



ASAP WEBINAR
ON
USG RULES AND REGULATIONS
COST PRINCIPLES
DECEMBER 5, 2019

Questions and Answers

**ACCELERATING SUPPORT TO ADVANCED
LOCAL PARTNERS (ASAP)**

COST ALLOWABILITY AND REASONABLNESS

I. SALARY: HOW CAN TWO PEOPLE IN THE SAME POSITION HAVE DIFFERENT SALARIES?

The guidance for salaries can be found at 2 CFR 200.430 Compensation—personal services. Under (b) it states Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

SOURCE	SOURCE LINK
2 CFR 200.430	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1430

So, while two persons performing essentially the same services might have joined the organization at different times and with different salary histories, over time, it would be natural for their salaries to gravitate to near equal amounts. There are many reasons for salaries to be marginally different such as years of service, performance ratings, etc., but assuming that the USAID project requires services of a certain nature (our webinar example was an M&E person), an auditor would compare that M&E person's salary with a similar M&E person on another project (USG or non-USG). If the salary for the person performing on the USAID project (say \$40,000 per year) is significantly higher than the person performing M&E on the other project (say \$35,000 per year) without a specific reason, the difference—\$5,000—could be questioned by the auditor as unreasonable.

2. WHY ARE FUNDRAISING ACTIVITIES UNALLOWABLE COSTS?

2 CFR 200.442 Fund raising and investment management costs.

(a) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency. Proposal costs are covered in § 200.460 Proposal costs. (b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this part. (c) Costs related to the physical custody and control of monies and securities are allowable. (d) Both allowable and unallowable fund raising, and investment activities must be allocated as an appropriate share of indirect costs under the conditions described in § 200.413 Direct costs.

SOURCE	SOURCE LINK
2 CFR 200.442	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1442
2 CFR 200.460	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1460

3. WHAT PERCENTAGE OF CHANGE IS ALLOWABLE IN EXPENDITURES WITH IN COST CATEGORIES?

Revision of budget and program plans can be found as part of your MSPs, at M3. See M3(b)(10) for details but effectively up to 10% of the total award amount can be transferred between most direct cost categories.

SOURCE	SOURCE LINK
M3(b)(10)	https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf

4. IS COST OF LIVING (COL) ADJUSTMENT ALLOWABLE COSTS?

Please remember that any and all costs that are reasonable, allocable, allowable, and fully supported might be chargeable to the project. It is up to the recipient or implementing partner to justify to USAID why COL adjustments are reasonable and necessary for the purposes of the project. We have certainly seen cases where AOs/AORs/Controllers do not believe COL increases are warranted and do not agree to allow them. In such cases, the IPs need to decide if they can continue to operate under the existing/obligated funding.

5. IS LAWYER COSTS ALLOWABLE COSTS?

200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

2 CFR 200.435(b) Costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal government, a state, local government, or foreign government, or joined by the Federal government (including a proceeding under the False Claims Act), against the non-Federal entity (or commenced by third parties or a current or former employee of the non-Federal entity who submits a whistleblower complaint of reprisal in accordance with 10 U.S.C. 2409 or 41 U.S.C. 4712), are not allowable if the proceeding:

- Relates to a violation of, or failure to comply with, a Federal, state, local or foreign statute, regulation or the terms and conditions of the Federal award, by the non-Federal entity (including its agents and employees) and,
- Results in any of the following dispositions:
 - Criminal proceeding, a conviction,
 - Civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of non-Federal entity liability, or
 - In the case of any civil or administrative proceeding, the disallowance of costs or the imposition of a monetary penalty, or an order issued by the Federal awarding agency head or delegate to the non-Federal entity to take corrective action under 10 U.S.C. 2409 or 41 U.S.C. 4712.
 - A final decision by an appropriate Federal official to debar or suspend the non-Federal entity, to rescind or void a Federal award, or to terminate a Federal award for default by reason of a violation or failure to comply with a statute, regulation, or the terms and conditions of the Federal award.
 - A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in 4 bullets above.

CFR 200.435(c) If a proceeding is commenced by the Federal government and is resolved by consent or compromise pursuant to an agreement by the non-Federal entity and the Federal government, then the costs incurred may be allowed to the extent specifically provided in such agreement.

2 CFR 200.435(g) Costs of prosecution of claims against the Federal government, including appeals of final Federal agency decisions, are unallowable.

2 CFR 200.435.4(h) Costs of legal costs incurred in connection with patent infringement litigation are unallowable unless otherwise provided for in the Federal award.

2 CFR 426 legal costs, arising from bad debts are unallowable.

SOURCE	SOURCE LINK
2 CFR 200.435	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1435
2 CFR 200.426	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1426

6. IS VAT ALLOWABLE COST?

Also please see the answer at #2 above.

200.470 Taxes (including Value Added Tax).

2 CFR 200.470(c) Value Added Tax (VAT) Foreign taxes charged for the purchase of goods or services that a non-Federal entity is legally required to pay in the country is an allowable expense under Federal awards.

Foreign tax refunds or applicable credits under Federal awards refer to receipts, or reduction of expenditures, which operate to offset or reduce expense items that are allocable to Federal awards as direct or indirect costs. To the extent that such credits accrued or received by the non-Federal entity relate to allowable cost, these costs must be credited to the Federal awarding agency either as costs or cash refunds. If the costs are credited back to the Federal award, the non-Federal entity may reduce the Federal share of costs by the amount of the foreign tax reimbursement, or where the Federal award has not expired, use the foreign government tax refund for approved activities under the Federal award with prior approval of the Federal awarding agency.

RAA10. REPORTING HOST GOVERNMENT TAXES (JUNE 2012)

RAA 10(c) Host government taxes are not allowable where the agreement officer provides the necessary means to the recipient to obtain an exemption or refund of such taxes, and the recipient fails to take reasonable steps to obtain such exemption or refund. Otherwise, taxes are allowable in accordance with the Standard Provision, Allowable Costs, and must be reported as required in this provision.

SOURCE	SOURCE LINK
2 CFR 200.470(c)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1470
RAA 10(c)	https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf

7. ARE MARKETING AND IT COSTS ALLOWABLE COSTS?

200.467 Marketing Costs

2 CFR 200.467 Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under § 200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.

200.421 Advertising and public relations

2 CFR 200.421(b) (1 – 4) The only allowable advertising costs are those which are solely for:

- The recruitment of personnel required by the non-Federal entity for performance of a Federal award,
- The procurement of goods and services for the performance of a Federal award,
- The disposal of scrap or surplus materials acquired in the performance of a Federal award except when non-Federal entities are reimbursed for disposal costs at a predetermined amount or,
- Program outreach and other specific purposes necessary to meet the requirements of the Federal award.

2 CFR 200.421(d) (1 – 3) The only allowable public relations costs are:

- Costs specifically required by the Federal award,
- Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award (these costs are considered necessary as part of the outreach effort for the Federal award) or,
- 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 to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

2 CFR 200.421(c) Unallowable advertising and public relations costs include the following:

- Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also § 200.432 Conferences), including:
 - Costs of displays, demonstrations, and exhibits,
 - Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events and,
 - Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings,
 - Costs of promotional items and memorabilia, including models, gifts, and souvenirs,
 - Costs of advertising and public relations designed solely to promote the non-Federal entity.

IT costs should be allowable to the extent that they are reasonable in amount, allocable to the project, and supported with adequate documentation. USAID will pick up its “fair share” of costs that are necessary for an IP to carry out a program or project.

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2 CFR 200.467	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1467
2 CFR 200.421	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1421

8. IF AN ORGANIZATION INCLUDES HOUSING ALLOWANCES AS PART OF THE STAFF BENEFITS PACKAGE IN ITS ADMINISTRATIVE POLICIES AND PROCEDURES, IS THIS ALLOWABLE COST?

200.431 Compensation—fringe benefits.

2 CFR 200.431(a) Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, part of a non-Federal entity-employee agreement, or an established policy of the non-Federal entity.

200.407 Prior written approval (prior approval).

2 CFR 200.407(h) The absence of prior written approval on any element of cost will not in itself affect the reasonableness or allocability of that element unless prior approval is specifically required for allowability as described under certain circumstances, including 2 CFR 200.431 Compensation—fringe benefits.

As auditors, we also will be considering whether the IPs are consistently providing housing or other similar benefits to staff who are not working on USAID projects. As mentioned in the webinar, it is not acceptable for the IP to offer certain benefits to staff working on the USAID project but not the Global Fund or Gates Foundation project, just because USAID allows such. Consistent treatment is a very important consideration.

SOURCE	SOURCE LINK
2 CFR 200.431(a)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1431
2 CFR 200.407(h)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1407

9. IS THE COST FOR RENOVATING A HEALTH CLINIC BUILDING WHERE THE PROJECT IS PROVIDING HEALTH SERVICES ALLOWABLE COST? —BASIC RENOVATIONS SUCH AS FILLING IN CRACKS IN THE BUILDING OR OTHER REASONS FOR RENOVATION TO ENSURE SAFETY TO STAFF AND CLIENTS AND PREVENTING LOSS OF PROJECT ASSETS.

As mentioned in the webinar, one needs to be very careful when considering construction/renovation/fixing activities. Please start by reading MSP M20 on Limiting Construction Activities (August 2013). Then there are various cost principles that need to be considered. In the webinar, we talked about the common situation where a room or clinic installs the long plastic curtain to segregate patients with TB from those without TB. If you study cost principle 2 CFR 200.462, Rearrangement and reconversion costs, you would see that such type of rearrangement costs are allowable, but generally as indirect costs, so please confirm with your AO that you can charge these costs directly. This is a good example why the 10% de minimis could be beneficial to an organization.

2 CFR 200.13 Capital expenditures means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.

200.439 Equipment and other capital expenditures.

2 CFR 200.439(b)(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or passthrough entity.

2 CFR 200.439(b)(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.

2 CFR 200.439(b)(2) 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 written approval of the Federal awarding agency, or pass-through entity.

SOURCE	SOURCE LINK
2 CFR 200.13	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_113
2 CFR 200.439	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1439

10. IS BOARD MEMBER SITTING ALLOWANCE ALLOWABLE COSTS?

As per 2 CFR 200.430 Compensation—personal services par (g) Nonprofit organizations, for compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include directors and executive committee member fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials. Also see 2 CFR 200.475 Trustees.

Board member/director fees are therefore allowable costs but should be treated as indirect costs as per 2 CFR 200.414 Indirect (F&A) costs if the director's fee is not directly attributable to the program/project.

A general rule of thumb (current good practice) for how much should be allowed for director/trustee time is that two hours of preparation for each hour of sitting board time is fair. The last thing an organization needs is board members who come to meetings unprepared, which is why it is critical that comprehensive board packs are prepared and sent to board members well in advance of board meetings.

SOURCE	SOURCE LINK
2 CFR 200.430(g)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1430

2 CFR 200.475 https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1475

2 CFR 200.414 https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1414

11. WOULD THE SALARY COMPENSATION COST BE ALLOWED FOR A PARTNER GOVERNMENT WORK FORCE TO COVER G2G ACTIVITY?

On this one, please check first with your AO and AOR. Generally, USAID does not allow projects to “top up” on HGE or Host Government Employees’ salaries or compensation packages. And this request happens across the world all the time, as local doctors and nurses (and especially local government doctors and nurses) get paid significantly less than NGO or for-profit staff/consultants. My first question would be, “did you clearly include such costs in your program definition and cost proposal?” In some countries, there are local country rules about USG, or any donor government, topping up HGE salaries, so be careful that such request to you may actually be illegal in such jurisdiction.

12. IF COP FUNDS MUST BE SPENT UNTIL SEPTEMBER OF FY X, CAN THE IP MAKE PAYMENTS TO VENDORS AND COMPLETE THE ACTIVITIES AFTER SEPTEMBER IF THE CONTRACT IS STILL VALID?

We are not 100% sure of the details of this question and the AOs can include special award conditions and limitations in Appendix A (The Schedule) of an award so each situation could be different (the answer to this question might be different if the funds were related to HHS/CDC PEPFAR funding but we are assuming the funds are from USAID). The question seems to indicate that this is NOT a close out year for the project. USAID AOs obligate funds on an incremental basis and it is common that organizations do not spend all funds in the same year that such funds were obligated. Please ask your AO and AOR about any spending restrictions that they may have included in your award. Also please note that spending funds in close out years come with unique restrictions.

13. IF THE USAID PROGRAM PARTICIPATES IN USAID PROMOTIONAL EVENTS, CAN WE PRINT OUT PROGRAM PROMOTIONAL CALENDARS OR OTHER MATERIALS WITH THE USAID LOGO?

Please also see the answer to 19 above.

The question is not clear on what are “USAID promotional events.” The general rule is that any materials are meant to promote the USAID project versus the organization. While USAID branding is also important, we suggest getting prior approval from your AO before incurring marketing/promotional funds.

14. IS ANNUAL LEAVE ALLOWABLE COST?

200.431 Compensation—fringe benefits.

2 CFR 200.431(b) The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick

leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

- They are provided under established written leave policies,
- The costs are equitably allocated to all related activities, including Federal awards and,
- The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.

SOURCE	SOURCE LINK
2 CFR 200.431(b)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1431

15. WHICH COST PRINCIPLES ARE COMMONLY VIOLATED?

From our decades of experience of auditing non-US NGOs, the most common reasons for organizations to have audit findings include:

1. Charging budget versus actual on their timesheets, or even worse, not preparing timesheets,
2. Not following proper policies or procedures for procurement,
3. Not have adequate supporting documentation for expending USG funding.

Also see answer 3 above. Many organizations do not realize that there are both USAID rules and regulations, and then the organization's own policies and procedures. Not following either set of rules/regulations/policies will lead to audit findings.

16. DOES COST PRINCIPLES ALSO APPLY FOR FAA?

Yes, the cost principles also apply to FAAs.

SOURCE	SOURCE LINK
2 CFR 200.401	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1401

17. WHAT DOES "ADEQUATELY DOCUMENTED" MEAN?

The rules for auditors under the US Generally Accepted Government Auditing Standards (also known as The Yellow Book) are to make sure that all costs charged to the USG are reasonable, allocable, allowable, and documented or supported. As an auditor, this means that I need to see supporting documentation that a transaction or activity occurred. The most common questioned costs for non-US NGOs are related to timekeeping of project staff. Please make sure that all project staff complete timesheets based on actual activity (see 2 CFR 200.430). Another common error is to not have documentation of the process(es) for procurement requirements (please see your MSP #5). The bottom line for auditors is if you cannot convince them through documentation that a proper transaction occurred, it didn't happen and they will question the cost.

SOURCE	SOURCE LINK
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2 CFR 200.430	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1430
M5	https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf

18. SHOULD THE \$1 MILLION OUT OF THE \$10 MILLION BE SPLIT OVER FIVE YEARS PROPORTIONALLY OR WILL IT BE ALLOWED FOR LUMP SUM SPENDING?

USAID awards are generally five years long and the funding comes in written obligations from the agreement officer. This will be very clearly written in the schedule of your award (It is HHS/CDC awards that are frequently just split into five proportional amounts, but such funds still need to be Obligated annually in the Notice of Award).

It is extremely important to keep in constant communications with your AOR and AO on your spending levels and funding needs. Also please study MSP M3 (b) and (c). Never spend more funds than have been obligated, in writing, from your AO. Doing so could lead to such costs being disallowed, even if they were spent for the good of the project and participants.

SOURCE	SOURCE LINK
M(3)(b) & (c)	https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf

I. COST ALLOCATION

19. CAN WE DO COST ALLOCATION BASED ON THE PROJECT AMOUNT?

There are many different methodologies for allocating different types of Joint & Common costs such as rent, insurance, IT, HR, Finance Staff, audits, etc.

As noted above, in question 31, rent is normally allocated on a square footage/meterage basis. This basis would then logically apply for utilities/power assuming the usage of such is space related. But insurance would not necessarily be related to space, especially if different projects have assets of high value or one project has many vehicles while others have none. HR costs would logically be allocated based on FTE headcount. IT would logically be allocated based on points of presence or email addresses for FTEs on projects. Also see specific answer on IT costs below at #34. Finance costs could be the example where your project amount makes good sense. And the same thing for the cost for the annual IFRS and GAGAS or Yellow Book audit. I would think that if one USAID project spends \$8 million in a year and other USAID project spends \$2 million in the same year, and if the USAID GAGAS or Yellow Book audit costs \$20,000 then project one picks up 80% or \$16,000 of the fees and project two picks up 20% or \$4,000 of the audit fees. Each project picks up its fair share.

However, assuming there is a \$10 million Global Fund project running that same year, the statutory or country-specific (IFRS) audit costs would be shared between all projects. So, if the statutory audit also costs \$20,000, the Global Fund project picks up 50% of the fees (or \$10,000) and the two USAID projects pick up their appropriate percentages (i.e., \$8,000 for project one and \$2,000 for project two.)

In the one-day training session held in Johannesburg for the new local IPs (as well as in the general opening session), many IPs mentioned that they are unable to recover all of their costs and especially

overhead or indirect costs. We believe that many of these IPs are not understanding what they can legally charge to their USG projects. We suggest that everybody revisit 2 CFR 200.405 Allocable costs, and especially (a)(2) and (a)(3) to understand what is possible. Also, we recommend that when missions review the budgets of the new IPs, they perform almost a “cost realism” exercise to make sure that IPs are including adequate costs for things like their GAGAS Audits, Insurance, Rent, IT, etc. This is a perfect reason to make sure new IPs receive the 10% de minimis.

SOURCE	SOURCE LINK
2 CFR 200.405	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1405

20. SOME COSTS MAY BE DIFFICULT TO DETERMINE REASONABLENESS AND ALLOCABILITY. SUCH COSTS ARE TREATED AND SOLVED BY NICRA FOR INTERNATIONAL NGOS. SO WHY DOESN'T USAID ALLOW NICRA FOR LIPS TO AVOID THE ABOVE CONFUSION COSTS?

200.407 Prior written approval (prior approval).

2 CFR 200.407 Under any given Federal award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or non-allocability, the non-Federal entity may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of the incurrence of special or unusual costs.

See the second paragraph for answer to question 31 above. Also, as noted in multiple answers above we discuss the 10% de minimis. See the answer to question 30 for example.

For many good reasons, USAID missions are reluctant to award NICRAs to non-US NGOs. We discussed this in the webinar.

First, the IP needs to be competent to prepare the NICRA application, which is not only relatively complicated but also requires that your accounting systems can consistently account for and record all costs as either direct or indirect. This starts with a good cost policy statement.

Second, as the overhead specialists in Washington DC (CAS team) are asking the overseas mission agreement officers to issue their own NICRAs. This puts additional burden on agreement officers who have not had the training/experience with NICRAs. Understanding and issuing NICRAs is a specialty and as AOs take personal responsibility for awards and NICRAs, I don't blame them for not accepting such responsibilities without at least backstop assistance from the specialists in Washington DC.

Third, the local audit firms need to be competent to audit the expenditures and issue their reports. And, as like NICRAs being a specialty for AOs above, the same applies to audit firms. We have been offering NICRA courses in many cities across Africa/Asia for the past 5 years and we believe a number of firms now have staff that can correctly understand and audit NICRAs.

Finally, as the OIG (old RIG) plays a part/role in overseeing how the missions and auditors perform their roles/responsibilities, their staff also need to understand NICRAs. We have observed over the past three years that the RIG/Pretoria office has exhibited competence on some complicated NICRA questions so their part in the bigger picture of awarding NICRAs should not be a limiting factor.

The bottom line is that managing and issuing NICRAs overseas is complicated, and as all of the participants in the process improve their skills and understanding, the logical option right now is to start with the 10% de minimis option/election at 2 CFR 200.414(f). We strongly believe that understanding how to request and calculate the 10% de minimis (including the preparation of your cost policy statement) is the starting point for eventually receiving a NICRA.

SOURCE	SOURCE LINK
2 CFR 200.407	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1407
2 CFR 200.414 (f)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1414

21. CAN COSTS FOR PROPOSAL PREPARATION BE INCLUDED IN INDIRECT COSTS?

200.460 Proposal costs.

2 CFR 200.460 Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-Federal entity. No proposal costs of past accounting periods will be allocable to the current period.

The fact that proposal preparation costs are generally only allowable as indirect costs is one of the primary reasons why COFAR (the Council on Financial Assistance Reform) created the 10% de minimis option mentioned above, also found at 2 CFR 200.414 (f).

SOURCE	SOURCE LINK
2 CFR 200.460	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1460
2 CFR 200.414 (f)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1414

22. HOW DO WE CALCULATE DEPRECIATION?

2 CFR 200.436 Rules for calculation:

- The computation of depreciation must be based on the acquisition cost of the assets involved.
- For an asset donated to the non-Federal entity by a third party, its fair market value at the time of the donation must be considered as the acquisition cost.
- Acquisition cost will exclude:
 - The cost of land,
 - Any portion of the cost of buildings and equipment borne by or donated by the Federal government, irrespective of where the title was originally vested or where it is presently located,
 - Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery and,

- Any asset acquired solely for the performance of a non-Federal award.
- The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life, otherwise the straight-line method will be presumed the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the cognizant agency. The depreciation methods used to calculate the depreciation amounts for indirect (F&A) rate purposes must be the same methods used by the non-Federal entity for its financial statements. No depreciation may be allowed on any assets that have outlived their depreciable lives.

SOURCE 2 CFR 200.436	SOURCE LINK https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1436
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23. AS A FOLLOW UP ON THE DEPRECIATION QUESTION, WE INCUR ABOUT \$1,600 A MONTH AS DEPRECIATION EXPENSE. WE HAVE FIVE PEOPLE USING ABOUT 4 SQUARE METERS (SQM) EACH ON A USAID PROJECT. IN THIS CASE HOW CAN WE CHARGE THE EXPENSE TO THE USAID PROJECTS?

In general, the concept of splitting rent (as well as allowable depreciation) is based on the square footage or meterage method. So, in your example you have 5 people using 4 sqm each or 20 sqm. Assuming the total building is 100 sqm, the USAID project is taking up 20% of the building/space so that project will pick its “fair share” or 20% of the depreciation/rent.

It would be wise to confirm your plans/methodology for charging depreciation with your AO and AOR. As noted at 2 CFR 200.407 Prior written approval, as well as in your MSPs at MI (b), any organization can obtain prior written approval for the reasonableness and allocability of any cost. We strongly recommend that every IP does this to make sure there are no “grey areas” when it comes to allowable costs. Doing such will reduce the chances that you and your auditor will disagree on certain costs.

SOURCE 2 CFR 200.407	SOURCE LINK https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1407
MI (b)	https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf

24. WE OWN A BUILDING THAT WE DON'T PAY RENT ON. WE HAVE USAID PROGRAMS OPERATING FROM THIS BUILDING, BUT THE PROJECTS ARE NOT BEING CHARGED FOR OFFICE SPACE. CAN WE HAVE MORE GUIDANCE IN CHARGING THE DEPRECIATION USING ACQUISITION COST?

Also see the answer to 12 above.

NB* Assuming the building is not excluded in terms of 2 CFR 200.436(c)

2 CFR 200.436(d)(3) 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 must 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 cognizant agency may authorize a non-Federal entity to use more than these three groupings. When a non-Federal entity elects to depreciate its buildings by its components, the same depreciation methods must be used for indirect (F&A) purposes and financial statements purposes.

SOURCE	SOURCE LINK
2 CFR 200.436	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1436

25. HOW WOULD IT COSTS BE SHARED AMONG MANY PROJECTS?

2 CFR 200.405 Allocable costs 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 paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.439 Equipment and other capital expenditures.

Any reasonable documented basis could be:

- Revenue proportion
- Head Count proportion per project
- IT costs specific – number of computers per project

SOURCE	SOURCE LINK
2 CFR 200.405	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1405

26. IS THE 10% INDIRECT COST APPLIED ON THE TOTAL COST OR MODIFIED TOTAL COST?

200.414 Indirect (F&A) costs.

2 CFR 200.414(f) any non-Federal entity that has never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC).

MTDC is defined a 2 CFR 200.68. Please go to <http://www.ecfr.gov> and click on Title 2 Grants and Agreements and click on Subtitle A - OMB II 200-299 Office of Management and Budget Guidance. Then, under 200, click on 200.0 to 200.521 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Once you get here, bookmark this and save it as your USAID Uniform Guidance. Please note that if you also receive funds from HHS/CDC (even if they are still

PEPFAR funds) those guidelines can be found under Title 45 and you will need to click through a similar number of levels. The CDC rules are not all the same as the USAID rules (so do not be fooled by the term “Uniform Guidance.”).

SOURCE	SOURCE LINK
2 CFR 200.414(f)	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1414
2 CFR 200.68	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_168

27. WHAT IS INDIRECT COST?

The concept of direct versus indirect costs can be fairly complicated. In the webinar, we walked you through the cost principle sections of 2 CFR 200.413 – Direct Costs, and, 2 CFR 200.414 – Indirect Costs. For all NGOs, we recommend that the organization designate a person to focus on a few important USG funding requirements including direct/indirect costs, procurement, travel, fixed asset management, and timekeeping. With USAID now widely allowing the 10% de minimis option for non-US NGOs, as per 2 CFR 200.414(f), organizations need to develop a cost policy statement (CPS), which documents how organizations plan to recover costs from the USG, and other donors. There are a number of guidance documents for understanding the indirect cost space and your AO or AOR should be able to assist you.

SOURCE	SOURCE LINK
2 CFR 200.413	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1413
2 CFR 200.414	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1414

II. AGREEMENT TYPES

28. WHAT MAKES A FIXED AMOUNT AGREEMENT DIFFERENT FROM OTHERS?

A fixed amount award (FAA) is like a baby subaward but it comes with many strings. The rules for USAID issuing a prime recipient with an FAA are different from a prime organization issuing a subaward with an FAA. Please review the excellent USAID guidance at ADS 303.3.25 for the three essential documents on how and when to issue an FAA to subs. One of the main benefits of FAAs is that they are not auditable. If you have any questions after reading the available guidance, please contact us or your AO or AOR.

SOURCE	SOURCE LINK
ADS 303.3.25	https://www.usaid.gov/sites/default/files/documents/1868/303.pdf

29. ARE A COOPERATIVE AGREEMENT AND A FIXED AMOUNT AWARD THE SAME?

Effectively, yes, insofar as they are both ways for a USAID prime recipient to award funds to an organization/subrecipient to achieve certain public purposes. However, there are many differences in how they are awarded and managed. There are significant advantages to fixed amount awards in certain situations (see definitions below). Based on your particular situation, if a prime organization can work with the sub to specifically identify milestones/deliverables, and clearly documents the costs to deliver those deliverables, then the FAA would be a very logical option.

200.24 Cooperative agreement.

2 CFR 200.24 defines a corporate agreement, the principal purpose of which is to transfer anything of value from the Federal awarding agency or passthrough entity to the non-Federal entity to carry out a public purpose authorized by United States law. It is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award. The Federal awarding agency is involved to ensure the achievement of the intended results.

200.45 Fixed amount awards.

2 CFR 200.45 defines a fixed amount award. Accountability is based primarily on performance and results.

200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

2 CFR 200.201(b) Payments are based on meeting specific requirements of the Federal award. Accountability is based on performance and results. The Federal award amount is negotiated using the cost principles (or other pricing information) as a guide. Except in the case of termination before completion of the Federal award, there is no governmental review of the actual costs incurred by the non-Federal entity in performance of the award. The Federal awarding agency or pass-through entity may use fixed amount awards if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award with assurance that the non-Federal entity will realize no increment above actual cost.

SOURCE	SOURCE LINK
2 CFR 200.24	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=p t2.1.200&r=PART&ty=HTML#se2.1.200_124
2 CFR 200.45	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=p t2.1.200&r=PART&ty=HTML#se2.1.200_145
2 CFR 200.201	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=p t2.1.200&r=PART&ty=HTML#se2.1.200_1201

III. FINANCIAL REPORTING

30. IN CASE OF FAA, WHAT IS EXPECTED IN THE FINANCIAL REPORTING?

See answers to numbers 6 and 7 above. FAAs are designed to pay the implementing party based on results, so effectively, once a pre-agreed milestone or deliverable is achieved, the organization gets paid. The prime recipient simply shows the FAA amounts paid as expenditures on their FAS.

31. IS THERE A DIFFERENCE BETWEEN A FIXED AMOUNT AWARD AND A COOPERATIVE AGREEMENT IN FINANCIAL REPORTING?

Yes, a fixed amount award (FAA) as noted in question 4 above, is a very logical option for prime organizations in certain situations. Please read the guidance at ADS 303.3 25. Also, see the definitions below.

200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

2CFR 200.201(b) Fixed Amount Awards - Except in the case of termination before completion of the Federal award, there is no governmental review of the actual costs incurred by the non-Federal entity in performance of the award.

The audit requirements for non-US NGOs are found in the MSPs, at number M2(b) Audits. They refer the organization to 200 Subpart F which is essentially found at 2 CFR 200.500 Audit Requirements. But also be aware that your AOR, AO, or the controller's office (OFM) will probably notify you that you are subject to the ADS 591 maa, USAID Financial Audit Guidelines mentioned in answer 2 above.

2 CFR 200.501(a) A Non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

2 CFR 200.501(d) A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in § 200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

SOURCE	SOURCE LINK
ADS 303.3.25	https://www.usaid.gov/sites/default/files/documents/1868/303.pdf
2 CFR 200.201	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1201
M2(b)	https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf
2 CFR 200.500	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1500
2 CFR 200.501	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1501

32. WHAT ARE THE COST SHARING REPORT REQUIREMENTS, VAT TREATMENT, AND AUDIT COMPLIANCES FOR FIXED AMOUNT AWARD (FAA)?

The cost sharing compliance requirements for non-US NGOs are included in the Standard Provisions for Non-US Nongovernmental Organizations (ADS303mab_052219), commonly known as the MSPs. The specific section, which would have been attached to or referenced in your award, would be in the “Required as Applicable” section RAA14 Cost Share.

However, the MSPs do not provide any guidance on what the cost share report should look like. The highest level requirements/guidance can be found at:

ADS 591.3.2 Audits of Foreign Organizations and Host Government Entities

591.3.2.1 Foreign Organizations

Effective Date: 08/24/2017

Foreign organizations receiving USAID-funded awards must be audited in accordance with 2 CFR Part 200, Subpart F (see ADS 591maa, USAID Financial Audit Guidelines).

At ADS 591maa, the relevant section can be found at 2.4.C Illustrative Cost-Sharing Table. It is our belief that the ADS 591maa document might be subject to change in the near future and the cost sharing report example might be such a change candidate (for auditor reporting reasons on annual versus life-of-project assurance) so another possible clearer reference for your reporting can be found at the old OIG Guidelines for Financial Audits Contracted by Foreign Recipients (February 2009). Depending on the type of cost share that you have (i.e., annual versus life-of-project) see page 36 for the life-of-project example or page 37 for the annual reporting version. Please confirm with your AOR/AO what format you intend to use. If you have additional questions, please call us.

RAA10. REPORTING HOST GOVERNMENT TAXES (JUNE 2012)

RAA10 (c) Host government taxes are not allowable where the agreement officer provides the necessary means to the recipient to obtain an exemption or refund of such taxes, and the recipient fails to take reasonable steps to obtain such exemption or refund. Otherwise, taxes are allowable in accordance with the Standard Provision, Allowable Costs, and must be reported as required in this provision. Please note that taxes are also addressed in the cost principles at 2 CFR 200.470 (b) and (c). In many countries, even though NGOs can request to have paid VAT refunded, it can take many months, so at year end when The Yellow Book audit is prepared, the amounts still due back to the NGO are usually shown as a reconciling item (receivable) at the end of the fund accountability statement (FAS).

SOURCE	SOURCE LINK
2 CFR Part 200, Subpart F	(https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=p2.1.200&r=PART&ty=HTML#sp2.1.200.f)
2 CFR 200.470	https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fa8c0934712c3764146097ffc63d479&mc=true&n=p2.1.200&r=PART&ty=HTML#se2.1.200_1470
ADS 591	https://www.usaid.gov/sites/default/files/documents/1868/591.pdf
RAA10 & 14	https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf

IV. REQUEST FOR RESOURCES

33. A TEMPLATE FOR PROPOSAL WRITING AND/OR TRAINING WOULD BE HIGHLY APPRECIATED

We understand and agree. Sustainability Solutions has developed a course titled “A structured approach to winning proposals for USAID and CDC,” which is offered to any IPs, in certain countries across Africa and Asia a few times a year. This course is not currently part of the ASAP project and participation is not limited.

34. WILL THIS PRESENTATION BE MADE AVAILABLE FOR PARTICIPANTS?

The presentation was made available in a link.