

COST STANDARDS
Recommended Changes
Workgroup on Contract Procurement and Administration
For presentation to the
Governor's Cabinet on Nonprofit Health and Human Services
10-30-13

1. Advertising and Public Relations

a. Definitions

- (1) *Advertising* is defined as public announcements of the organization through the media (including magazines, newspapers, radio or television programs, direct mail, exhibits, or the like) and the corollary administrative costs of such advertising.
- (2) *Public relations* is defined as maintaining, protecting, or enhancing the image of the organization or to improving the public's understanding of the organization.

b. Allowable Costs

- (1) Allowable advertising costs are those required to fulfill the requirements of the State award, including recruitment of personnel, procurement of goods or services, or other specific purposes related to the State award.
- (2) Allowable public relations costs are those required to fulfill the requirements of the State award, including the following:
- (a) Costs of communicating with the public or press pertaining to specific initiatives or accomplishments that result from performance of the State award (i.e., costs considered necessary as part of the outreach effort for the program);

(b) Costs of conducting general liaison with news media or government public relations officers, to the extent that actions are limited to communication or liaison necessary to keep the public informed on matters of public concern, such as notices of contract or grant awards or financial matters or **communicating about available services and access to care.**

c. Unallowable Costs

Unallowable advertising or public relations costs include the following:

- ~~(1) Costs of meetings or other events **specific to fundraising or other organizational activities not related to the state award** including:~~
- ~~(a) Costs of displays, demonstrations, or exhibits;~~
- ~~(b) Costs of meeting rooms, hospitality suites, or other special facilities used in conjunction with **above shows or other special events;**~~

Comment [KMB1]: Communicating about the availability of services and how to access care is a vital function of most health and human service contract holders and should be an allowable public relations cost.

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~~(c) Salaries and wages of employees or cost of services engaged in setting up or displaying exhibits, making demonstrations, or providing briefings.~~

(2) Costs of ~~promotional items or~~ memorabilia, including models, gifts, or ~~hospitality suites~~ ~~souvenirs~~ ~~which are not related to the state award.~~

(3) Costs of advertising or public relations designed solely to promote the organization or solely for fundraising purposes.

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20. Fundraising

a. Definitions

Fundraising is defined as the organization's efforts to raise capital or obtain contributions (e.g., cash, non-cash assets, services, time, gifts, ~~grants~~) through financial campaigns, endowment drives, or other forms of solicitation.

Examples of fundraising costs include, but are not limited to, the proportional salaries and wages of staff members engaged in fundraising; fees for professional fundraisers; recruiting or training volunteer fundraisers; preparation, printing, or distribution of fundraising materials; preparation or maintenance of mailing lists; or participation in federated fundraising campaigns [see Item 1c(1)].

b. Allowable Costs

None.

c. Unallowable Costs

Fundraising costs, as defined in Item 20a, are unallowable.

Item 43 – Rental, which is on page 46 and 47 of the attached PDF.

43. Rental

a. Definitions

(1) *Fair market rate* is defined as the rate determined to be 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.

(2) *Less than arm's length lease* is defined as a lease 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:

(i) divisions of the organization; or

(ii) organizations under common control through common officers, directors, or members; or

(iii) the organization and a director, trustee, officer, or key employee of the organization or his / her immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

(3) *Capital lease* is defined as a non-cancelable contract wherein (1) a tenant makes payments to lessor in return for use of an asset for a specified term, and (2) the lessor transfers ownership to the tenant at the end of the lease term. A capital lease is a direct substitute for the purchase of the asset with borrowed money and transfers substantially all the benefits and risks inherent in the ownership of the property to the lessee. A capital lease is distinct from an operating lease or rental arrangement.

b. Allowable Costs

- (1) Rental costs are allowable if they represent fair market rate.
- (2) Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the organization continued to own the property.
- (3) Rental costs under less than arm's length leases are allowable only up to the amount that would be allowed had title to the property been vested in the organization.
- (4) Rental costs under leases, which are required to be treated as capital leases under GAAP, are allowable only up to the amount that would be allowed had the organization purchased the property on the date the lease agreement was executed (i.e., to the amount that minimally would pay for depreciation, maintenance, taxes, and insurance). Interest costs related to capitalized leases are allowable to the extent they meet criteria in Item 25b(1).

c. Unallowable Costs

Unallowable costs include amounts paid for profit, management fees, or taxes that would not have been incurred had the organization purchased the facility.

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The issue is a Nonprofit cannot charge fair rental for a building that they own. They can only change their cost. This makes it very different for a Nonprofit to purchase a building. Banks want reserve for item that building need in the future, roofs, painting and etc... Also, this caused Nonprofits to rent space instead of purchase, which increase the cost to the State. Nonprofits need to be able to make a return on real estate, in order for the purchase to make economic sense. Also, they need to be paid for the use of a building when the building is paid for.

Comment [KMB2]: NO ALLOWANCE FOR DEPRECIATION

49. Taxes

a. Definitions

- (1) *Taxes* is defined as payments the organization is required to make that are paid or accrued in accordance with GAAP.
- (2) In lieu of taxes, payments commensurate with services received may be made to local governments.

b. Allowable Costs (Note – Need to amend this language to address ACA, the Exchange and taxes related to health insurance provisions by nonprofit providers).

Comment [KMB3]: ACA – Penalties, not taxes and the cost standards do not allow penalties.

- (1) Taxes are allowable.
- (2) Payments made to local governments in lieu of taxes are allowable.
- (3) Payments made to local governments when a tax exemption is not granted by the local government are allowable.

(4) Where it is not reasonable or practical for the organization to enforce an exemption from taxes for client-related needs (e.g., fast food restaurants, recreational costs), the tax payments are allowable costs.

(5) Any refund of taxes or any payment to the organization of interest thereon that was allowed as State award costs must be credited either as a cost reduction or cash refund, as appropriate, to the State award.

c. Unallowable Costs

(1) Taxes paid when an exemption is available directly or indirectly to the organization are unallowable.

(2) Special assessments on land that represent capital improvements are unallowable. (3)

State or federal income taxes are unallowable.