this part. Exceptions will only be made in particular cases where adequate justification is presented.

(d) Conducting broad oversight of government-wide compliance with the guidance in this part.

§ 220.30 Federal Agency responsibilities.

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

§ 220.35 Effective date for changes.

Institutions as of the start of their first fiscal year beginning after that date shall implement the provisions. Earlier implementation, or a delay in implementation of individual provisions, is permitted by mutual agreement between an institution and the cognizant Federal agency.

§ 220.40 Relationship to previous issuance.

(a) The guidance in this part previously was issued as OMB Circular A–21. Designations of the attachment to the Circular and the appendices to that attachment have changed, as shown in the following table:

The portion of OMB Circular A–21 that was designated as . . .	Is designated in this part as . . .
(1) The Attachment to the circular, entitled ''Principles For Determining Costs Applicable to Grants, Contracts, and Other Agreements with Educational Institutions,''.	Appendix A to Part 220—Principles For Determining Costs Applicable to Grants, Contracts, and Other Agreements with Educational Institutions.
(2) Exhibit A in the attachment to the circular, entitled ''List of Colleges and Universities Subject to Section J.12.h of Circular A–21,''.	Exhibit A, List of Colleges and Universities Subject to Section J.12.h of Circular A–21, to Appendix A.
(3) Exhibit B in the attachment to the circular, entitled ''Listing of Institutions that are eligible for the utility cost adjustment,''.	Exhibit B, Listing of Institutions that are eligible for the utility cost adjustment, to Appendix A.
(4) Exhibit C in the attachment to the circular, entitled ''Examples of 'major project' where direct charging of administrative or clerical staff salaries may be appropriate,''.	Exhibit C, Examples of ''major project'' where direct charging of administrative or clerical staff salaries may be appropriate, to Appendix A.
(5) Appendix A to the attachment to the circular, entitled ''CASB's Cost Accounting Standards (CAS),''.	Attachment A, CASB's Cost Accounting Standards (CAS), to Appendix A.
(6) Appendix B to the attachment to the circular, entitled ''CASB's Disclosure Statement (DS–2),''.	Attachment B, CASB's Disclosure Statement (DS–2), to Appendix A.
(7) Appendix C to the attachment to the circular, entitled ''Documentation Requirements for Facilities and Administrative (F&A) Rate Proposals,''.	Attachment C, Documentation Requirements for Facilities and Administrative (F&A) Rate Proposals, to Appendix A.

(b) Historically, OMB Circular A–21 superseded Federal Management Circular 73–8, dated December 19, 1973. FMC 73–8 was revised and reissued under its original designation of OMB Circular No. A–21. The provisions of A–21 were effective October 1, 1979, except for subsequent amendments incorporated herein for which the effective dates were specified in these revisions (47 FR 33658, 51 FR 20908, 51 FR 43487, 56 FR 50224, 58 FR 39996, 61 FR 20880, 63 FR 29786, 63 FR 57332, 65 FR 48566 and 69 FR 25970).

§ 220.45 Information contact.

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

Appendix A to Part 220—Principles for Determining Costs Applicable to Grants, Contracts, and Other Agreements With Educational Institutions

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A. Purpose and Scope

1. Objectives. This Appendix provides principles for determining the costs applicable to research and development, training, and other sponsored work performed by colleges and universities under grants, contracts, and other agreements with the Federal Government. These agreements are referred to as sponsored agreements.

2. Policy guides. The successful application of these cost accounting principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for Federal agency and institutional participation in the financing of a research, training, or other project are properly subject to negotiation between the agency and the institution concerned, in accordance with such governmentwide criteria or legal requirements as may be applicable.

b. Each institution, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research and educational activities in a manner consonant with its own academic philosophies and institutional objectives.

c. The dual role of students engaged in research and the resulting benefits to sponsored agreements are fundamental to the research effort and shall be recognized in the application of these principles.

d. Each institution, in the fulfillment of its obligations, should employ sound management practices.

e. The application of these cost accounting principles should require no significant changes in the generally accepted accounting practices of colleges and universities. However, the accounting practices of individual colleges and universities must support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to sponsored agreements.

f. Cognizant Federal agencies involved in negotiating facilities and administrative (F&A) cost rates and auditing should assure that institutions are generally applying these cost accounting principles on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments should be fully considered during the rate negotiations and audit.

3. Application. These principles shall be used in determining the allowable costs of work performed by colleges and universities

under sponsored agreements. The principles shall also be used in determining the costs of work performed by such institutions under subgrants, cost-reimbursement subcontracts, and other awards made to them under sponsored agreements. They also shall be used as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

a. Arrangements under which Federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees of an institution.

b. Capitation awards.

c. Other awards under which the institution is not required to account to the Federal Government for actual costs incurred.

d. Conditional exemptions.

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

(2) To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from all but the allocability of costs provisions of subsection C.3 of Appendix A to 2 CFR part 225 Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87), Section C, subpart 4 to 2 CFR part 220 Cost Principles for Educational Institutions (OMB Circular A–21), and subsection A.4 of Appendix A to 2 CFR part 230 Cost Principles for Non-Profit Organizations,'' (OMB Circular A–122), and from all of the administrative requirements provisions of 2 CFR part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A–110), and the agencies' grants management common rule (see § 215.5 of this subtitle).

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

4. Inquiries.

All inquiries from Federal agencies concerning the cost principles contained in this Appendix to 2 CFR part 220, including the administration and implementation of the Cost Accounting Standards (CAS) (described in Sections C.10 through C.13) and disclosure statement (DS–2) requirements, shall be addressed by the Office of Management and Budget (OMB), Office of Federal Financial Management, in coordination with the Cost Accounting Standard Board (CASB) with respect to inquiries concerning CAS. Educational institutions' inquiries should be addressed to the cognizant agency.

B. Definition of Terms

1. Major functions of an institution refers to instruction, organized research, other sponsored activities and other institutional activities as defined below:

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.

b. Organized research means all research and development activities of an institution that are separately budgeted and accounted for. It 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 research 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, shall be combined with 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:

(1) Instruction, departmental research, organized research, and other sponsored activities, as defined above;

(2) F&A cost activities identified in Section F of this Appendix; and

(3) Specialized service facilities described in Section J.47 of this Appendix. 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 sponsored agreements, unless otherwise indicated in the agreements.

2. Sponsored agreement, for purposes of this Appendix, means any grant, contract, or other agreement between the institution and the Federal Government.

3. Allocation means the process of assigning a cost, or a group of costs, to one or more cost objective, in reasonable and realistic proportion to the benefit provided or other equitable relationship. A cost objective may be a major function of the institution, a particular service or project, a sponsored agreement, or an F&A cost activity, as described in Section F of this Appendix. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

4. Facilities and administrative (F&A) costs, for the purpose of this Appendix, means costs that are incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. F&A costs are synonymous with ''indirect'' costs, as previously used in this Appendix and as currently used in attachments A and B to this Appendix. The F&A cost categories are described in Section F.1 of this Appendix.

C. Basic Considerations

1. Composition of total costs. The cost of a sponsored agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable F&A costs of the institution, less applicable credits as described in subsection C.5 of this Appendix.

2. Factors affecting allowability of costs. The tests of allowability of costs under these principles are: they must be reasonable; they must be allocable to sponsored agreements under the principles and methods provided herein; they must be given consistent treatment through application of those generally accepted accounting principles

appropriate to the circumstances; and they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items.

3. Reasonable costs. A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefore, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the sponsored agreement; the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and sponsored agreement terms and conditions; whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Federal Government, and the public at large; and, the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including sponsored agreements.

4. Allocable costs.

a. A cost is allocable to a particular cost objective (*i.e.*, a specific function, project, sponsored agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a sponsored agreement if it is incurred solely to advance the work under the sponsored agreement; it benefits both the sponsored agreement and other work of the institution, in proportions that can be approximated through use of reasonable methods, or it is necessary to the overall operation of the institution and, in light of the principles provided in this Appendix, is deemed to be assignable in part to sponsored projects. Where the purchase of equipment or other capital items is specifically authorized under a sponsored agreement, the amounts thus authorized for such purchases are assignable to the sponsored agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular sponsored agreement under the standards provided in this Appendix may not be shifted to other sponsored agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the sponsored agreement, or for other reasons of convenience.

c. Any costs allocable to activities sponsored by industry, foreign governments or other sponsors may not be shifted to federally-sponsored agreements.

d. Allocation and documentation standard.

(1) Cost principles. The recipient institution is responsible for ensuring that costs charged to a sponsored agreement are allowable, allocable, and reasonable under these cost principles.

(2) Internal controls. The institution's financial management system shall ensure that no one person has complete control over all aspects of a financial transaction.

(3) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost should 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, notwithstanding subsection b, the costs may be allocated or transferred to benefited projects on any reasonable basis, consistent with subsections C.4.d. (1) and (2) of this Appendix.

(4) Documentation. Federal requirements for documentation are specified in this Appendix, 2 CFR Part 215, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' and specific agency policies on cost transfers. If the institution authorizes the principal investigator or other individual to have primary responsibility, given the requirements of subsection C.4.d. (2) of this Appendix, for the management of sponsored agreement funds, then the institution's documentation requirements for the actions of those individuals (*e.g.*, signature or initials of the principal investigator or designee or use of a password) will normally be considered sufficient.

5. Applicable credits.

a. The term ''applicable credits'' refers to those receipts or negative expenditures that operate to offset or reduce direct or F&A cost items. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. This term also includes ''educational discounts'' on products or services provided specifically to educational institutions, such as discounts on computer equipment, except where the arrangement is clearly and explicitly identified as a gift by the vendor.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to sponsored agreements for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See Sections F.10, J.14, and J.47 of this Appendix for areas of potential application in the matter of direct Federal financing.)

6. Costs incurred by State and local governments. Costs incurred or paid by State or local governments on behalf of their colleges and universities for fringe benefit programs, such as pension costs and FICA and any other costs specifically incurred on behalf of, and in direct benefit to, the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of the institutions, subject to the following:

a. The costs meet the requirements of subsections C.1 through 5 of this Appendix.

b. The costs are properly supported by cost allocation plans in accordance with applicable Federal cost accounting principles.

c. The costs are not otherwise borne directly or indirectly by the Federal Government.

7. Limitations on allowance of costs. Sponsored agreements may be subject to statutory requirements that limit the allowance of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles in this Appendix, the amount not recoverable under a sponsored agreement may not be charged to other sponsored agreements.

8. Collection of unallowable costs, excess costs due to noncompliance with cost policies, increased costs due to failure to follow a disclosed accounting practice and increased costs resulting from a change in cost accounting practice. The following costs shall be refunded (including interest) in accordance with applicable Federal agency regulations:

a. Costs specifically identified as unallowable in Section J of this Appendix, either directly or indirectly, and charged to the Federal Government.

b. Excess costs due to failure by the educational institution to comply with the cost policies in this Appendix.

c. Increased costs due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs.

d. Increased costs resulting from a change in accounting practice.

9. Adjustment of previously negotiated F&A cost rates containing unallowable costs. Negotiated F&A cost rates based on a proposal later found to have included costs that are unallowable as specified by law or regulation, Section J of this Appendix, terms and conditions of sponsored agreements, or, are unallowable because they are clearly not allocable to sponsored agreements, shall be adjusted, or a refund shall be made, in accordance with the requirements of this section. These adjustments or refunds are designed to correct the proposals used to establish the rates and do not constitute a reopening of the rate negotiation. The adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

a. For rates covering a future fiscal year of the institution, the unallowable costs will be removed from the F&A cost pools and the rates appropriately adjusted.

b. 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.

c. For rates covering the current period, either a rate adjustment or a refund, as described in subsections a and b, shall be required by the cognizant agency. The choice of method shall be at the discretion of the cognizant agency, based on its judgment as to which method would be most practical.

d. 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.

10. Consistency in estimating, accumulating and reporting costs.

a. An educational institution's practices used in estimating costs in pricing a proposal shall be consistent with the educational institution's cost accounting practices used in accumulating and reporting costs.

b. An educational institution's cost accounting practices used in accumulating and reporting actual costs for a sponsored agreement shall be consistent with the educational institution's practices used in estimating costs in pricing the related proposal or application.

c. The grouping of homogeneous costs in estimates prepared for proposal purposes shall not per se be deemed an inconsistent application of cost accounting practices under subsection a when such costs are accumulated and reported in greater detail on an actual cost basis during performance of the sponsored agreement.

d. Attachment A to this Appendix also reflects this requirement, along with the purpose, definitions, and techniques for application, all of which are authoritative.

11. Consistency in allocating costs incurred for the same purpose.

a. All costs incurred for the same purpose, in like circumstances, are either direct costs only or F&A costs only with respect to final cost objectives. No final cost objective shall have allocated to it as a cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included as a direct cost of that or any other final cost objective. Further, no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any F&A cost pool to be allocated to that or any other final cost objective.

b. Attachment A to this Appendix reflects this requirement along with its purpose, definitions, and techniques for application, illustrations and interpretations, all of which are authoritative.

12. Accounting for unallowable costs.

a. Costs expressly unallowable or mutually agreed to be unallowable, including costs mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, application, or proposal applicable to a sponsored agreement.

b. Costs which specifically become designated as unallowable as a result of a written decision furnished by a Federal official pursuant to sponsored agreement disputes procedures shall be identified if included in or used in the computation of any billing, claim, or proposal applicable to a sponsored agreement. This identification requirement applies also to any costs incurred for the same purpose under like circumstances as the costs specifically identified as unallowable under either this subsection or subsection a.

c. Costs which, in a Federal official's written decision furnished pursuant to sponsored agreement disputes procedures, are designated as unallowable directly associated costs of unallowable costs covered by either subsection a or b shall be accorded the identification required by subsection b.

d. The costs of any work project not contractually authorized by a sponsored agreement, whether or not related to performance of a proposed or existing sponsored agreement, shall be accounted for, to the extent appropriate, in a manner which permits ready separation from the costs of authorized work projects.

e. All unallowable costs covered by subsections a through d shall be subject to the same cost accounting principles governing cost allocability as allowable costs. In circumstances where these unallowable costs normally would be part of a regular F&A cost allocation base or bases, they shall remain in such base or bases. Where a directly associated cost is part of a category of costs normally included in a F&A cost pool that shall be allocated over a base containing the unallowable cost with which it is associated, such a directly associated cost shall be retained in the F&A cost pool and be allocated through the regular allocation process.

f. Where the total of the allocable and otherwise allowable costs exceeds a limitation-of-cost or ceiling-price provision in a sponsored agreement, full direct and F&A cost allocation shall be made to the sponsored agreement cost objective, in accordance with established cost accounting practices and standards which regularly govern a given entity's allocations to sponsored agreement cost objectives. In any determination of a cost overrun, the amount thereof shall be identified in terms of the excess of allowable costs over the ceiling amount, rather than through specific identification of particular cost items or cost elements.

g. Attachment A reflects this requirement, along with its purpose, definitions, techniques for application, and illustrations of this standard, all of which are authoritative.

13. Cost accounting period.

a. Educational institutions shall use their fiscal year as their cost accounting period, except that:

(1) Costs of a F&A function which exists for only a part of a cost accounting period may be allocated to cost objectives of that same part of the period on the basis of data for that part of the cost accounting period if the cost is material in amount, accumulated in a separate F&A cost pool or expense pool, and allocated on the basis of an appropriate direct measure of the activity or output of the function during that part of the period.

(2) An annual period other than the fiscal year may, upon mutual agreement with the Federal Government, be used as the cost accounting period if the use of such period is an established practice of the educational institution and is consistently used for managing and controlling revenues and disbursements, and appropriate accruals, deferrals or other adjustments are made with respect to such annual periods.

(3) A transitional cost accounting period other than a year shall be used whenever a change of fiscal year occurs.

b. An educational institution shall follow consistent practices in the selection of the cost accounting period or periods in which any types of expense and any types of adjustment to expense (including prior-period adjustments) are accumulated and allocated.

c. The same cost accounting period shall be used for accumulating costs in a F&A cost pool as for establishing its allocation base, except that the Federal Government and educational institution may agree to use a different period for establishing an allocation base, provided:

(1) The practice is necessary to obtain significant administrative convenience,

(2) The practice is consistently followed by the educational institution,

(3) The annual period used is representative of the activity of the cost accounting period for which the F&A costs to be allocated are accumulated, and

(4) The practice can reasonably be estimated to provide a distribution to cost objectives of the cost accounting period not materially different from that which otherwise would be obtained.

d. Attachment A reflects this requirement, along with its purpose, definitions, techniques for application and illustrations, all of which are authoritative.

14. Disclosure Statement.

a. Educational institutions that received aggregate sponsored agreements totaling $25 million or more subject to this Appendix during their most recently completed fiscal year shall disclose their cost accounting practices by filing a Disclosure Statement (DS–2), which is reproduced in Attachment B to this Appendix. With the approval of the cognizant agency, an educational institution may meet the DS–2 submission by submitting the DS–2 for each business unit that received $25 million or more in sponsored agreements.

b. The DS–2 shall be submitted to the cognizant agency with a copy to the educational institution's audit cognizant office.

c. Educational institutions receiving $25 million or more in sponsored agreements that are not required to file a DS–2 pursuant to 48 CFR 9903.202–1 shall file a DS–2 covering the first fiscal year beginning after the publication date of this revision, within six months after the end of that fiscal year. Extensions beyond the above due date may be granted by the cognizant agency on a case-by-case basis.

d. Educational institutions are responsible for maintaining an accurate DS–2 and complying with disclosed cost accounting practices. Educational institutions must file amendments to the DS–2 when disclosed practices are changed to comply with a new

or modified standard, or when practices are changed for other reasons. Amendments of a DS–2 may be submitted at any time. If the change is expected to have a material impact on the educational institution's negotiated F&A cost rates, the revision shall be approved by the cognizant agency before it is implemented. Resubmission of a complete, updated DS–2 is discouraged except when there are extensive changes to disclosed practices.

e. Cost and funding adjustments. Cost adjustments shall be made by the cognizant agency if an educational institution fails to comply with the cost policies in this Appendix or fails to consistently follow its established or disclosed cost accounting practices when estimating, accumulating or reporting the costs of sponsored agreements, if aggregate cost impact on sponsored agreements is material. The cost adjustment shall normally be made on an aggregate basis for all affected sponsored agreements through an adjustment of the educational institution's future F&A costs rates or other means considered appropriate by the cognizant agency. Under the terms of CAS-covered contracts, adjustments in the amount of funding provided may also be required when the estimated proposal costs were not determined in accordance with established cost accounting practices.

f. Overpayments. Excess amounts paid in the aggregate by the Federal Government under sponsored agreements due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs shall be credited or refunded, as deemed appropriate by the cognizant agency. Interest applicable to the excess amounts paid in the aggregate during the period of noncompliance shall also be determined and collected in accordance with applicable Federal agency regulations.

g. Compliant cost accounting practice changes. Changes from one compliant cost accounting practice to another compliant practice that are approved by the cognizant agency may require cost adjustments if the change has a material effect on sponsored agreements and the changes are deemed appropriate by the cognizant agency.

h. Responsibilities. The cognizant agency shall:

(1) Determine cost adjustments for all sponsored agreements in the aggregate on behalf of the Federal Government. Actions of the cognizant agency official in making cost adjustment determinations shall be coordinated with all affected Federal agencies to the extent necessary.

(2) Prescribe guidelines and establish internal procedures to promptly determine on behalf of the Federal Government that a DS–2 adequately discloses the educational institution's cost accounting practices and that the disclosed practices are compliant with applicable CAS and the requirements of Attachment A to this Appendix.

(3) Distribute to all affected agencies any DS–2 determination of adequacy and/or noncompliance.

D. Direct Costs

1. General. Direct costs are those costs that can be identified specifically with a particular sponsored project, an instructional activity, or any other institutional activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or F&A costs. Where an institution treats a particular type of cost as a direct cost of sponsored agreements, all costs incurred for the same purpose in like circumstances shall be treated as direct costs of all activities of the institution.

2. Application to sponsored agreements. Identification with the sponsored work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from F&A costs of sponsored agreements. Typical costs charged directly to a sponsored agreement are the compensation of employees for performance of work under the sponsored agreement, including related fringe benefit costs to the extent they are consistently treated, in like circumstances, by the institution as direct rather than F&A costs; the costs of materials consumed or expended in the performance of the work; and other items of expense incurred for the sponsored agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of sponsored agreements, provided such items are consistently treated, in like circumstances, by the institution as direct rather than F&A costs, and are charged under a recognized method of computing actual costs, and conform to generally accepted cost accounting practices consistently followed by the institution.

E. F&A Costs

1. General. F&A costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. See Section F.1 of this Appendix for a discussion of the components of F&A costs.

2. Criteria for distribution.

a. Base period. A base period for distribution of 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 selected as to avoid inequities in the distribution of costs.

b. Need for cost groupings. The overall objective of the F&A cost allocation process is to distribute the F&A costs described in Section F of this Appendix to the major functions of the institution in proportions reasonably consistent with the nature and extent of their use of 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 F&A cost categories referred to in subsection E.1 of this Appendix. 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 E.2.c. of this Appendix. 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 the light of the guides set forth in subsection E.2.d. of this Appendix.

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 F&A cost category include but are not limited to the following:

(1) Where 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) Where any types of expense ordinarily treated as general administration or departmental administration are charged to sponsored agreements 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 F&A costs allocable to those sponsored agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service 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) Where 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 F&A costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat fringe benefits as 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; a traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

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

(3) Where 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 be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, distribute the costs to the related cost objectives in accordance with the relative benefits derived, be statistically sound, be performed specifically at the institution at which the results are to be used, and be reviewed periodically, but not less frequently than every two years, 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 shall be made in accordance with the appropriate base cited in Section F, unless one of the following conditions is met: it can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to sponsored agreements, or the institution qualifies for, and elects to use, the simplified method for computing F&A cost rates described in Section H of this Appendix.

(5) Notwithstanding subsection E.2.d.(3) of this Appendix, effective July 1, 1998, a cost analysis or base other than that in Section F of this Appendix shall not be used to distribute utility or student services costs. Instead, subsections F.4.c and F.4.d may be used in the recovery of utility costs.

e. Order of distribution.

(1) F&A costs are the broad categories of costs discussed in Section F.1 of this Appendix.

(2) Depreciation and use allowances, operation and maintenance expenses, and general administrative and general expenses should be allocated in that order to the remaining 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 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 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 F&A cost categories described in Section F of this Appendix is required.

F. Identification and Assignment of F&A Costs

1. Definition of Facilities and Administration. F&A costs are broad categories of costs. ''Facilities'' is defined as depreciation and use allowances, interest on debt associated with certain buildings, equipment and capital improvements, operation and maintenance expenses, and library expenses. ''Administration'' is defined as general administration and general expenses, departmental administration, sponsored projects administration, student administration and services, and all other types of expenditures not listed specifically under one of the subcategories of Facilities (including cross allocations from other pools).

2. Depreciation and use allowances.

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 Section J.14 of this Appendix.

b. In the absence of the alternatives provided for in Section E.2.d of this Appendix, the expenses included in this category shall be allocated in the following manner:

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

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

(3) Depreciation or use allowances 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) shall be treated as follows. The cost of each jointly used unit of space shall be allocated to benefiting functions on the basis of:

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

(b) Institution-wide employee FTEs or salaries and wages applicable to the benefiting major functions (see Section B.1 of this Appendix) of the institution.

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

c. Large research facilities. The following provisions apply to large research facilities that are included in F&A rate proposals negotiated after January 1, 2000, and on which the design and construction begin after July 1, 1998. Large facilities, for this provision, are defined as buildings with construction costs of more than $10 million. The determination of the Federal participation (use) percentage in a building is based on institution's estimates of building use over its life, and is made during the planning phase for the building.

(1) When an institution has large research facilities, of which 40 percent or more of total assignable space is expected for Federal use, the institution must maintain an adequate review and approval process to ensure that construction costs are reasonable.

(a)The review process shall address and document relevant factors affecting construction costs, such as:

i. Life cycle costs
ii. Unique research needs
iii. Special building needs
iv. Building site preparation
v. Environmental consideration
vi. Federal construction code requirements
vii. Competitive procurement practices

(b) The approval process shall include review and approval of the projects by the institution's Board of Trustees (which can also be called Board of Directors, Governors or Regents) or other independent entities.

(2) For research facilities costing more than $25 million, of which 50 percent or more of total assignable space is expected for Federal use, the institution must document the review steps performed to assure that construction costs are reasonable. The review should include an analysis of construction costs and a comparison of these costs with relevant construction data, including the National Science Foundation data for research facilities based on its biennial survey, ''Science and Engineering Facilities at Colleges and Universities.'' The documentation must be made available for review by Federal negotiators, when requested.

3. Interest. Interest on debt associated with certain buildings, equipment and capital improvements, as defined in Section J.25 of this Appendix, shall be classified as an expenditure under the category Facilities. These costs shall be allocated in the same manner as the depreciation or use allowances 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; hazardous 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 use allowances, and interest costs.

b. In the absence of the alternatives provided for in Section E.2.d of this Appendix, the expenses included in this category shall be allocated in the same manner as described in subsection E.2.b for depreciation and use allowances.

c. For F&A rates negotiated on or after July 1, 1998, an institution that previously employed a utility special cost study in its most recently negotiated F&A rate proposal in accordance with Section E.2.d of this Appendix, may add a utility cost adjustment (UCA) of 1.3 percentage points to its negotiated overall F&A rate for organized research. Exhibit B to this Appendix displays the list of eligible institutions. The allocation of utility costs to the benefiting functions shall otherwise be made in the same manner as described in subsection F.4.b of this Appendix. Beginning on July 1, 2002, Federal agencies shall reassess periodically the eligibility of institutions to receive the UCA.

d. Beginning on July 1, 2002, Federal agencies may receive applications for utilization of the UCA from institutions not subject to the provisions of subsection F.4.c of this Appendix.

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 expense of a general character which do not relate solely to any major function of the institution; *i.e.*, solely to instruction, organized research, other sponsored activities, or 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 use allowances, 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 shall not include expenses incurred within non-university-wide deans' offices, academic departments, organized research units, or similar organizational units. (See subsection F.6. of this Appendix, Departmental administration expenses.)

b. In the absence of the alternatives provided for in Section E.2.d of this Appendix, the expenses included in this category shall 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 shall then be allocated to serviced or benefited functions on the modified total cost basis. Modified total costs consist of the same elements as those in Section G.2 of this Appendix. When an activity included in this 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, shall 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 shall be added to the computation of the F&A cost rate for major functions in Section G of this Appendix; the expenses covered by the allowance shall 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 the like.

(3) Other fringe benefit costs applicable to the salaries and wages included in subsections F.6.a.(1) and (2) of this Appendix are allowable, as well as an appropriate share of general administration and general expenses, operation and maintenance expenses, and depreciation and/or use allowances.

(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 or 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 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 shall be treated as direct cost wherever identifiable to a particular cost objective. Direct charging of these costs may be accomplished through specific identification of individual costs to benefiting cost objectives, or through recharge centers or specialized service facilities, as appropriate under the circumstances.

(2) The salaries of administrative and clerical staff should normally be treated as F&A costs. Direct charging of these costs may be appropriate where a major project or activity explicitly budgets for administrative or clerical services and individuals involved can be specifically identified with the project or activity. ''Major project'' is defined as a project that requires an extensive amount of administrative or clerical support, which is significantly greater than the routine level of such services provided by academic departments. Some examples of major projects are described in Exhibit C to this Appendix.

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

c. In the absence of the alternatives provided for in Section E.2.d of this Appendix, the expenses included in this category shall be allocated as follows:

(1) The administrative expenses of the dean's office of each college and school shall 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 F.6.b.(1) of this Appendix shall 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, stenographic pools and the like. This category also includes an allocable share of fringe benefit costs, general administration and general expenses, operation and maintenance expenses, depreciation/use allowances. Appropriate adjustments will be made for services provided to other functions or organizations.

b. In the absence of the alternatives provided for in Section E.2.d of this

Appendix, the expenses included in this category shall 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 shall be made to eliminate any duplicate charges to sponsored agreements when this category includes similar or identical activities as those included in the general administration and general expense category or other 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 Section C.5 of this Appendix. 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 and use allowances. Costs incurred in the purchases of rare books (museum-type books) with no value to sponsored agreements should not be allocated to them.

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

(1) The student category shall 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 shall consist of all faculty members and other professional employees of the institution, on a full-time equivalent basis.

(3) The other users category shall consist of all other users of library facilities.

c. Amount allocated in subsection E.8.b of this Appendix shall be assigned further as follows:

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

(2) The amount in the professional employee category shall 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 shall be assigned to the other institutional activities function of the institution.

9. Student administration and services.

a. The expenses under this heading are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose responsibilities to the institution require administrative work that benefits sponsored projects may also be included to the extent that the portion charged to student administration is determined in accordance with Section J.10 of this Appendix. 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, and use allowances and/or depreciation.

b. In the absence of the alternatives provided for in Section E.2.d of this Appendix, the expenses in this category shall be allocated to the instruction function, and subsequently to sponsored agreements in that function.

10. Offset for 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 that 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 F.2 through 9 of this Appendix.

b. The items in this group shall be treated as a credit to the affected individual F&A cost category before that category is allocated to benefiting functions.

G. Determination and Application of F&A Cost Rate or Rates

1. F&A cost pools.

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

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

(3) Each institution's F&A cost rate process must be appropriately designed to ensure that Federal sponsors do not in any way subsidize the F&A costs of other sponsors, specifically activities sponsored by industry and foreign governments. Accordingly, each allocation method used to identify and allocate the F&A cost pools, as described in Sections E.2 and F.2 through F.9 of this Appendix, 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 G.2 of this Appendix) for each major function (organized research, instruction, etc., as described in Section B.1 of this Appendix) shall contain all the programs or activities that utilize the F&A costs allocated to that major function. At the time a F&A cost proposal is submitted to a cognizant Federal agency, 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 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 sponsored agreements 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 of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of a sponsored agreement is performed within an environment which appears to generate a significantly different level of F&A costs, provisions should be made for a separate F&A cost pool applicable to such work. The separate F&A cost pool should be developed during the regular course of the rate determination process and the separate F&A cost rate resulting therefrom should be utilized; provided it is determined that such F&A cost rate differs significantly from that which would have been obtained under subsection G.1.a of this Appendix, and the volume of work to which such rate would apply is material in relation to other sponsored agreements at the institution.

2. The distribution basis. F&A costs shall be distributed to applicable sponsored agreements and other benefiting activities within each major function (see Section B.1) on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to the first $25,000 of each subgrant or subcontract (regardless of the period covered by the subgrant or subcontract). Equipment, capital expenditures, charges for patient care and tuition remission, rental costs, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of $25,000 shall be excluded from modified total direct costs. Other items may only be excluded where necessary to avoid a serious inequity in the distribution of F&A costs. For this purpose, a F&A cost rate should be determined for each of the separate F&A cost pools developed pursuant to subsection G.1 of this Appendix. The rate in each case should be stated as the percentage that the amount of the particular F&A cost pool is of the modified total direct costs identified with such pool.

3. Negotiated lump sum for F&A costs. A negotiated fixed amount in lieu of F&A costs may be appropriate for self-contained, off-campus, or primarily subcontracted activities where the benefits derived from an institution's F&A services cannot be readily determined. Such negotiated 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 F&A costs. Public Law 87–638 (76 Stat. 437) authorizes the use of predetermined rates in determining the ''indirect costs'' (F&A costs in this Appendix) 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 F&A 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 F&A costs during the ensuing accounting periods.

5. Negotiated fixed rates and 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 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 F&A costs allocable to sponsored agreements 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 shall 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 Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carry-forward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined 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 postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate.

6. Provisional and final rates for F&A costs. Where the cognizant agency 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 shall be established. To prevent substantial overpayment or underpayment, the provisional rate may be adjusted by the cognizant agency during the institution's fiscal year. Predetermined or fixed rates may replace provisional 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 be made based on the actual allowable costs incurred for the period involved.

7. Fixed rates for the life of the sponsored agreement.

a. Federal agencies shall use the negotiated rates for F&A costs in effect at the time of the initial award throughout the life of the sponsored agreement. ''Life'' for the purpose of this subsection means each competitive segment of a project. A competitive segment is a period of years approved by the Federal funding agency at the time of the award. If negotiated rate agreements do not extend through the life of the sponsored agreement at the time of the initial award, then the negotiated rate for the last year of the sponsored agreement shall be extended through the end of the life of the sponsored agreement. Award levels for sponsored agreements may not be adjusted in future years as a result of changes in negotiated rates.

b. When an educational institution does not have a negotiated rate with the Federal Government at the time of the award (because the educational institution is a new grantee or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award shall be adjusted once a rate is negotiated and approved by the cognizant agency.

8. Limitation on reimbursement of administrative costs.

a. Notwithstanding the provisions of subsection G.1.a of this Appendix, the administrative costs charged to sponsored agreements awarded or amended (including continuation and renewal awards) with effective dates beginning on or after the start of the institution's first fiscal year which begins on or after October 1, 1991, shall be limited to 26% of modified total direct costs (as defined in subsection G.2 of this Appendix) for the total of General Administration and General Expenses, Departmental Administration, Sponsored Projects Administration, and Student Administration and Services (including their allocable share of depreciation and/or use allowances, interest costs, operation and maintenance expenses, and fringe benefits costs, as provided by Sections F.5, F.6, F.7 and F.9 of this Appendix) and all other types of expenditures not listed specifically under one of the subcategories of facilities in Section F of this Appendix.

b. Existing F&A cost rates that affect institutions' fiscal years which begin on or after October 1, 1991, shall be unilaterally amended by the cognizant Federal agency to reflect the cost limitation in subsection G.8.a of this Appendix.

c. Permanent rates established prior to this revision that have been amended in accordance with subsection G.8.b of this Appendix may be renegotiated. However, no such renegotiated rate may exceed the rate which would have been in effect if the agreement had remained in effect; nor may the administrative portion of any renegotiated rate exceed the limitation in subsection a.

d. Institutions should not change their accounting or cost allocation methods which were in effect on May 1, 1991, if the effect is to change the charging of a particular type of cost from F&A to direct, or reclassify costs, or increase allocations, from the administrative pools identified in subsection to the other F&A cost pools or fringe benefits. Cognizant Federal agencies are authorized to permit 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 1.a, an institution may elect to claim fixed allowance for the ''Administration'' portion of 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 F.1 of this Appendix, whichever is less, provided that no accounting or cost allocation changes with the effects described in subsection G.8.d of this Appendix have occurred. Under this alternative, no cost proposal need be prepared for the ''Administration'' portion of the F&A cost rate nor is further identification or documentation of these costs required (see subsection G.9.c of this Appendix). Where a negotiated F&A cost agreement includes this alternative, an institution shall make no further charges for the expenditure categories described in Sections F.5, F.6, F.7 and F.9 of this Appendix.

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, provided that no accounting or cost allocation changes with the effects described in subsection G.8.d of this Appendix have occurred.

c. If an institution elects to accept a threshold rate, it is not required to perform a detailed analysis of its administrative costs. However, in order to compute the facilities components of its F&A cost rate, the institution must reconcile its F&A cost proposal to its financial statements and make appropriate adjustments and reclassifications to identify the costs of each major function as defined in Section B.1 of this Appendix, as well as to identify and allocate the facilities components. Administrative costs that are 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 F&A cost proposals to financial statements and allocating facilities costs.

10. Individual rate components.

In order to satisfy the requirements of Section J.14 of this Appendix and to provide

mutually agreed upon information for management purposes, each F&A cost rate negotiation or determination shall include development of a rate for each F&A cost pool as well as the overall F&A cost rate.

11. Negotiation and approval of F&A rate.

a. Cognizant agency assignments. ''A cognizant agency'' means the Federal agency responsible for negotiating and approving F&A rates for an educational institution on behalf of all Federal agencies.

(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 shall 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 assignment shall default to HHS. Notwithstanding the method for cognizance determination described above, 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 shall be decided based on mutual agreement between HHS and DOD.

(2) Cognizant assignments as of December 31, 1995, shall continue in effect through educational institutions' fiscal years ending during 1997, or the period covered by negotiated agreements in effect on December 31, 1995, whichever is later, except for those educational institutions with cognizant agencies other than HHS or DOD. Cognizance for these educational institutions shall transfer to HHS or DOD at the end of the period covered by the current negotiated rate agreement. After cognizance is established, it shall continue for a five-year period.

b. Acceptance of rates. The negotiated rates shall be accepted by all Federal agencies. Only under special circumstances, when required by law or regulation, may an agency use a rate different from the negotiated rate for a class of sponsored agreements or a single sponsored agreement.

c. Correcting deficiencies. The cognizant agency shall negotiate changes needed to correct systems deficiencies relating to accountability for sponsored agreements. Cognizant agencies shall address the concerns of other affected agencies, as appropriate.

d. Resolving questioned costs. The cognizant agency shall 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 work performed under Part 220 may be made by reimbursement billing under the Economy Act, 31 U.S.C. 1535.

f. Procedure for establishing facilities and administrative rates. The cognizant agency shall arrange with the educational institution to provide copies of rate proposals to all interested agencies. Agencies wanting such copies should notify the cognizant agency. Rates shall be established by one of the following methods:

(1) Formal negotiation. The cognizant agency is responsible for negotiating and approving rates for an educational institution on behalf of all Federal agencies. Non-cognizant Federal agencies, which award sponsored agreements to an educational institution, shall notify the cognizant agency of specific concerns (*i.e.*, a need to establish special cost rates) that could affect the negotiation process. The cognizant agency shall 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 shall then arrange a negotiation conference with the educational institution.

(2) Other than formal negotiation. The cognizant agency 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 Appendix.

g. Formalizing determinations and agreements. The cognizant agency shall formalize all determinations or agreements reached with an educational institution and provide copies to other agencies having an interest.

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

12. Standard Format for Submission. For facilities and administrative (F&A) rate proposals submitted on or after July 1, 2001, educational institutions shall use the standard format, shown in Attachment C to this Appendix, to submit their F&A rate proposal to the cognizant agency. The cognizant agency 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 F&A rates, as described in Section H of this Appendix.

H. Simplified Method for Small Institutions

1. General.

a. Where the total direct cost of work covered by Part 220 at an institution does not exceed $10 million in a fiscal year, the use of the simplified procedure described in subsections H.2 or 3 of this Appendix, may be used in determining allowable F&A costs. Under this simplified procedure, the institution's most recent annual financial report and immediately available supporting information shall be utilized as basis for determining the F&A cost rate applicable to all sponsored agreements. The institution may use either the salaries and wages (see subsection H.2 of this Appendix) or modified total direct costs (see subsection H.3 of this Appendix) as distribution basis.

b. The simplified procedure should not be used where it produces results that appear inequitable to the Federal Government or the institution. In any such case, 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 F&A cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) that 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). In those cases where expenditures have previously been allocated to other institutional activities, they may be included in the F&A cost pool. The total amount of salaries and wages included in the F&A cost pool must be separately identified.

(2) Operation and maintenance of physical plant; and depreciation and use allowances; 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.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established in subsection a the amount of salaries and wages included under subsection H.2.b of this Appendix.

d. Establish the F&A cost rate, determined by dividing the amount in the F&A cost pool, subsection H.2.b of this Appendix, by the amount of the distribution base, subsection H.2.c of this Appendix.

e. Apply the F&A cost rate to direct salaries and wages for individual agreements to determine the amount of 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 a F&A cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) that 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). In those cases where expenditures have previously been allocated to other institutional activities, they may be included in the F&A cost pool. The modified total direct costs amount included in the F&A cost pool must be separately identified.

(2) Operation and maintenance of physical plant; and depreciation and use allowances; 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.

c. Establish a modified total direct cost distribution base, as defined in Section G.2 of this Appendix, that consists of all institution's direct functions.

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

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

I. Reserved

J. General Provisions for Selected Items of Cost

Sections J.1 through 54 of this Appendix provide principles to be applied in establishing the allowability of certain items involved in determining cost. These principles should apply irrespective of whether a particular item of cost is properly treated as direct cost or F&A cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific sponsored agreement and the provisions below, the agreement should govern.

1. Advertising and public relations costs.

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

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

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

(1) The recruitment of personnel required for the performance by the institution of obligations arising under a sponsored agreement (See also section J.42.b of this Appendix, Recruiting);

(2) The procurement of goods and services for the performance of a sponsored agreement;

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

(4) Other specific purposes necessary to meet the requirements of the sponsored agreement.

d. The only allowable public relations costs are:

(1) Costs specifically required by the sponsored agreement;

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

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

e. Costs identified in subsections c and d if incurred for more than one sponsored agreement or for both sponsored work and other work of the institution, are allowable to the extent that the principles in sections D. (''Direct Costs'') and E. (''F & A Costs'') of this Appendix are observed.

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

(1) All advertising and public relations costs other than as specified in subsections J.1.c, 1.d and 1.e of this Appendix.

(2) Costs of meetings, conventions, convocations, or other events related to other activities of the institution, including:

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

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

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

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

(4) Costs of advertising and public relations designed solely to promote the institution.

2. Advisory councils.

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

3. Alcoholic beverages.

Costs of alcoholic beverages are unallowable.

4. Alumni/ae activities.

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

5. Audit costs and related services.

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

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

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

6. Bad Debt.

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

7. Bonding costs.

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

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

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

8. Commencement and convocation costs.

Costs incurred for commencements and convocations are unallowable, except as provided for in Section F.9 of this Appendix.

9. Communication costs.

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

10. Compensation for personal services.

a. General. Compensation for personal services covers all amounts paid currently or accrued by the institution for services of employees rendered during the period of performance under sponsored agreements. Such amounts include salaries, wages, and fringe benefits (see subsection J.10.f of this Appendix). These costs are allowable to the extent that the total compensation to individual employees conforms to the established policies of the institution, consistently applied, and provided that the charges for work performed directly on sponsored agreements and for other work allocable as F&A costs are determined and supported as provided below. Charges to sponsored agreements may include reasonable amounts for activities contributing and intimately related to work under the agreements, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences. Incidental work (that in excess of normal for the individual), for which supplemental compensation is paid by an institution under institutional policy, need not be included in the payroll distribution systems described below, provided such work and compensation are separately identified and documented in the financial management system of the institution.

b. Payroll distribution.

(1) General Principles.

(a) The distribution of salaries and wages, whether treated as direct or F&A costs, will be based on payrolls documented in accordance with the generally accepted practices of colleges and universities. Institutions may include in a residual category all activities that are not directly charged to sponsored agreements, and that need not be distributed to more than one activity for purposes of identifying F&A costs and the functions to which they are allocable. The components of the residual category are not required to be separately documented.

(b) The apportionment of employees' salaries and wages which are chargeable to more than one sponsored agreement or other cost objective will be accomplished by methods which will—

(1) Be in accordance with Sections A.2 and C of this Appendix;

(2) Produce an equitable distribution of charges for employee's activities; and

(3) Distinguish the employees' direct activities from their F&A activities.

(c) In the use of any methods for apportioning salaries, it is recognized that, in an academic setting, teaching, research, service, and administration are often inextricably intermingled. A precise assessment of factors that contribute to costs is not always feasible, nor is it expected. Reliance, therefore, is placed on estimates in which a degree of tolerance is appropriate.

(d) There is no single best method for documenting the distribution of charges for personal services. Methods for apportioning salaries and wages, however, must meet the criteria specified in subsection J.10.b.(2) of this Appendix. Examples of acceptable methods are contained in subsection c. Other methods that meet the criteria specified in subsection J.10.b.(2) of this Appendix also shall be deemed acceptable, if a mutually satisfactory alternative agreement is reached.

(2) Criteria for Acceptable Methods.

(a) The payroll distribution system will be incorporated into the official records of the institution; reasonably reflect the activity for which the employee is compensated by the institution; and encompass both sponsored and all other activities on an integrated basis, but may include the use of subsidiary records. (Compensation for incidental work described in subsection a need not be included.)

(b) The method must recognize the principle of after-the-fact confirmation or determination so that costs distributed represent actual costs, unless a mutually satisfactory alternative agreement is reached. Direct cost activities and F&A cost activities may be confirmed by responsible persons with suitable means of verification that the work was performed. Confirmation by the employee is not a requirement for either direct or F&A cost activities if other responsible persons make appropriate confirmations.

(c) The payroll distribution system will allow confirmation of activity allocable to each sponsored agreement and each of the categories of activity needed to identify F&A costs and the functions to which they are allocable. The activities chargeable to F&A cost categories or the major functions of the institution for employees whose salaries must be apportioned (see subsection J.10.b.(1)(b) of this Appendix), if not initially identified as separate categories, may be subsequently distributed by any reasonable method mutually agreed to, including, but not limited to, suitably conducted surveys, statistical sampling procedures, or the application of negotiated fixed rates.

(d) Practices vary among institutions and within institutions as to the activity constituting a full workload. Therefore, the payroll distribution system may reflect categories of activities expressed as a percentage distribution of total activities.

(e) Direct and F&A charges may be made initially to sponsored agreements on the basis of estimates made before services are performed. When such estimates are used, significant changes in the corresponding work activity must be identified and entered into the payroll distribution system. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term, such as an academic period.

(f) The system will provide for independent internal evaluations to ensure the system's effectiveness and compliance with the above standards.

(g) For systems which meet these standards, the institution will not be required to provide additional support or documentation for the effort actually performed.

c. Examples of Acceptable Methods for Payroll Distribution:

(1) Plan-Confirmation: Under this method, the distribution of salaries and wages of professorial and professional staff applicable to sponsored agreements is based on budgeted, planned, or assigned work activity, updated to reflect any significant changes in work distribution. A plan-confirmation system used for salaries and wages charged directly or indirectly to sponsored agreements will meet the following standards:

(a) A system of budgeted, planned, or assigned work activity will be incorporated into the official records of the institution and encompass both sponsored and all other activities on an integrated basis. The system may include the use of subsidiary records.

(b) The system will reasonably reflect only the activity for which the employee is compensated by the institution (compensation for incidental work described in subsection a need not be included). Practices vary among institutions and within institutions as to the activity constituting a full workload. Hence, the system will reflect categories of activities expressed as a percentage distribution of total activities. (See Section H of this Appendix for treatment of F&A costs under the simplified method for small institutions.)

(c) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify F&A costs and the functions to which they are allocable. The system may treat F&A cost activities initially within a residual category and subsequently determine them by alternate methods as discussed in subsection J.10.c.(2)(c) of this Appendix.

(d) The system will provide for modification of an individual's salary or salary distribution commensurate with a significant change in the employee's work activity. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term, such as an academic period. Whenever it is apparent that a significant change in work activity that is directly or indirectly charged to sponsored agreements will occur or has occurred, the change will be documented over the signature of a responsible official and entered into the system.

(e) At least annually a statement will be signed by the employee, principal investigator, or responsible official(s) using suitable means of verification that the work was performed, stating that salaries and wages charged to sponsored agreements as direct charges, and to residual, F&A cost or other categories are reasonable in relation to work performed.

(f) The system will provide for independent internal evaluation to ensure the system's integrity and compliance with the above standards.

(g) In the use of this method, an institution shall not be required to provide additional support or documentation for the effort actually performed.

(2) After-the-fact Activity Records: Under this system the distribution of salaries and wages by the institution will be supported by activity reports as prescribed below.

(a) Activity reports will reflect the distribution of activity expended by employees covered by the system (compensation for incidental work as described in subsection a need not be included).

(b) These reports will reflect an after-the-fact reporting of the percentage distribution of activity of employees. Charges may be made initially on the basis of estimates made before the services are performed, provided that such charges are promptly adjusted if significant differences are indicated by activity records.

(c) Reports will reasonably reflect the activities for which employees are compensated by the institution. To confirm that the distribution of activity represents a reasonable estimate of the work performed by the employee during the period, the reports will be signed by the employee, principal investigator, or responsible official(s) using suitable means of verification that the work was performed.

(d) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify F&A costs and the functions to which they are allocable. The system may treat F&A cost activities initially within a residual category and subsequently determine them by alternate methods as discussed in subsection J.10.b.(2)(c) of this Appendix.

(e) For professorial and professional staff, the reports will be prepared each academic term, but no less frequently than every six months. For other employees, unless alternate arrangements are agreed to, the reports will be prepared no less frequently than monthly and will coincide with one or more pay periods.

(f) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as records for this purpose, provided that they meet the requirements in subsections J.10.c.(2)(a) through (e) of this Appendix.

(3) Multiple Confirmation Records: Under this system, the distribution of salaries and wages of professorial and professional staff will be supported by records which certify

separately for direct and F&A cost activities as prescribed below.

(a) For employees covered by the system, there will be direct cost records to reflect the distribution of that activity expended which is to be allocable as direct cost to each sponsored agreement. There will also be F&A cost records to reflect the distribution of that activity to F&A costs. These records may be kept jointly or separately (but are to be certified separately, see below).

(b) Salary and wage charges may be made initially on the basis of estimates made before the services are performed, provided that such charges are promptly adjusted if significant differences occur.

(c) Institutional records will reasonably reflect only the activity for which employees are compensated by the institution (compensation for incidental work as described in subsection a need not be included).

(d) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify F&A costs and the functions to which they are allocable.

(e) To confirm that distribution of activity represents a reasonable estimate of the work performed by the employee during the period, the record for each employee will include:

(1) The signature of the employee or of a person having direct knowledge of the work, confirming that the record of activities allocable as direct costs of each sponsored agreement is appropriate; and,

(2) The record of F&A costs will include the signature of responsible person(s) who use suitable means of verification that the work was performed and is consistent with the overall distribution of the employee's compensated activities. These signatures may all be on the same document.

(f) The reports will be prepared each academic term, but no less frequently than every six months.

(g) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as records for this purpose, provided they meet the requirements in subsections J.10.c.(3)(a) through (f) of this Appendix.

d. Salary rates for faculty members.

(1) Salary rates for academic year. Charges for work performed on sponsored agreements by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsoring agency.

(2) Periods outside the academic year.

(a) Except as otherwise specified for teaching activity in subsection J.10.d.(2)(b) of this Appendix, charges for work performed by faculty members on sponsored agreements during the summer months or other period not included in the base salary period will be determined for each faculty member at a rate not in excess of the base salary divided by the period to which the base salary relates, and will be limited to charges made in accordance with other parts of this section. The base salary period used in computing charges for work performed during the summer months will be the number of months covered by the faculty member's official academic year appointment.

(b) Charges for teaching activities performed by faculty members on sponsored agreements during the summer months or other periods not included in the base salary period will be based on the normal policy of the institution governing compensation to faculty members for teaching assignments during such periods.

(3) Part-time faculty. Charges for work performed on sponsored agreements by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for the part-time assignments. For example, an institution pays $5000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time to a sponsored agreement. Thus, his additional compensation, chargeable by the institution to the agreement, would be one-half of $5000, or $2500.

e. Noninstitutional professional activities. Unless an arrangement is specifically authorized by a Federal sponsoring agency, an institution must follow its institution-wide policies and practices concerning the permissible extent of professional services that can be provided outside the institution for noninstitutional compensation. Where such institution-wide policies do not exist or do not adequately define the permissible extent of consulting or other noninstitutional activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on sponsored agreements be allocated between institutional activities, and noninstitutional professional activities. If the sponsoring agency considers the extent of noninstitutional professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

f. Fringe benefits.

(1) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable, provided such costs are distributed to all institutional activities in proportion to the relative amount of time or effort actually devoted by the employees. See subsection J.11.f.(4) of this Appendix for treatment of sabbatical leave.

(2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established educational institutional policies, and are distributed to all institutional activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable for fiscal years beginning after September 30, 1998. See Section J.45.b, Scholarships and student aid costs, of this Appendix for treatment of tuition remission provided to students.

(3) Rules for pension plan costs are as follows:

(a) Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness, the methods of cost allocation are equitable for all activities, the amount of pension cost assigned to each fiscal year is determined in accordance with subsection (b), and the cost assigned to a given fiscal year is paid or funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

(b) The amount of pension cost assigned to each fiscal year shall be determined in accordance with generally accepted accounting principles. Institutions may elect to follow the ''Cost Accounting Standard for Composition and Measurement of Pension Cost'' (48 Part 9904–412).

(c) Premiums paid for pension plan termination insurance pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (Pub. L. 93–406) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and prohibited transactions of pension plan fiduciaries imposed under ERISA are also unallowable.

(4) Rules for sabbatical leave are as follows:

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

(b) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in

relation to the institution's actual experience under its sabbatical leave policy.

(5) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of institution-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the institution demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees. Fringe benefits shall be treated in the same manner as the salaries and wages of the employees receiving the benefits. The benefits related to salaries and wages treated as direct costs shall also be treated as direct costs; the benefits related to salaries and wages treated as F&A costs shall be treated as F&A costs.

g. Institution-furnished automobiles.

That portion of the cost of institution-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable regardless of whether the cost is reported as taxable income to the employees.

h. Severance pay.

(1) Severance pay is compensation in addition to regular salary and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

(2) Severance payments that are due to normal recurring turnover and which otherwise meet the conditions of subsection J.10.h.(1) of this Appendix may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

(3) Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Federal Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

(4) Costs incurred in excess of the institution's normal severance pay policy applicable to all persons employed by the institution upon termination of employment are unallowable.

11. Contingency provisions.

Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable, except as noted in the cost principles in this Appendix regarding self-insurance, pensions, severance and post-retirement health costs.

12. Deans of faculty and graduate schools.

The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

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

a. Definitions.

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

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

''Fraud,'' as used herein, means—

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

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

(3) Acts which violate the False Claims Act, 31 U.S.C., sections 3729–3731, or the Anti-kickback Act, 41 U.S.C., sections 51 and 54.

''Penalty,'' does not include restitution, reimbursement, or compensatory damages.

''Proceeding,'' includes an investigation.

b. (1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal Government, or a State, local or foreign government, are not allowable if the proceeding

(a) Relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation, by the institution (including its agents and employees); and

(b) Results in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of institutional liability.

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

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

(v) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in subsections J.13.b.(1)(b)(i) through (iv) of this Appendix.

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

c. If a proceeding referred to in subsection J.13.b. of this Appendix is commenced by the Federal Government and is resolved by consent or compromise pursuant to an agreement entered into by the institution and the Federal Government, then the costs incurred by the institution in connection with such proceedings that are otherwise not allowable under subsection b. may be allowed to the extent specifically provided in such agreement.

d. If a proceeding referred to in subsection J.13.b. of this Appendix is commenced by a State, local or foreign government, the authorized Federal official may allow the costs incurred by the institution for such proceedings, if such authorized official determines that the costs were incurred as a result of—

(1) A specific term or condition of a federally-sponsored agreement; or

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

e. Costs incurred in connection with proceedings described in subsection J.13.b of this Appendix, but which are not made unallowable by that subsection, may be allowed by the Federal Government, but only to the extent that:

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

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

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

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

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

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

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

i. Costs, which may be unallowable under this section, including directly associated costs, shall be segregated and accounted for by the institution separately. During the

pendency of any proceeding covered by subsections J.13.b and f of this Appendix, the Federal Government shall generally withhold payment of such costs. However, if in the best interests of the Federal Government, the Federal Government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement by the institution to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

14. Depreciation and use allowances.

a. Institutions may be compensated for the use of their buildings, capital improvements, and equipment, provided that they are used, needed in the institutions' activities, and properly allocable to sponsored agreements. Such compensation shall be made by computing either depreciation or use allowance. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not computed. The allocation for depreciation or use allowance shall be made in accordance with Section F.2 of this Appendix. Depreciation and use allowances are computed applying the following rules:

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

c. For this purpose, the acquisition cost will exclude:

(1) The cost of land;

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

(3) Any portion of the cost of buildings and equipment contributed by or for the institution where law or agreement prohibits recovery.

d. In the use of the depreciation method, the following shall be observed:

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

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency. The depreciation methods used to calculate the depreciation amounts for F&A rate purposes shall be the same methods used by the institution for its financial statements. This requirement does not apply to those institutions (*e.g.*, public institutions of higher education) which are not required to record depreciation by applicable generally accepted accounting principles (GAAP).

(3) Where the depreciation method is introduced to replace the use allowance method, depreciation shall be computed as if the asset had been depreciated over its entire life (*i.e.*, from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The aggregate amount of use allowances and depreciation attributable to an asset (including imputed depreciation applicable to periods prior to the conversion to the use allowance method as well as depreciation after the conversion) may be less than, and in no case, greater than the total acquisition cost of the asset.

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

(5) Where the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that have outlived their depreciable lives. (See also subsection J.14.e.(3) of this Appendix)

e. Under the use allowance method, the following shall be observed:

(1) The use allowance for buildings and improvements (including improvements such as paved parking areas, fences, and sidewalks) shall be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment shall be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost. Use allowance recovery is limited to the acquisition cost of the assets. For donated assets, use allowance recovery is limited to the fair market value of the assets at the time of donation.

(2) In contrast to the depreciation method, the entire building must be treated as a single asset without separating its ''shell'' from other building components under the use allowance method. The entire building must be treated as a single asset, and the two-percent use allowance limitation must be applied to all parts of the building. The two-percent limitation, however, need not be applied to equipment or other assets that are merely attached or fastened to the building but not permanently fixed and are used as furnishings, decorations or for specialized purposes (*e.g.*, dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, and carpeting). Such equipment and assets will be considered as not being permanently fixed to the building if they can be removed without the need for costly or extensive alterations or repairs to the building to make the space usable for other purposes. Equipment and assets that meet these criteria will be subject to the 6⅔ percent equipment use allowance.

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

(4) Notwithstanding subsection J.14.e.(3) of this Appendix, once a institution converts from one cost recovery methodology to another, acquisition costs not recovered may not be used in the calculation of the use allowance in subsection J.14.e.(3) of this Appendix.

f. Except as otherwise provided in subsections J.14.b. through e. of this Appendix, a combination of the depreciation and use allowance methods may not be used, in like circumstances, for a single class of assets (*e.g.*, buildings, office equipment, and computer equipment).

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

h. This section applies to the largest college and university recipients of Federal research and development funds as displayed in Exhibit A, List of Colleges and Universities Subject to Section J.14.h of this Appendix.

(1) Institutions shall expend currently, or reserve for expenditure within the next five years, the portion of F&A cost payments made for depreciation or use allowances under sponsored research agreements, consistent with Section F.2 of this Appendix, to acquire or improve research facilities. This provision applies only to Federal agreements, which reimburse F&A costs at a full negotiated rate. These funds may only be used for liquidation of the principal of debts incurred to acquire assets that are used directly for organized research activities, or payments to acquire, repair, renovate, or improve buildings or equipment directly used for organized research. For buildings or equipment not exclusively used for organized research activity, only appropriately proportionate amounts will be considered to have been expended for research facilities.

(2) An assurance that an amount equal to the Federal reimbursements has been appropriately expended or reserved to acquire or improve research facilities shall be submitted as part of each F&A cost proposal

submitted to the cognizant Federal agency which is based on costs incurred on or after October 1, 1991. This assurance will cover the cumulative amounts of funds received and expended during the period beginning after the period covered by the previous assurance and ending with the fiscal year on which the proposal is based. The assurance shall also cover any amounts reserved from a prior period in which the funds received exceeded the amounts expended.

15. Donations and contributions.

a. Contributions or Donations rendered.

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

b. Donated services received.

Donated or volunteer services may be furnished to an institution by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or F&A cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with 2 CFR Part 215.

c. Donated property.

The value of donated property is not reimbursable either as a direct or F&A cost, except that depreciation or use allowances on donated assets are permitted in accordance with Section J.14. The value of donated property may be used to meet cost sharing or matching requirements, in accordance with 2 CFR Part 215.

16. Employee morale, health, and welfare costs and costs.

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

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

c. Losses resulting from operating food services are allowable only if the institution's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only where the institution can demonstrate unusual circumstances, and with the approval of the cognizant Federal agency.

17. Entertainment costs.

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

18. Equipment and other capital expenditures.

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

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

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

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

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

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

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

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

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior approval of the awarding agency.

(4) When approved as a direct charge pursuant to subsections J.18.b(1) through (3) of this Appendix, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate by and negotiated with the awarding agency.

(5) Equipment and other capital expenditures are unallowable as indirect costs. However, see section J.14 of this Appendix, Depreciation and use allowances, for rules on the allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see section J.43 of this Appendix, Rental costs of buildings and equipment, for rules on the allowability of rental costs for land, buildings, and equipment.

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

19. Fines and penalties.

Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the sponsored agreement, or instructions in writing from the authorized official of the sponsoring agency authorizing in advance such payments.

20. Fund raising and investment costs.

a. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

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

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

21. Gain and losses on depreciable assets.

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

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

(a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under Section J.14 of this Appendix.

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

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in Section J.25 of this Appendix.

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

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

c. When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds shall be made in accordance with 2 CFR Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A–110).

22. Goods or services for personal use.

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

23. Housing and personal living expenses.

a. Costs of housing (*e.g.*, depreciation, maintenance, utilities, furnishings, rent, etc.), housing allowances and personal living expenses for/of the institution's officers are unallowable regardless of whether the cost is reported as taxable income to the employees.

b. The term ''officers'' includes current and past officers.

24. Idle facilities and idle capacity.

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

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

(2) ''Idle facilities'' means completely unused facilities that are excess to the institution's current needs.

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

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

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

(4) ''Cost of idle facilities or idle capacity'' means costs such as maintenance, repair, housing, rent, and other related costs, *e.g.*, insurance, interest, property taxes and depreciation or use allowances.

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

(1) They are necessary to meet fluctuations in workload; or

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

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

25. Insurance and indemnification.

a. Costs of insurance required or approved, and maintained, pursuant to the sponsored agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations:

(1) Types and extent and cost of coverage must be in accordance with sound institutional practice;

(2) Costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to federally-owned property are unallowable, except to the extent that the Federal Government has specifically required or approved such costs; and

(3) Costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for a self-insurance program are allowable, to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (whether through purchased insurance or self-insurance) are unallowable, unless expressly provided for in the sponsored agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the institution only to the extent expressly provided for in the sponsored agreement, except as provided in subsection J.25.d of this Appendix.

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

g. Medical liability (malpractice) insurance is an allowable cost of research programs only to the extent that the research involves human subjects. Medical liability insurance costs shall be treated as a direct cost and shall be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance.

26. Interest.

a. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the institution's own funds, however represented, are unallowable. However, interest on debt incurred after July 1, 1982 to acquire buildings, major reconstruction and remodeling, or the acquisition or fabrication of capital equipment costing $10,000 or more, is allowable.

b. Interest on debt incurred after May 8, 1996 to acquire or replace capital assets (including construction, renovations, alterations, equipment, land, and capital assets acquired through capital leases) acquired after that date and used in support of sponsored agreements is allowable, subject to the following conditions:

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

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

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

(4) Reimbursements are limited to the least costly alternative based on the total cost analysis required under subsection J.26.b.(1) of this Appendix. For example, if an operating lease is determined to be less costly than purchasing through debt financing, then reimbursement is limited to the amount determined if leasing had been used. In all cases where a lease-purchase analysis is required to be performed, Federal reimbursement shall be based upon the least expensive alternative.

(5) For debt arrangements over $1 million, unless the institution makes an initial equity contribution to the asset purchase of 25 percent or more, the institution shall reduce

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

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

(7) The allowable costs to acquire facilities and equipment are limited to a fair market value available to the institution from an unrelated (arm's length) third party.

c. Institutions are also subject to the following conditions:

(1) Interest on debt incurred to finance or refinance assets re-acquired after the applicable effective dates stipulated above is unallowable.

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

d. The following definitions are to be used for purposes of this section:

(1) ''Re-acquired'' assets means assets held by the institution prior to the applicable effective dates stipulated above that have again come to be held by the institution, whether through repurchase or refinancing. It does not include assets acquired to replace older assets.

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

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

27. Labor relations costs.

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

28. Lobbying.

Reference is made to the common rule published at 7 CFR part 3018, 10 CFR parts 600 and 601, 12 CFR part 411, 13 CFR part 146, 14 CFR part 1271, 15 CFR part 28, 18 CFR part 1315, 22 CFR parts 138, 227, 311, 519 and 712, 24 CFR part 87, 28 CFR part 69, 29 CFR part 93, 31 CFR part 21, 32 CFR part 282, 34 CFR part 82, 38 CFR part 85, 40 CFR part 34, 41 CFR part 105–69, 43 CFR part 18, 44 CFR part 18, 45 CFR parts 93, 604, 1158, 1168 and 1230, and 49 CFR part 20, and OMB's governmentwide guidance, amendments to OMB's governmentwide guidance, and OMB's clarification notices published at 54 FR 52306 (12/20/89), 61 FR 1412 (1/19/96), 55 FR 24540 (6/15/90) and 57 FR 1772 (1/15/92), respectively. In addition, the following restrictions shall apply:

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

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

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

(3) Any attempt to influence The introduction of Federal or State legislation; The enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature, including efforts to influence State or local officials to engage in similar lobbying activity; or any government official or employee in connection with a decision to sign or veto enrolled legislation;

(4) Any attempt to influence The introduction of Federal or State legislation; or The enactment or modification of any pending Federal or State legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or

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

b. The following activities are excepted from the coverage of subsection J.28.a of this Appendix:

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

(2) Any lobbying made unallowable by subsection J.28.a.(3) of this Appendix to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the institution's authority to perform the grant, contract, or other agreement; or

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

c. When an institution seeks reimbursement for F&A costs, total lobbying costs shall be separately identified in the F&A cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of Section B.1.d of this Appendix.

d. Institutions shall submit as part of their annual F&A cost rate proposal a certification that the requirements and standards of this section have been complied with.

e. Institutions shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to this section complies with the requirements of this Appendix.

f. Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this section during any particular calendar month when:

(1) the employee engages in lobbying (as defined in subsections J.28.a and b of this Appendix) 25 percent or less of the employee's compensated hours of employment during that calendar month; and

(2) within the preceding five-year period, the institution has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions in subsections J.28.f.(1) and (2) of this Appendix are met, institutions are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in subsections J.28.f. (1) and (2) of this Appendix are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

g. Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions shall be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this Appendix, provided, however, that this shall not be construed to prevent a contractor or

grantee from contesting the lawfulness of such a determination.

h. Executive lobbying costs.

Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a federally-sponsored agreement or regulatory matter on any basis other than the merits of the matter.

29. Losses on other sponsored agreements or contracts.

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

30. Maintenance and repair costs.

Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life shall be treated as capital expenditures (see section J.18.a(1) of this Appendix).

31. Material and supplies costs.

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

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

c. Only materials and supplies actually used for the performance of a sponsored agreement may be charged as direct costs.

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

32. Meetings and Conferences.

Costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, speakers' fees, and other items incidental to such meetings or conferences. But see section J.17 of this Appendix, Entertainment costs.

33. Memberships, subscriptions and professional activity costs.

a. Costs of the institution's membership in business, technical, and professional organizations are allowable.

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

c. Costs of membership in any civic or community organization are unallowable.

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

34. Patent costs.

a. The following costs relating to patent and copyright matters are allowable:

(1) Cost of preparing disclosures, reports, and other documents required by the sponsored agreement and of searching the art to the extent necessary to make such disclosures;

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

(3) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements (but see sections J.37, Professional service costs, and J.44, Royalties and other costs for use of patents, of this Appendix).

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

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

(2) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the sponsored agreement award does not require conveying title or a royalty-free license to the Federal Government, (but see section J.44, Royalties and other costs for use of patents, of this Appendix).

35. Plant and homeland security costs.

Necessary and reasonable expenses incurred for routine and homeland security to protect facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; contractual security services; consultants; etc. Capital expenditures for homeland and plant security purposes are subject to section J.18, Equipment and other capital expenditures, of this Appendix.

36. Preagreement costs. Costs incurred prior to the effective date of the sponsored agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless approved by the sponsoring agency.

37. Professional service costs.

a. Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the institution, are allowable, subject to subparagraphs J.37.b and c of this Appendix when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. In addition, legal and related services are limited under section J.13 of this Appendix.

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

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the institution's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to sponsored agreements.

(4) The impact on the institution's business (*i.e.*, what new problems have arisen).

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

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

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

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

c. In addition to the factors in subparagraph J.37.b of this Appendix, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

38. Proposal costs.

Proposal costs are the costs of preparing bids or proposals on potential federally and non-federally-funded sponsored agreements or projects, including the development of data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as F&A costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable to the current period. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

39. Publication and printing costs.

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

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

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

(1) The research papers report work supported by the Federal Government: and

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

40. Rearrangement and alteration costs.

Costs incurred for ordinary or normal rearrangement and alteration of facilities are

allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of the sponsoring agency.

41. Reconversion costs.

Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of a sponsored agreement, fair wear and tear excepted, are allowable.

42. Recruiting costs.

a. Subject to subsections J.42.b, c, and d of this Appendix, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of ''help wanted'' advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or F&A cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Federal Government.

43. Rental costs of buildings and equipment.

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

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

c. Rental costs under ''less-than-arms-length'' leases are allowable only up to the amount (as explained in subsection J.43.b of this Appendix) that would be allowed had title to the property vested in the institution. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between—

(1) Divisions of a institution;

(2) Non-Federal entities under common control through common officers, directors, or members; and

(3) An institution and a director, trustee, officer, or key employee of the institution or his immediate family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, a institution may establish a separate corporation for the sole purpose of owning property and leasing it back to the institution.

d. Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in subsection J.43.b of this Appendix) that would be allowed had the institution purchased the property on the date the lease agreement was executed. The provisions of Financial Accounting Standards Board Statement 13, Accounting for Leases, shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in section J.26 of this Appendix. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the institution purchased the facility.

44. Royalties and other costs for use of patents.

a. Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the award are allowable unless:

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

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

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

(4) The patent or copyright is expired.

b. Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less-than-arm's-length bargaining, *e.g.:*

(1) Royalties paid to persons, including corporations, affiliated with the institution.

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

(3) Royalties paid under an agreement entered into after an award is made to an institution.

c. In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

45. Scholarships and student aid costs.

a. Costs of scholarships, fellowships, and other programs of student aid are allowable only when the purpose of the sponsored agreement is to provide training to selected participants and the charge is approved by the sponsoring agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that—

(1) The individual is conducting activities necessary to the sponsored agreement;

(2) Tuition remission and other support are provided in accordance with established educational institutional policy and consistently provided in a like manner to students in return for similar activities conducted in nonsponsored as well as sponsored activities; and

(3) During the academic period, the student is enrolled in an advanced degree program at the institution or affiliated institution and the activities of the student in relation to the Federally-sponsored research project are related to the degree program;

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

(5) It is the institution's practice to similarly compensate students in nonsponsored as well as sponsored activities.

b. Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages shall be subject to the reporting requirements stipulated in Section J.10 of this Appendix, and shall be treated as direct or F&A cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis.

46. Selling and marketing.

Costs of selling and marketing any products or services of the institution are unallowable (unless allowed under subsection J.1 of this Appendix as allowable public relations costs or under subsection J.38 of this Appendix as allowable proposal costs).

47. Specialized service facilities.

a. The costs of services provided by highly complex or specialized facilities operated by the institution, such as computers, wind tunnels, and reactors are allowable, provided the charges for the services meet the conditions of either subsection J.47.b. or 47.c. of this Appendix and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under subsection C.5. of this Appendix.

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

(1) Does not discriminate against federally-supported activities of the institution, including usage by the institution for internal purposes, and

(2) Is designed to recover only the aggregate costs of the services. The costs of each service shall consist normally of both its direct costs and its allocable share of all F&A costs. Rates shall be adjusted at least biennially, and shall take into consideration

over/under applied costs of the previous period(s).

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

d. Under some extraordinary circumstances, where it is in the best interest of the Federal Government and the institution to establish alternative costing arrangements, such arrangements may be worked out with the cognizant Federal agency.

48. Student activity costs.

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

49. Taxes.

a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable. Payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for—

(1) Taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Federal Government, and in the latter case when the sponsoring agency makes available the necessary exemption certificates; and

(2) Special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as sponsored agreement costs, will be credited or paid to the Federal Government in the manner directed by the Federal Government. However, any interest actually paid or credited to an institution incident to a refund of tax, interest, and penalty will be paid or credited to the Federal Government only to the extent that such interest accrued over the period during which the institution has been reimbursed by the Federal Government for the taxes, interest, and penalties.

50. Termination costs applicable to sponsored agreements.

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

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

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

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

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

(2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the awarding agency, and

(3) The loss of useful value for any one terminated sponsored agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the sponsored agreement bears to the entire terminated sponsored agreement award and other sponsored agreements for which the special tooling, machinery, or equipment was acquired.

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

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

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

e. Settlement expenses including the following are generally allowable:

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

(a) The preparation and presentation to the awarding agency of settlement claims and supporting data with respect to the terminated portion of the sponsored agreement, unless the termination is for default (see § 215.61 of 2 CFR Part 215); and

(b) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal Government or acquired or produced for the sponsored agreement, except when institutions are reimbursed for disposals at a predetermined amount in accordance with § 215.32 through § 215.37 of 2 CFR Part 215.

(3) F&A costs related to salaries and wages incurred as settlement expenses in subsections J.50.b.(1) and (2) of this Appendix. Normally, such F&A costs shall be limited to fringe benefits, occupancy cost, and immediate supervision.

f. Claims under subawards, including the allocable portion of claims which are common to the sponsored agreement and to other work of the institution, are generally allowable.

g. An appropriate share of the institution's F&A costs may be allocated to the amount of settlements with subcontractors and/or subgrantees, provided that the amount allocated is otherwise consistent with the basic guidelines contained in section E, F&A costs. The F&A costs so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

51. Training costs.

The cost of training provided for employee development is allowable.

52. Transportation costs.

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate F&A cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the sponsored agreement, should be treated as a direct cost.

53. Travel costs.

a. General.

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the institution's non-federally-sponsored activities.

b. Lodging and subsistence.

Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the institution in its regular operations as the result of the institution's written travel policy. In the absence of an acceptable, written institution policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57, Title 5, United States Code (''Travel and Subsistence Expenses; Mileage Allowances''), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter shall apply to travel under sponsored agreements (48 CFR 31.205–46(a)).

c. Commercial air travel.

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

(a) Require circuitous routing;

(b) Require travel during unreasonable hours;

(c) Excessively prolong travel;

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

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

(2) Unless a pattern of avoidance is detected, the Federal Government will generally not question an institution's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the institution can demonstrate either of the following:

(a) That such airfare was not available in the specific case; or

(b) That it is the institution's overall practice to make routine use of such airfare.

d. Air travel by other than commercial carrier.

Costs of travel by institution-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of allowable commercial air travel, as provided for in subsection J.53.c. of this Appendix, is unallowable.

54. Trustees.

Travel and subsistence costs of trustees (or directors) are allowable. The costs are subject to restrictions regarding lodging, subsistence and air travel costs provided in Section J.53 of this Appendix.

K. Certification of Charges

1. To assure that expenditures for sponsored agreements 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 essentially as follows: ''I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the application and award documents.''

2. Certification of F&A costs.

a. Policy.

(1) No proposal to establish F&A cost rates shall be acceptable unless such costs have been certified by the educational institution using the Certificate of F&A Costs set forth in subsection K.2.b of this Appendix. The certificate must be signed on behalf of the institution by an individual at a level no lower than vice president or chief financial officer of the institution that submits the proposal.

(2) No F&A cost rate shall be binding upon the Federal Government if the most recent required proposal from the institution has not been certified. Where it is necessary to establish 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 shall unilaterally establish such rates. Such rates may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When 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.

b. Certificate. The certificate required by this section shall be in the following form:

Certificate of F&A Costs

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

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

(2) All costs included in this proposal [identify date] to establish billing or final 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): advertising and 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.

For educational institutions that are required to file a DS–2 in accordance with Section C.14 of this Appendix, the following statement shall be added to the ''Certificate of F&A Costs'':

(5) The rate proposal is prepared using the same cost accounting practices that are disclosed in the DS–2, including its amendments and revisions, filed with and approved by the cognizant agency.

I declare under penalty of perjury that the foregoing is true and correct.

Institution: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution: _____

Exhibit A—List of Colleges and Universities Subject to Section J.12.h of This Appendix

1. Johns Hopkins University
2. Stanford University
3. Massachusetts Institute of Technology
4. University of Washington
5. University of California—Los Angeles
6. University of Michigan
7. University of California—San Diego
8. University of California—San Francisco
9. University of Wisconsin—Madison
10. Columbia University
11. Yale University
12. Harvard University
13. Cornell University
14. University of Pennsylvania
15. University of California—Berkeley
16. University of Minnesota
17. Pennsylvania State University
18. University of Southern California
19. Duke University
20. Washington University
21. University of Colorado
22. University of Illinois—Urbana
23. University of Rochester
24. University of North Carolina—Chapel Hill
25. University of Pittsburgh
26. University of Chicago
27. University of Texas—Austin
28. University of Arizona
29. New York University
30. University of Iowa
31. Ohio State University
32. University of Alabama—Birmingham
33. Case Western Reserve
34. Baylor College of Medicine
35. California Institute of Technology
36. Yeshiva University
37. University of Massachusetts
38. Vanderbilt University
39. Purdue University
40. University of Utah
41. Georgia Institute of Technology
42. University of Maryland—College Park
43. University of Miami
44. University of California—Davis
45. Boston University
46. University of Florida
47. Carnegie-Mellon University
48. Northwestern University
49. Indiana University
50. Michigan State University
51. University of Virginia
52. University of Texas—SW Medical Center
53. University of California—Irvine
54. Princeton University
55. Tulane University of Louisiana
56. Emory University
57. University of Georgia
58. Texas A&M University—all campuses
59. New Mexico State University
60. North Carolina State University—Raleigh
61. University of Illinois—Chicago
62. Utah State University
63. Virginia Commonwealth University
64. Oregon State University
65. SUNY-Stony Brook
66. University of Cincinnati
67. CUNY-Mount Sinai School of Medicine
68. University of Connecticut
69. Louisiana State University
70. Tufts University
71. University of California—Santa Barbara
72. University of Hawaii—Manoa
73. Rutgers State University of New Jersey
74. Colorado State University
75. Rockefeller University
76. University of Maryland—Baltimore
77. Virginia Polytechnic Institute & State University
78. SUNY—Buffalo
79. Brown University
80. University of Medicine & Dentistry of New Jersey

81. University of Texas—Health Science Center San Antonio
82. University of Vermont
83. University of Texas—Health Science Center Houston
84. Florida State University
85. University of Texas—MD Anderson Cancer Center
86. University of Kentucky
87. Wake Forest University
88. Wayne State University
89. Iowa State University of Science & Technology
90. University of New Mexico
91. Georgetown University
92. Dartmouth College
93. University of Kansas
94. Oregon Health Sciences University
95. University of Texas—Medical Branch-Galveston
96. University of Missouri—Columbia
97. Temple University
98. George Washington University
99. University of Dayton

Exhibit B—Listing of Institutions That Are Eligible for the Utility Cost Adjustment

1. Baylor University
2. Boston College
3. Boston University
4. California Institute of Technology
5. Carnegie-Mellon University
6. Case Western University
7. Columbia University
8. Cornell University (Endowed)
9. Cornell University (Statutory)
10. Cornell University (Medical)
11. Dayton University
12. Emory University
13. George Washington University (Medical)
14. Georgetown University
15. Harvard Medical School
16. Harvard University (Main Campus)
17. Harvard University (School of Public Health)
18. Johns Hopkins University
19. Massachusetts Institute of Technology
20. Medical University of South Carolina
21. Mount Sinai School of Medicine
22. New York University (except New York University Medical Center)
23. New York University Medical Center
24. North Carolina State University
25. Northeastern University
26. Northwestern University
27. Oregon Health Sciences University
28. Oregon State University
29. Rice University
30. Rockefeller University
31. Stanford University
32. Tufts University
33. Tulane University
34. Vanderbilt University
35. Virginia Commonwealth University
36. Virginia Polytechnic Institute and State University
37. University of Arizona
38. University of CA, Berkeley
39. University of CA, Irvine
40. University of CA, Los Angeles
41. University of CA, San Diego
42. University of CA, San Francisco
43. University of Chicago
44. University of Cincinnati
45. University of Colorado, Health Sciences Center
46. University of Connecticut, Health Sciences Center
47. University of Health Science and The Chicago Medical School
48. University of Illinois, Urbana
49. University of Massachusetts, Medical Center
50. University of Medicine & Dentistry of New Jersey
51. University of Michigan
52. University of Pennsylvania
53. University of Pittsburgh
54. University of Rochester
55. University of Southern California
56. University of Tennessee, Knoxville
57. University of Texas, Galveston
58. University of Texas, Austin
60. University of Texas Southwestern Medical Center
61. University of Virginia
62. University of Vermont & State Agriculture College
63. University of Washington
64. Washington University
65. Yale University
66. Yeshiva University

Exhibit C—Examples of ''Major Project'' Where Direct Charging of Administrative or Clerical Staff Salaries May Be Appropriate

1. As used in paragraph F.6.b.(2) of this Appendix, below are examples of ''major projects'':

a. Large, complex programs such as General Clinical Research Centers, Primate Centers, Program Projects, environmental research centers, engineering research centers, and other grants and contracts that entail assembling and managing teams of investigators from a number of institutions.

b. Projects which involve extensive data accumulation, analysis and entry, surveying, tabulation, cataloging, searching literature, and reporting (such as epidemiological studies, clinical trials, and retrospective clinical records studies).

c. Projects that require making travel and meeting arrangements for large numbers of participants, such as conferences and seminars.

d. Projects whose principal focus is the preparation and production of manuals and large reports, books and monographs (excluding routine progress and technical reports).

e. Projects that are geographically inaccessible to normal departmental administrative services, such as research vessels, radio astronomy projects, and other research fields sites that are remote from campus.

f. Individual projects requiring project-specific database management; individualized graphics or manuscript preparation; human or animal protocols; and multiple project-related investigator coordination and communications.

2. These examples are not exhaustive nor are they intended to imply that direct charging of administrative or clerical salaries would always be appropriate for the situations illustrated in the examples. For instance, the examples would be appropriate when the costs of such activities are incurred in unlike circumstances, *i.e.*, the actual activities charged direct are not the same as the actual activities normally included in the institution's facilities and administrative (F&A) cost pools or, if the same, the indirect activity costs are immaterial in amount. It would be inappropriate to charge the cost of such activities directly to specific sponsored agreements if, in similar circumstances, the costs of performing the same type of activity for other sponsored agreements were included as allocable costs in the institution's F&A cost pools. Application of negotiated predetermined F&A cost rates may also be inappropriate if such activity costs charged directly were not provided for in the allocation base that was used to determine the predetermined F&A cost rates.

Attachment A to Appendix A—CASB's Cost Accounting Standards (CAS)

A. CAS 9905.501—Consistency in estimating, accumulating and reporting costs by educational institutions.

1. Purpose

The purpose of this standard is to ensure that each educational institution's practices used in estimating costs for a proposal are consistent with cost accounting practices used by the educational institution in accumulating and reporting costs. Consistency in the application of cost accounting practices is necessary to enhance the likelihood that comparable transactions are treated alike. With respect to individual sponsored agreements, the consistent application of cost accounting practices will facilitate the preparation of reliable cost estimates used in pricing a proposal and their comparison with the costs of performance of the resulting sponsored agreement. Such comparisons provide one important basis for financial control over costs during sponsored agreement performance and aid in establishing accountability for costs in the manner agreed to by both parties at the time of agreement. The comparisons also provide an improved basis for evaluating estimating capabilities.

2. Definitions

(a) The following are definitions of terms which are prominent in this standard.

(1) Accumulating costs means the collecting of cost data in an organized manner, such as through a system of accounts.

(2) Actual cost means an amount determined on the basis of cost incurred (as distinguished from forecasted cost), including standard cost properly adjusted for applicable variance.

(3) Estimating costs means the process of forecasting a future result in terms of cost, based upon information available at the time.

(4) Indirect cost pool means a grouping of incurred costs identified with two or more objectives but not identified specifically with any final cost objective.

(5) Pricing means the process of establishing the amount or amounts to be paid in return for goods or services.

(6) Proposal means any offer or other submission used as a basis for pricing a sponsored agreement, sponsored agreement modification or termination settlement or for securing payments thereunder.

(7) Reporting costs means the providing of cost information to others.

3. Fundamental Requirement

(a) An educational institution's practices used in estimating costs in pricing a proposal shall be consistent with the educational institution's cost accounting practices used in accumulating and reporting costs.

(b) An educational institution's cost accounting practices used in accumulating and reporting actual costs for a sponsored agreement shall be consistent with the educational institution's practices used in estimating costs in the related proposal or application.

(c) The grouping of homogeneous costs in estimates prepared for proposal purposes shall not per se be deemed an inconsistent application of cost accounting practices of this paragraph when such costs are accumulated and reported in greater detail on an actual costs basis during performance of the sponsored agreement.

4. Techniques for application

(a) The standard allows grouping of homogeneous costs in order to cover those cases where it is not practicable to estimate sponsored agreement costs by individual cost element. However, costs estimated for proposal purposes shall be presented in such a manner and in such detail that any significant cost can be compared with the actual cost accumulated and reported therefor. In any event, the cost accounting practices used in estimating costs in pricing a proposal and in accumulating and reporting costs on the resulting sponsored agreement shall be consistent with respect to:

(1) The classification of elements of cost as direct or indirect;

(2) The indirect cost pools to which each element of cost is charged or proposed to be charged; and

(3) The methods of allocating indirect costs to the sponsored agreement.

(b) Adherence to the requirement of this standard shall be determined as of the date of award of the sponsored agreement, unless the sponsored agreement has submitted cost or pricing data pursuant to 10 U.S.C. 2306(a) or 41 U.S.C. 254(d) (Pub. L. 87–653), in which case adherence to the requirement of this standard shall be determined as of the date of final agreement on price, as shown on the signed certificate of current cost or pricing data. Notwithstanding 9905.501–40(b), changes in established cost accounting practices during sponsored agreement performance may be made in accordance with Part 9903 (48 CFR part 9903).

(c) The standard does not prescribe the amount of detail required in accumulating and reporting costs. The basic requirement which must be met, however, is that for any significant amount of estimated cost, the sponsored agreement must be able to accumulate and report actual cost at a level which permits sufficient and meaningful comparison with its estimates. The amount of detail required may vary considerably depending on how the proposed costs were estimated, the data presented in justification or lack thereof, and the significance of each situation. Accordingly, it is neither appropriate nor practical to prescribe a single set of accounting practices which would be consistent in all situations with the practices of estimating costs. Therefore, the amount of accounting and statistical detail to be required and maintained in accounting for estimated costs has been and continues to be a matter to be decided by Government procurement authorities on the basis of the individual facts and circumstances.

B. CAS 9905.502—Consistency in Allocating Costs Incurred for the Same Purpose by Educational Institutions

1. Purpose

The purpose of this standard is to require that each type of cost is allocated only once and on only one basis to any sponsored agreement or other cost objective. The criteria for determining the allocation of costs to a sponsored agreement or other cost objective should be the same for all similar objectives. Adherence to these cost accounting concepts is necessary to guard against the overcharging of some cost objectives and to prevent double counting. Double counting occurs most commonly when cost items are allocated directly to a cost objective without eliminating like cost items from indirect cost pools which are allocated to that cost objective.

2. Definitions

(a) The following are definitions of terms which are prominent in this standard.

(1) Allocate means to assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) Cost objective means a function, organizational subdivision, sponsored agreement, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, *etc.*

(3) Direct cost means any cost which is identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with a sponsored agreement are direct costs of that sponsored agreement. All costs identified specifically with other final cost objectives of the educational institution are direct costs of those cost objectives.

(4) Final cost objective means a cost objective which has allocated to it both direct and indirect costs, and in the educational institution's accumulation system, is one of the final accumulation points.

(5) Indirect cost means any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(6) Indirect cost pool means a grouping of incurred costs identified with two or more cost objectives but not identified with any final cost objective.

(7) Intermediate cost objective means a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools and/or final cost objectives.

3. Fundamental Requirement

All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to final cost objectives. No final cost objective shall have allocated to it as an indirect cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included as a direct cost of that or any other final cost objective. Further, no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any indirect cost pool to be allocated to that or any other final cost objective.

4. Techniques for Application

(a) The Fundamental Requirement is stated in terms of cost incurred and is equally applicable to estimates of costs to be incurred as used in sponsored agreement proposals.

(b) The Disclosure Statement to be submitted by the educational institution will require that the educational institution set forth its cost accounting practices with regard to the distinction between direct and indirect costs. In addition, for those types of cost which are sometimes accounted for as direct and sometimes accounted for as indirect, the educational institution will set forth in its Disclosure Statement the specific criteria and circumstances for making such distinctions. In essence, the Disclosure Statement submitted by the educational institution, by distinguishing between direct and indirect costs, and by describing the criteria and circumstances for allocating those items which are sometimes direct and sometimes indirect, will be determinative as to whether or not costs are incurred for the same purpose. Disclosure Statement as used herein refers to the statement required to be submitted by educational institutions in Appendix A to Part 220, Section C.14.

(c) In the event that an educational institution has not submitted a Disclosure Statement, the determination of whether specific costs are directly allocable to sponsored agreements shall be based upon the educational institution's cost accounting practices used at the time of sponsored agreement proposal.

(d) Whenever costs which serve the same purpose cannot equitably be indirectly allocated to one or more final cost objectives in accordance with the educational institution's disclosed accounting practices, the educational institution may either (1) use a method for reassigning all such costs which would provide an equitable distribution to all final cost objectives, or (2) directly assign all such costs to final cost objectives with which they are specifically identified. In the event the educational institution decides to make a change for either purpose, the Disclosure Statement shall be amended to reflect the revised accounting practices involved.

(e) Any direct cost of minor dollar amount may be treated as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives, provided that such treatment produces results which are substantially the same as the results which would have been obtained if such cost had been treated as a direct cost.

5. Illustrations

(a) Illustrations of costs which are incurred for the same purpose:

(1) An educational institution normally allocates all travel as an indirect cost and previously disclosed this accounting practice to the Government. For purposes of a new proposal, the educational institution intends to allocate the travel costs of personnel whose time is accounted for as direct labor directly to the sponsored agreement. Since travel costs of personnel whose time is accounted for as direct labor working on other sponsored agreements are costs which are incurred for the same purpose, these costs may no longer be included within indirect cost pools for purposes of allocation to any covered Government sponsored agreement. The educational institution's Disclosure Statement must be amended for the proposed changes in accounting practices.

(2) An educational institution normally allocates purchasing activity costs indirectly and allocates this cost to instruction and research on the basis of modified total costs. A proposal for a new sponsored agreement requires a disproportionate amount of subcontract administration to be performed by the purchasing activity. The educational institution prefers to continue to allocate purchasing activity costs indirectly. In order to equitably allocate the total purchasing activity costs, the educational institution may use a method for allocating all such costs which would provide an equitable distribution to all applicable indirect cost pools. For example, the educational institution may use the number of transactions processed rather than its former allocation base of modified total costs. The educational institution's Disclosure Statement must be amended for the proposed changes in accounting practices.

(b) Illustrations of costs which are not incurred for the same purpose:

(1) An educational institution normally allocates special test equipment costs directly to sponsored agreements. The costs of general purpose test equipment are normally included in the indirect cost pool which is allocated to sponsored agreements. Both of these accounting practices were previously disclosed to the Government. Since both types of costs involved were not incurred for the same purpose in accordance with the criteria set forth in the educational institution's Disclosure Statement, the allocation of general purpose test equipment costs from the indirect cost pool to the sponsored agreement, in addition to the directly allocated special test equipment costs, is not considered a violation of the standard.

(2) An educational institution proposes to perform a sponsored agreement which will require three firemen on 24-hour duty at a fixed-post to provide protection against damage to highly inflammable materials used on the sponsored agreement. The educational institution presently has a firefighting force of 10 employees for general protection of its facilities. The educational institution's costs for these latter firemen are treated as indirect costs and allocated to all sponsored agreements; however, it wants to allocate the three fixed-post firemen directly to the particular sponsored agreement requiring them and also allocate a portion of the cost of the general firefighting force to the same sponsored agreement. The educational institution may do so but only on condition that its disclosed practices indicate that the costs of the separate classes of firemen serve different purposes and that it is the educational institution's practice to allocate the general firefighting force indirectly and to allocate fixed-post firemen directly.

6. Interpretation

(a) Consistency in Allocating Costs Incurred for the Same Purpose by Educational Institutions, provides, in this standard, that ''* * * no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any indirect cost pool to be allocated to that or any other final cost objective.''

(b) This interpretation deals with the way this standard applies to the treatment of costs incurred in preparing, submitting, and supporting proposals. In essence, it is addressed to whether or not, under the standard, all such costs are incurred for the same purpose, in like circumstances.

(c) Under this standard, costs incurred in preparing, submitting, and supporting proposals pursuant to a specific requirement of an existing sponsored agreement are considered to have been incurred in different circumstances from the circumstances under which costs are incurred in preparing proposals which do not result from such specific requirement. The circumstances are different because the costs of preparing proposals specifically required by the provisions of an existing sponsored agreement relate only to that sponsored agreement while other proposal costs relate to all work of the educational institution.

(d) This interpretation does not preclude the allocation, as indirect costs, of costs incurred in preparing all proposals. The cost accounting practices used by the educational institution, however, must be followed consistently and the method used to reallocate such costs, of course, must provide an equitable distribution to all final cost objectives.

C. CAS 9905.505—Accounting for Unallowable Costs—Educational Institutions

1. Purpose

(a) The purpose of this standard is to facilitate the negotiation, audit, administration and settlement of sponsored agreements by establishing guidelines covering (1) identification of costs specifically described as unallowable, at the time such costs first become defined or authoritatively designated as unallowable, and (2) the cost accounting treatment to be accorded such identified unallowable costs in order to promote the consistent application of sound cost accounting principles covering all incurred costs. The standard is predicated on the proposition that costs incurred in carrying on the activities of an educational institution—regardless of the allowability of such costs under Government sponsored agreements—are allocable to the cost objectives with which they are identified on the basis of their beneficial or causal relationships.

(b) This standard does not govern the allowability of costs. This is a function of the appropriate procurement or reviewing authority.

2. Definitions

(a) The following are definitions of terms which are prominent in this standard.

(1) Directly associated cost means any cost which is generated solely as a result of the incurrence of another cost, and which would not have been incurred had the other cost not been incurred.

(2) Expressly unallowable cost means a particular item or type of cost which, under the express provisions of an applicable law, regulation, or sponsored agreement, is specifically named and stated to be unallowable.

(3) Indirect cost means any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(4) Unallowable cost means any cost which, under the provisions of any pertinent law, regulation, or sponsored agreement, cannot be included in prices, cost reimbursements, or settlements under a Government sponsored agreement to which it is allocable.

3. Fundamental Requirement

(a) Costs expressly unallowable or mutually agreed to be unallowable, including costs mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, application, or proposal applicable to a Government sponsored agreement.

(b) Costs which specifically become designated as unallowable as a result of a written decision furnished by a Federal official pursuant to sponsored agreement disputes procedures shall be identified if included in or used in the computation of any billing, claim, or proposal applicable to a sponsored agreement. This identification requirement applies also to any costs incurred for the same purpose under like circumstances as the costs specifically identified as unallowable under either this paragraph or paragraph (a) of this subsection.

(c) Costs which, in a Federal official's written decision furnished pursuant to disputes procedures, are designated as unallowable directly associated costs of unallowable costs covered by either paragraph (a) or (b) of this subsection shall be accorded the identification required by paragraph b. of this subsection.

(d) The costs of any work project not contractually authorized, whether or not related to performance of a proposed or existing contract, shall be accounted for, to the extent appropriate, in a manner which permits ready separation from the costs of authorized work projects.

(e) All unallowable costs covered by paragraphs (a) through (d) of this subsection shall be subject to the same cost accounting principles governing cost allocability as allowable costs. In circumstances where these unallowable costs normally would be

part of a regular indirect-cost allocation base or bases, they shall remain in such base or bases. Where a directly associated cost is part of a category of costs normally included in an indirect-cost pool that will be allocated over a base containing the unallowable cost with which it is associated, such a directly associated cost shall be retained in the indirect-cost pool and be allocated through the regular allocation process.

(f) Where the total of the allocable and otherwise allowable costs exceeds a limitation-of-cost or ceiling-price provision in a sponsored agreement, full direct and indirect cost allocation shall be made to the cost objective, in accordance with established cost accounting practices and Standards which regularly govern a given entity's allocations to Government sponsored agreement cost objectives. In any determination of unallowable cost overrun, the amount thereof shall be identified in terms of the excess of allowable costs over the ceiling amount, rather than through specific identification of particular cost items or cost elements.

4. Techniques for Application

(a) The detail and depth of records required as backup support for proposals, billings, or claims shall be that which is adequate to establish and maintain visibility of identified unallowable costs (including directly associated costs), their accounting status in terms of their allocability to sponsored agreement cost objectives, and the cost accounting treatment which has been accorded such costs. Adherence to this cost accounting principle does not require that allocation of unallowable costs to final cost objectives be made in the detailed cost accounting records. It does require that unallowable costs be given appropriate consideration in any cost accounting determinations governing the content of allocation bases used for distributing indirect costs to cost objectives. Unallowable costs involved in the determination of rates used for standard costs, or for indirect-cost bidding or billing, need be identified only at the time rates are proposed, established, revised or adjusted.

(b) The visibility requirement of paragraph (a) of this subsection, may be satisfied by any form of cost identification which is adequate for purposes of sponsored agreement cost determination and verification. The standard does not require such cost identification for purposes which are not relevant to the determination of Government sponsored agreement cost. Thus, to provide visibility for incurred costs, acceptable alternative practices would include the segregation of unallowable costs in separate accounts maintained for this purpose in the regular books of account, the development and maintenance of separate accounting records or workpapers, or the use of any less formal cost accounting techniques which establishes and maintains adequate cost identification to permit audit verification of the accounting recognition given unallowable costs. Educational institutions may satisfy the visibility requirements for estimated costs either by designation and description (in backup data, workpapers, etc.) of the amounts and types of any unallowable costs which have specifically been identified and recognized in making the estimates, or by description of any other estimating technique employed to provide appropriate recognition of any unallowable costs pertinent to the estimates.

(c) Specific identification of unallowable costs is not required in circumstances where, based upon considerations of materiality, the Government and the educational institution reach agreement on an alternate method that satisfies the purpose of the standard.

5. Illustrations

(a) An auditor recommends disallowance of certain direct labor and direct material costs, for which a billing has been submitted under a sponsored agreement, on the basis that these particular costs were not required for performance and were not authorized by the sponsored agreement. The Federal officer issues a written decision which supports the auditor's position that the questioned costs are unallowable. Following receipt of the Federal officer's decision, the educational institution must clearly identify the disallowed direct labor and direct material costs in the educational institution's accounting records and reports covering any subsequent submission which includes such costs. Also, if the educational institution's base for allocation of any indirect cost pool relevant to the subject sponsored agreement consists of direct labor, direct material, total prime cost, total cost input, etc., the educational institution must include the disallowed direct labor and material costs in its allocation base for such pool. Had the Federal officer's decision been against the auditor, the educational institution would not, of course, have been required to account separately for the costs questioned by the auditor.

(b) An educational institution incurs, and separately identifies, as a part of a service center or expense pool, certain costs which are expressly unallowable under the existing and currently effective regulations. If the costs of the service center or indirect expense pool are regularly a part of the educational institution's base for allocation of general administration and general expenses (GA&GE) or other indirect expenses, the educational institution must allocate the GA&GE or other indirect expenses to sponsored agreements and other final cost objectives by means of a base which includes the identified unallowable indirect costs.

(c) An auditor recommends disallowance of certain indirect costs. The educational institution claims that the costs in question are allowable under the provisions of Appendix A to Part 220, Cost Principles For Educational Institutions; the auditor disagrees. The issue is referred to the Federal officer for resolution pursuant to the sponsored agreement disputes clause. The Federal officer issues a written decision supporting the auditor's position that the total costs questioned are unallowable under Appendix A. Following receipt of the Federal officer's decision, the educational institution must identify the disallowed costs and specific other costs incurred for the same purpose in like circumstances in any subsequent estimating, cost accumulation or reporting for Government sponsored agreements, in which such costs are included. If the Federal officer's decision had supported the educational institution's contention, the costs questioned by the auditor would have been allowable and the educational institution would not have been required to provide special identification.

(d) An educational institution incurred certain unallowable costs that were charged indirectly as general administration and general expenses (GA&GE). In the educational institution's proposals for final indirect cost rates to be applied in determining allowable sponsored agreement costs, the educational institution identified and excluded the expressly unallowable costs. In addition, during the course of negotiation of indirect cost rates to be used for bidding and billing purposes, the educational institution agreed to classify as unallowable cost, various directly associated costs of the identifiable unallowable costs. On the basis of negotiations and agreements between the educational institution and the Federal officer's authorized representatives, indirect cost rates were established, based on the net balance of allowable GA&GE. Application of the rates negotiated to proposals, and to billings, for covered sponsored agreements constitutes compliance with the standard.

(e) An employee, whose salary, travel, and subsistence expenses are charged regularly to the general administration and general expenses (GA&GE) pool, takes several business associates on what is clearly a business entertainment trip. The entertainment costs of such trips is expressly unallowable because it constitutes entertainment expense prohibited by Appendix A to Part 220, and is separately identified by the educational institution. The educational institution does not regularly include its GA&GE in any indirect-expense allocation base. In these circumstances, the employee's travel and subsistence expenses would be directly associated costs for identification with the unallowable entertainment expense. However, unless this type of activity constituted a significant part of the employee's regular duties and responsibilities on which his salary was based, no part of the employee's salary would be required to be identified as a directly associated cost of the unallowable entertainment expense.

D. CAS 9905.506—Cost Accounting Period—Educational Institutions

1. Purpose

The purpose of this standard is to provide criteria for the selection of the time periods to be used as cost accounting periods for sponsored agreement cost estimating, accumulating, and reporting. This standard will reduce the effects of variations in the flow of costs within each cost accounting period. It will also enhance objectivity, consistency, and verifiability, and promote uniformity and comparability in sponsored agreement cost measurements.

2. Definitions

(a) The following are definitions of terms which are prominent in this standard.

(1) Allocate means to assign an item of cost, or a group of items of cost, to one or

more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) Cost Objective means a function, organizational subdivision, sponsored agreement, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

(3) Fiscal year means the accounting period for which annual financial statements are regularly prepared, generally a period of 12 months, 52 weeks, or 53 weeks.

(4) Indirect cost pool means a grouping of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

3. Fundamental Requirement

(a) Educational institutions shall use their fiscal year as their cost accounting period, except that:

(b) Costs of an indirect function which exists for only a part of a cost accounting period may be allocated to cost objectives of that same part of the period.

(c) An annual period other than the fiscal year may be used as the cost accounting period if its use is an established practice of the educational institution.

(d) A transitional cost accounting period other than a year shall be used whenever a change of fiscal year occurs.

(e) An educational institution shall follow consistent practices in the selection of the cost accounting period or periods in which any types of expense and any types of adjustment to expense (including prior-period adjustments) are accumulated and allocated.

(f) The same cost accounting period shall be used for accumulating costs in an indirect cost pool as for establishing its allocation base, except that the contracting parties may agree to use a different period for establishing an allocation base.

4. Techniques for Application

(a) The cost of an indirect function which exists for only a part of a cost accounting period may be allocated on the basis of data for that part of the cost accounting period if the cost is material in amount, accumulated in a separate indirect cost pool or expense pool, and allocated on the basis of an appropriate direct measure of the activity or output of the function during that part of the period.

(b) The practices required by this standard shall include appropriate practices for deferrals, accruals, and other adjustments to be used in identifying the cost accounting periods among which any types of expense and any types of adjustment to expense are distributed. If an expense, such as insurance or employee leave, is identified with a fixed, recurring, annual period which is different from the educational institution's cost accounting period, the standard permits continued use of that different period. Such expenses shall be distributed to cost accounting periods in accordance with the educational institution's established practices for accruals, deferrals, and other adjustments.

(c) Indirect cost allocation rates, based on estimates, which are used for the purpose of expediting the closing of sponsored agreements which are terminated or completed prior to the end of a cost accounting period need not be those finally determined or negotiated for that cost accounting period. They shall, however, be developed to represent a full cost accounting period, except as provided in paragraph (a) of this subsection.

(d) An educational institution may, upon mutual agreement with the Government, use as its cost accounting period a fixed annual period other than its fiscal year, if the use of such a period is an established practice of the educational institution and is consistently used for managing and controlling revenues and disbursements, and appropriate accruals, deferrals or other adjustments are made with respect to such annual periods.

(e) The parties may agree to use an annual period which does not coincide precisely with the cost accounting period for developing the data used in establishing an allocation base: Provided,

(1) The practice is necessary to obtain significant administrative convenience,

(2) The practice is consistently followed by the educational institution,

(3) The annual period used is representative of the activity of the cost accounting period for which the indirect costs to be allocated are accumulated, and

(4) The practice can reasonably be estimated to provide a distribution to cost objectives of the cost accounting period not materially different from that which otherwise would be obtained.

(f) When a transitional cost accounting period is required, educational institution may select any one of the following: the period, less than a year in length, extending from the end of its previous cost accounting period to the beginning of its next regular cost accounting period, a period in excess of a year, but not longer than 15 months, obtained by combining the period described in subparagraph (f)(1) of this subsection with the previous cost accounting period, or a period in excess of a year, but not longer than 15 months, obtained by combining the period described in subparagraph (f)(1) of this subsection with the next regular cost accounting period. A change in the educational institution's cost accounting period is a change in accounting practices for which an adjustment in the sponsored agreement price may be required.

5. Illustrations

(a) An educational institution allocates indirect expenses for Organized Research on the basis of a modified total direct cost base. In a proposal for a sponsored agreement, it estimates the allocable expenses based solely on the estimated amount of indirect costs allocated to Organized Research and the amount of the modified total direct cost base estimated to be incurred during the 8 months in which performance is scheduled to be commenced and completed. Such a proposal would be in violation of the requirements of this standard that the calculation of the amounts of both the indirect cost pools and the allocation bases be based on the educational institution's cost accounting period.

(b) An educational institution whose cost accounting period is the calendar year, installs a computer service center to begin operations on May 1. The operating expense related to the new service center is expected to be material in amount, will be accumulated in an intermediate cost objective, and will be allocated to the benefitting cost objectives on the basis of measured usage. The total operating expenses of the computer service center for the 8-month part of the cost accounting period may be allocated to the benefitting cost objectives of that same 8-month period.

(c) An educational institution changes its fiscal year from a calendar year to the 12-month period ending May 31. For financial reporting purposes, it has a 5-month transitional ''fiscal year.'' The same 5-month period must be used as the transitional cost accounting period; it may not be combined, because the transitional period would be longer than 15 months. The new fiscal year must be adopted thereafter as its regular cost accounting period. The change in its cost accounting period is a change in accounting practices; adjustments of the sponsored agreement prices may thereafter be required.

(d) Financial reports are prepared on a calendar year basis on a university-wide basis. However, the contracting segment does all internal financial planning, budgeting, and internal reporting on the basis of a twelve month period ended June 30. The contracting parties agree to use the period ended June 30 and they agree to overhead rates on the June 30 basis. They also agree on a technique for prorating fiscal year assignment of the university's central system office expenses between such June 30 periods. This practice is permitted by the standard.

(e) Most financial accounts and sponsored agreement cost records are maintained on the basis of a fiscal year which ends November 30 each year. However, employee vacation allowances are regularly managed on the basis of a ''vacation year'' which ends September 30 each year. Vacation expenses are estimated uniformly during each ''vacation year.'' Adjustments are made each October to adjust the accrued liability to actual, and the estimating rates are modified to the extent deemed appropriate. This use of a separate annual period for determining the amounts of vacation expense is permitted.

Attachment B to Appendix A—CASB's Disclosure Statement (DS–2) is available on the OMB Web site at *http://www.whitehouse.gov/omb/grants/a21-appx_b.pdf*

Attachment C to Appendix A—Documentation Requirements for Facilities and Administrative (F&A) Rate Proposals is available on the OMB Web site at *http://www.whitehouse.gov/omb/grants/a21-appx_c.pdf*

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