

The Department of Mental Retardation's Cost Accounting Standards for the Funding of Contracts and Awards. *Revised July 1, 2004*

1. **Purpose.** This document establishes accounting standards for determining costs of grants, contracts and other agreements with organizations that receive State funding from the Department of Mental Retardation. These accounting standards are designed to provide programs funded by the Department of Mental Retardation from State and/or Federal funding sources their fair share of costs except where restricted or prohibited by law. The accounting standards do not attempt to prescribe the extent of cost sharing or matching on grants, contracts, or other agreements.

2. **Applicability.**

- a. These accounting standards shall be used for all DMR funded programs in determining the costs of work performed by organizations under grants, cost reimbursement contracts, and any other contracts in which costs are used in pricing, administration, or settlement. All of these instruments are hereafter referred to as awards. The accounting standards do not apply to awards and payments under which an organization is not required to account to the Department of Mental Retardation for actual costs incurred.
- b. All cost reimbursement subawards (subgrants, subcontracts, etc.) are subject to these DMR cost accounting standards applicable to the particular organization concerned.

3. **Definitions.**

- a. **Organization** means any individual, partnership, limited liability partnership, sole proprietorship, corporation, limited liability corporation, trust, association, cooperative, or other organization doing business in the State of Connecticut.
- b. **Prior approval** means securing the Department of Mental Retardation's permission in advance to incur cost for those items that are designated as requiring prior approval by this document. Requests for prior approval must be made in writing. The Department will provide a written approval or disapproval of the request within 30 days of receipt by the Department. Prior approvals will be submitted to and approved by the Director of the DMR Operations Center.

4. **Responsibilities.** All DMR funded programs will implement the provisions of this document.

5. **Attachments.** The accounting standards and related policy guides are set forth in the following Attachments:

Attachment A - General Principles

Attachment B - Selected Items of Cost

6. **Requests for exceptions.** The Commissioner of the Department of Mental Retardation may grant written exceptions to the requirements of this document (when permissible under existing law and) when determined appropriate. However, in the interest of achieving maximum uniformity, exceptions will be permitted only in highly unusual circumstances.
7. **Effective Date.** The provisions of this document are effective July 1, 2002 and will be incorporated into the provisions of new awards made on and after July 1, 2002.
8. **Inquiries.** Further information concerning this document may be obtained by contacting the Director of the DMR Operations Center.

Attachments

ATTACHMENT A

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ATTACHMENT A

GENERAL PRINCIPLES

A. Basic Considerations

1. **Composition of total costs.** The total cost of an award is the sum of the allowable direct and allocable indirect costs less any applicable credits.
2. **Factors affecting allowability of costs.** To be allowable under an award, costs must meet the following general criteria:
 - a. Costs must be applicable to Connecticut operations.
 - b. Be reasonable for the performance of the award and be allocable thereto under these accounting standards. The costs must be appropriate and applicable to the care of individuals with mental retardation in the State of Connecticut.
 - c. Conform to any limitations or exclusions set forth in these accounting standards or in the award as to types or amount of cost items.
 - d. Be consistent with policies and procedures that apply uniformly to both state-financed and other activities of the organization.
 - e. Be accorded consistent treatment.
 - f. Be determined in accordance with generally accepted accounting principles (GAAP).
 - g. Not be included as a cost or used to meet cost sharing or matching requirements of any other state-financed program in either the current or a prior period.
 - h. Be adequately documented.
3. **Documentation of costs.**
 - a. Allowable costs must be adequately documented by original documentation and/or any other forms of documentation evidencing a disbursement and substantiating a cost was incurred by the organization during the contract period.
 - b. Supporting documentation must demonstrate the cost was incurred to support either directly or indirectly the award/program funded by the Department of Mental Retardation.

- c. The absence of adequate supporting documentation may render a cost unallowable.

4. **Reasonable costs.** A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by state agencies. In determining the reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.
- b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and terms and conditions of the award.
- c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, clients, the public at large, the Department of Mental Retardation, and the State of Connecticut.
- d. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

5. **Allocable costs.**

- a. A cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a DMR award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:
 - (1) Is incurred specifically for the award.
 - (2) Is not specifically incurred for another program or another function or another state.
 - (3) Benefits both the award and other operations of the organization and can be distributed in reasonable proportion to the benefits received and a reasonable basis for allocation can be documented, or
 - (4) Is necessary to the overall operation of the organization, and is not unallowable, although a direct relationship to any particular cost objective cannot be shown.
- b. Any cost allocable to a particular award or other cost objective under these accounting standards may not be shifted to other state awards to overcome

funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

- c. Cannot be unallowable under State and Federal laws and regulations.

6. Applicable credits.

- a. The term applicable credits refers to those receipts, or reduction of expenditures which operate to offset or reduce expense items that are allocable to awards as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing or received by the organization relate to allowable cost, they shall be credited to the Department of Mental Retardation either as a cost reduction or cash refund, as appropriate.
- b. In some instances, the amounts received from the State of Connecticut / Department of Mental Retardation to finance organizational 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 organization in determining the rates or amounts to be charged to state awards for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by state funds.
- c. Program income (i.e., net income earned from DMR supported activities) will be offset against the cost of the DMR funded expenses, in accordance with the terms and conditions of the DMR award.
- d. Expenses related to restricted donations must be offset against restricted donation revenues.

B. Direct Costs

- 1. Direct costs are those that can be identified specifically with a particular final cost objective, i.e., a particular award, project, service, or other direct activity of an organization. However, a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose, in like circumstance, has been allocated to an award as an indirect cost. Costs identified specifically with awards are direct costs of the awards and are to be assigned directly thereto. Costs identified specifically with other final cost objectives of the organization are direct costs of those cost objectives and are not to be assigned to other awards directly or indirectly.
- 2. The cost of certain activities are not allowable as charges to DMR awards (see, for example, fundraising costs in **paragraph 24 of Attachment B**). However,

even though these costs are unallowable for purposes of computing charges to State awards, they nonetheless must be treated as direct costs for purposes of determining the allocation of indirect costs and they must be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs.

3. The costs of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs whether or not allowable and be allocated an equitable share of indirect costs. Some examples of these types of activities include:
 - a. Maintenance of membership rolls, subscriptions, publications, and related functions.
 - b. Providing services and information to members, legislative or administrative bodies, or the public.
 - c. Promotion, lobbying, and other forms of public relations.
 - d. Meetings and conferences except those held to conduct the general administration of the organization.
 - e. Maintenance, protection, and investment of special funds not used in operation of the organization.
 - f. Administration of group benefits on behalf of members or clients, including life and hospital insurance, annuity or retirement plans, financial aid, etc.

C. Indirect Costs

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct costs of minor amounts may be treated as indirect costs under the conditions described in **subparagraph B.2**. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.
2. Because of the diverse characteristics and accounting practices of organizations, it is not possible to specify the types of cost which may be classified as indirect cost in all situations.

D. GENERAL ADMINISTRATIVE AND GENERAL EXPENSES (A&G):

The expenses under this heading are those that have been incurred for the overall general executive and administrative offices of the organization. This

category shall also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, and interest costs. Examples of this category include central offices, such as the director's office, the office of finance, business services, budget and planning, personnel, safety and risk management, general counsel, management information systems, and library costs.

In developing this cost pool, special care should be exercised to ensure that costs incurred for the same purpose in like circumstances are treated consistently as either direct or indirect costs. For example, salaries of technical staff, project supplies, project publication, telephone toll charges, computer costs, travel costs, and specialized services costs shall be treated as direct costs wherever identifiable to a particular program. The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity. Items such as office supplies, postage, local telephone costs, periodicals and memberships should normally be treated as indirect costs.

The allocation of Administrative and General costs to programs funded by the Department of Mental Retardation must be made in accordance with the requirements published and distributed for budgets and cost reports required by the Department's programs.

E. Allocation of Indirect Costs.

1. Specific methods for allocating indirect costs may be determined by the organization receiving funding from the Department of Mental Retardation. The methodology utilized by the organization must result in an allocation that results in a reasonable and equitable charge based upon the benefits received by the DMR funded program.
2. Organizations must document their allocation methodologies in a written Cost Allocation Plan. Cost Allocation Plans must identify each type of indirect cost and / or each indirect cost pool that allocate costs to DMR funded programs. The Plans must document the specific method used to allocate that type of cost or the specific cost pool. The Cost Allocation Plans must be detailed in order to disclose calculations and statistics used to determine amounts and percentages allocated to DMR funded programs.
3. Cost Allocation Plans must be developed and/or updated annually to document and support any changes in the allocation methodology and to document changes in calculations and statistics used to determine the allocations to DMR funded programs.

4. The use of cost pools to distribute any type of indirect costs or fringe benefit costs are an allowable method to allocate costs to DMR funded programs, to the extent the non-DMR funded programs that receive allocations via the cost pool methodology are similar, and the allocation of costs among the programs results in a charge to the DMR funded programs that is reasonable to the benefits received by the DMR funded programs. Cost pools can only contain costs that are applicable to programs the organization operates in the State of Connecticut. Direct and indirect costs that are applicable to an organization's programs operated in states other than the State of Connecticut cannot be included in any cost pool that results in a charge to a DMR funded program.
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ATTACHMENT B

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SELECTED ITEMS OF COST

Paragraphs 1 through 60 provide accounting standards to be applied in establishing the allowability of certain items of cost. These accounting standards apply whether a cost is treated as direct or indirect. Failure to mention a particular item of cost is not intended to imply that it is allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment or accounting standards provided for similar or related items of cost.

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 programs, direct mail, exhibits, and the like.
- b. The term public relations includes community relations and means those activities dedicated to maintaining the image of the organization 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 which are solely for:
 - (1) The recruitment of personnel required for the performance by the organization of obligations arising under a sponsored award, when considered in conjunction with all other recruitment costs, as set forth in **paragraph 45** ("Recruiting costs");
 - (2) The procurement of goods and services for the performance of a sponsored award;
 - (3) The disposal of scrap or surplus materials acquired in the performance of a sponsored award except when organizations are reimbursed for disposal costs at a predetermined amount.
 - (4) Other specific purposes necessary to meet the requirements of the sponsored award.
- d. The only allowable public relations costs are:

- (1) Costs specifically required by DMR sponsored awards;
 - (2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of sponsored awards (these costs are considered necessary as part of the outreach effort for the sponsored awards); 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 to keep the public informed on matters of public concern, such as notices of contract/grant awards, financial matters, etc.
- e. Costs identified in **subparagraphs c and d** if incurred for more than one sponsored award or for both sponsored work and other work of the organization, are allowable to the extent that the principles in **paragraphs B** ("Direct Costs") and **C** ("Indirect Costs") of **Attachment A** are observed.
- f. Unallowable advertising and public relations costs include the following:
- (1) All advertising and public relations costs other than as specified in **subparagraphs c, d, and e**;
 - (2) Costs of meetings or other events related to fund raising or other organizational activities including:
 - (i) Costs of displays, demonstrations, and exhibits;
 - (ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
 - (iii) Salaries and wages of employees or cost of services 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 organization.

2. **Alcoholic beverages.** Costs of alcoholic beverages are unallowable.

3. **Bad debts.** Bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable. Bad debts applicable to agency enterprise programs funded by the Department of Mental Retardation that generate sales in the normal course of the DMR funded program activity/business are allowable, with prior approval, and to the extent that the documentation supports the total bad debt write off is reasonable, and the appropriate collection efforts have been made to recover debts owed the agency, and collection efforts are documented.

4. **Bid and proposal costs.** (reserved) Must be approved by the Department under prior approval.

5. **Bonding costs.**
 - a. Must be approved by the Department under prior approval.
 - b. Bonding costs arise when the State Government requires assurance against financial loss to itself or others by reason of the act or default of the organization. They arise also in instances where the organization requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.
 - c. Costs of bonding required pursuant to the terms of the award are allowable.
 - d. Costs of bonding required by the organization 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.

6. **Communication costs.** Costs incurred for telephone services, local and long distance telephone calls, pagers, cell phones, monthly internet service fees/charges, telegrams, radiograms, postage and the like are allowable.

7. **Compensation for personal services.**
 - a. **Definition.** Compensation for personal services includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the award (except as otherwise provided in **subparagraph h**). It includes: salaries, wages, incentive awards, bonuses, fringe benefits, pension plan costs, incentive pay, cost of living differentials, and any other forms of reportable income reported to the Internal Revenue Service on a W2 and/or

1099. Any other type of compensation must be approved by the Department under prior approval.

- b. **Allowability.** Except as otherwise specifically provided in this paragraph, the costs of such compensation are allowable to the extent that:
 - (1) Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both DMR and non-DMR activities.
 - (2) Charges to awards whether treated as direct or indirect costs are determined and supported as required in this paragraph.
 - (3) Complies to Public Act 91-11.
- c. **Reasonableness.**
 - (1) When the organization is predominantly engaged in activities other than those sponsored by the Department of Mental Retardation, compensation for employees on state-sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.
 - (2) When the organization is predominantly engaged in DMR-sponsored activities and in cases where the kind of employees required for the DMR activities are not found in the organization's other activities, compensation for employees on DMR-sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.
- d. **Special considerations in determining allowability.** Certain conditions require special consideration and possible limitations in determining costs under DMR awards where amounts or types of compensation appear unreasonable. Among such conditions are the following:
 - (1) Compensation to members of 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, and there is compliance to the Department of Mental Retardation's Ethics Protocols.
 - (2) Any change in an organization's compensation policy resulting in a substantial increase in the organization's level of compensation, particularly when it was concurrent with an increase in the ratio of DMR awards to other activities of the organization or any change in the treatment of allowability of specific types of compensation due to changes in State policy, or DMR policy.
 - (3) Overall compliance to the Department of Mental Retardation's Ethic's Protocols must be taken into consideration.
- e. **Unallowable costs.** Costs which are unallowable under other paragraphs of this Attachment shall not be allowable under this paragraph solely on the basis that they constitute personal compensation.

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 vacation leave, sick leave, military leave, and the like, are allowable, provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each.
- (2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, pension plan costs (see **subparagraph h**), and the like, are allowable, provided such benefits are granted in accordance with established written organization policies. Such benefits whether treated as indirect costs or as direct costs, shall be distributed to particular awards and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to such awards and other activities.
- (3) (a) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable, to the extent that an independent third party sets the reserve requirement and to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made shall not exceed the present value of the liability.

(b) Where an organization follows a consistent policy of expensing actual payments to, or on behalf of, employees or former employees for unemployment compensation or workers' compensation, such payments are allowable in the year of payment with the prior approval of the Department of Mental Retardation, provided they are allocated to all activities of the organization.
- (4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the organization is named as beneficiary are unallowable.

g. **Organization-furnished automobiles.** That portion of the cost of organization-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit, as direct, or as indirect costs regardless of whether the cost is reported as taxable income to the employees.

h. **Pension plan costs.**

- (1) Costs of the organization's pension plan which are incurred in accordance with the established policies of the organization are allowable, provided:

- (a) Such policies meet the test of reasonableness;
 - (b) The methods of cost allocation are not discriminatory;
 - (c) The cost assigned to each fiscal year is determined in accordance with generally accepted accounting principles (GAAP), as prescribed in Accounting Principles Board Opinion No. 8 issued by the American Institute of Certified Public Accountants; and
 - (d) The costs assigned to a given fiscal year are funded for all plan participants no later than the tax return due date (including extensions) for that fiscal year.
- (2) Pension plan termination insurance premiums paid 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.
 - (3) Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.
- i. **Incentive compensation.** Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the organization and the employees before the services were rendered, or pursuant to an established plan followed by the organization so consistently as to imply, in effect, an agreement to make such payment. Accrued bonuses must be paid within six months of the close of the fiscal year.
 - j. **Overtime, extra-pay shift, and multi-shift premiums.** See **paragraph 33.**
 - k. **Severance pay.** See **paragraph 52.**
 - l. **Training and education costs.** See **paragraph 56.**
 - m. **Support of salaries and wages.**
 - (1) Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. For electronic timekeeping systems that do not produce hard copy/paper documentation of timesheets that are signed by employees and approved by appropriate officials, prior approval of the timekeeping system is required. Approval will consider acceptable procedures that have been reviewed by the independent CPA firms for proper internal controls/internal control procedures. The distribution of salaries and wages to awards must be supported by time sheets, and supported by the Cost Allocation Plans (see **subparagraph E.2 of Attachment A**), or personnel activity reports, as prescribed in **subparagraph (2)**.
 - (2) Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. In addition, in

order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the allocation of the organization's indirect costs (e.g., an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by organizations to satisfy these requirements must meet the following standards:

- (a) The reports must reflect an *after-the-fact* determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards.
 - (b) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.
 - (c) The reports must be signed by the individual employee, or by a responsible supervisory official having first hand knowledge of the activities performed by the employee, that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports.
 - (d) The reports must be prepared at least monthly and must coincide with one or more pay periods.
- (3) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in **subparagraphs (1) and (2)**, must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 516). For this purpose, the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under FLSA.
- (4) Salaries and wages of employees used in meeting cost sharing or matching requirements on awards must be supported in the same manner as salaries and wages claimed for reimbursement from awarding agencies.

8. **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. The term "contingency reserve" excludes self-insurance reserves (see **subparagraphs 7.f (3) and 23.a(2)(d)**); pension funds (see **subparagraph 7.h**); and reserves for normal severance pay (see **subparagraph 52.b(1)**).

9. **Contributions.** Contributions and donations by the organization to others are unallowable.

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

a. Must be approved by the Department under prior approval.

b. Definitions.

- (1) Conviction, as used herein, means a judgment or a conviction of a criminal offense by any court of competent jurisdiction, whether entered upon as a verdict or a plea, including a conviction due to a plea of *nolo contendere*.
- (2) Costs include, but are not limited to, administrative and clerical expenses; the cost of legal services, whether performed by in-house or private counsel; and the costs of the services of accountants, consultants, or others retained by the organization 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.
- (3) Fraud, as used herein, means (i) acts of fraud corruption or attempts to defraud the Federal, State or Local Government or to corrupt its agents, (ii) acts that constitute a cause for debarment or suspension (as specified in agency regulations), and (iii) 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.
- (4) Penalty does not include restitution, reimbursement, or compensatory damages.
- (5) Proceeding includes an investigation.

c. (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: (1) relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation by the organization (including its agents and employees), and (2) results in any of the following dispositions:

- (a) In a criminal proceeding, a conviction.
- (b) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of organizational liability.
- (c) In the case of any civil or administrative proceeding, the imposition of a monetary penalty.
- (d) A final decision by an appropriate Federal or state or local official to debar or suspend the organization, 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.

(e) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in (a), (b), (c) or (d).

(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 **subparagraph c.(1)**.

- d. If a proceeding referred to in **subparagraph c** is commenced by the Federal or State or Local Government and is resolved by consent or compromise pursuant to an agreement entered into by the organization and the Federal or State or Local Government, then the costs incurred by the organization in connection with such proceedings that are otherwise not allowable under **subparagraph c** may be allowed to the extent specifically provided in such agreement.
- e. If a proceeding referred to in **subparagraph c** is commenced by a State, local or foreign government, the authorized State official may allow the costs incurred by the organization 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 state-sponsored award, or (2) specific written direction of an authorized official of the sponsoring agency.
- f. Costs incurred in connection with proceedings described in **subparagraph c**, but which are not made unallowable by that subparagraph, may be allowed by the State 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 award;
 - (3) The costs are not otherwise recovered from the State 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 State official to be appropriate, considering the complexity of the litigation, generally accepted principles governing the award of legal fees in civil actions involving the Federal, State or Local Government as a party, and such other factors as may be appropriate. Such percentage shall not exceed 80 percent. However, if an agreement reached under **subparagraph d** 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.
- g. Costs incurred by the organization 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 organization was found liable or settled, are unallowable.

- h. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with defense against the Federal, State or Local Government claims or appeals, antitrust suits, or the prosecution of claims or appeals against the Federal, State or Local Government, are unallowable.
- i. 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 awards.
- j. The costs of legal, accounting, and consultant services, and related costs incurred in connection with rate appeals, arbitration or judicial proceedings pertaining to the reimbursement rates approved by the commissioner are unallowable, **except** that such costs **shall** be recognized as allowable if the commissioner, arbitration panel or the court concludes that the facility's request for reimbursement rate adjustment constitutes a valid claim. In such situations, the reasonable aggregate amount of legal, accounting, and consultant services, and related costs to be allowed shall be determined by the commissioner.
- k. Costs which may be unallowable under this paragraph, including directly associated costs, shall be segregated and accounted for by the organization separately. During the pendency of any proceeding covered by **subparagraphs c and g**, the State Government shall generally withhold payment of such costs. However, if in the best interests of the State Government, the State Government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreements by the organization to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

11. Depreciation.

- a. Compensation for the use of buildings, other capital improvements, and equipment on hand may be made through depreciation.
- b. The computation of depreciation shall be based on the acquisition cost of the assets involved. The acquisition cost of an asset donated to the organization by a third party shall be its fair market value at the time of the donation. Depreciation on donated assets is unallowable. Depreciation on assets purchased with restricted assets (i.e. cash) donated for the specified restriction to purchase such assets are unallowable.
- c. The computation of depreciation will exclude:
 - (1) The cost of land;

- (2) Any portion of the cost of buildings and equipment borne by or donated by the State Government irrespective of where title was originally vested or where it presently resides; and
 - (3) Any portion of the cost of buildings and equipment contributed by or for the organization in satisfaction of a statutory matching requirement.
- d. Where depreciation is charged, 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 used, technological developments in the particular program area, the renewal and replacement policies followed for the individual items or classes of assets involved, and the existing guidelines established by the Departments of Mental Retardation and Social Services. The method of depreciation used to assign 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 or lesser in the early portions of its useful life than in the later portions, 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 DMR. When the depreciation method is used for buildings, a building's shell may be segregated from each building component (e.g., plumbing system, heating, and air conditioning system, etc.) and each item depreciated over its estimated useful life; or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.
 - e. When the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that, under **subparagraph d**, would be viewed as fully depreciated.
 - f. Charges for depreciation must be supported by adequate property records and physical inventories must be taken at least once every two years to ensure that assets exist and are usable and needed. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be maintained.

12. Donations.

- a. **Must be approved by the Department under prior approval.**
- b. **Services received.**
 - (1) Donated or volunteer services may be furnished to an organization 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 indirect cost.

- (2) The value of the donated services utilized in the performance of a direct cost activity shall be considered in the determination of the organization's indirect cost(s) and the allocations of those costs and, accordingly, shall be allocated a proportionate share of applicable indirect costs when the following circumstances exist:
 - (a) The aggregate value of the services is material;
 - (b) The services are supported by a significant amount of the indirect costs incurred by the organization;
 - (c) The direct cost activity is not pursued primarily for the benefit of the State Government,
- (3) In those instances where there is no basis for determining the fair market value of the services rendered, the recipient and the cognizant agency shall negotiate an appropriate allocation of indirect costs to the services.
- (4) Where donated services directly benefit a project supported by an award, the indirect costs allocated to the donated services will be considered as a part of the total costs of the project. Such indirect costs may be used to meet cost sharing or matching requirements.
- (5) The value of the donated services may be used to meet cost sharing or matching requirements. Where donated services are treated as indirect costs, indirect cost determinations will separate the value of the donations so that reimbursement will not be made.
- (6) Fair market value of donated services shall be computed as follows:
 - (a) **Rates for volunteer services.** Rates for volunteers shall be consistent with those regular rates paid for similar work in other activities of the organization. In cases where the kinds of skills involved are not found in other activities of the organization, the rates used shall be consistent with those paid for similar work in the labor market in which the organization competes for such skills.
 - (b) **Services donated by other organizations.** When an employer donates the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and indirect costs), provided the services are in the same skill for which the employee is normally paid. If the services are not in the same skill for which the employee is normally paid, fair market value shall be computed in accordance with **subparagraph (b)**.

c. **Goods and space.**

- (1) Donated goods; i.e., expendable personal property/supplies, and donated use of space may be furnished to an organization. The value of the goods and space is not reimbursable either as a direct or indirect cost.
- (2) The value of the donations may be used to meet cost sharing or matching share requirements. The value of the donations shall be determined in

accordance with Sec.23 of the Federal OMB Circular A-110. Where donations are treated as indirect costs, indirect cost determinations will separate the value of the donations so that reimbursement will not be made.

13. **Employee morale, health, and welfare costs and credits.** The costs of house publications, health or first-aid clinics, and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the organization's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance are allowable. Such costs will be equitably apportioned to all activities of the organization. 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.

14. **Entertainment costs.** Costs of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable (but see **paragraphs 13 and 31**).

15. **Equipment and other capital expenditures.**

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

(1) "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 (a) the capitalization level established by the organization for the financial statement purposes, or (b) the capitalization threshold established by DMR.

(2) **Acquisition cost** means the net invoice unit price of an item of 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 shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.

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

(4) **General purpose equipment** means equipment which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make them suitable for a particular

purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

b. (1) Capital expenditures for general purpose equipment are unallowable as a direct cost except in accordance with the prior approval of the Department of Mental Retardation.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost in excess of the DMR capitalization threshold have the prior approval of the Department of Mental Retardation.

c. Capital expenditures for land or buildings are unallowable as a direct cost.

d. Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost.

e. Equipment and other capital expenditures are unallowable as indirect costs. However, see **paragraph 11** for allowability of depreciation on buildings, capital improvements, and equipment. Also, see **paragraph 47** for allowability of rental costs for land, buildings, and equipment.

16. **Fines and penalties.** Costs of fines, penalties, and interest resulting from violations of, or failure of the organization to comply with Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency.

17. **Fringe benefits.** See **subparagraph 7.f.**

18. **Goods or services for personal use.** Costs of goods or services for personal use of the organization's employees are unallowable, except those that are client related, regardless of whether the cost is reported as taxable income to the employees.

19. **Home office costs.** Home Office costs that are applicable to the organization's parent company's administrative operations are allowable to the extent the aggregate amount of the Home Office costs charged to the DMR funded programs are reasonable; the Home Office charge was developed from an allocation methodology that was comprised of allowable costs as defined by the Department of Mental Retardation's cost accounting standards; and the Home Office costs are applicable only to the administrative functions of the organization's home office operations. Home Office charges that result in an unreasonable charge to DMR funded programs, or are developed from methodologies that include costs that are unallowable as defined by the Department of Mental Retardation's costs accounting standards, or are developed from cost allocation methodologies that include the direct and/or indirect costs of the parent organization's programs in other states, or

programs not funded by the Department of Mental Retardation, the resulting Home Office charges are unallowable.

20. 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 organization's officers are unallowable as fringe benefit or as direct and/or indirect costs regardless of whether the cost is reported as taxable income to the employees.
- b. The term "officers" includes current and past officers and employees.

21. Idle facilities and idle capacity.

- a. **Must be approved by the Department under prior approval.**
- b. As used in this paragraph, 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 organization.
 - (2) **Idle facilities** means completely unused facilities that are excess to the organization's current needs.
 - (3) **Idle capacity** means the unused capacity of partially used facilities. It is the difference between 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 the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.
 - (4) **Costs of idle facilities or idle capacity** means costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.
- c. 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 subparagraph, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year,

depending upon the initiative taken to use, lease, or dispose of such facilities (but see **subparagraphs 48.b and d**).

- d. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect costs from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices, and has been approved in advance with the Department of Mental Retardation. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be idle facilities.

e.

- 22. **Independent research and development** (reserved) Must be approved by the Department under prior approval.

23. **Insurance and indemnification.**

- a. Insurance includes insurance which the organization is required to carry, or which is approved, under the terms of the award and any other insurance which the organization maintains in connection with the general conduct of its operations. This paragraph does not apply to insurance which represents fringe benefits for employees (see **subparagraphs 7.f and 7.h(2)**).

- (1) Costs of insurance required or approved, and maintained, pursuant to the award are allowable.

- (2) Costs of other insurance maintained by the organization in connection with the general conduct of its operations are allowable subject to the following limitations:

- (a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances.

- (b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees, and shall be allowable to the extent the necessity of such insurance is a reasonable and appropriate cost of the DMR funded program.

- (c) Costs of insurance or of any provisions for a reserve covering the risk of loss or damage to State property are allowable only to the extent that the organization is liable for such loss or damage.

- (d) Provisions for a reserve under a self-insurance program are allowable to the extent that types of coverage, extent of coverage, rates, and premiums would have been allowed had insurance been purchased to cover the risks. However, provision for known or reasonably estimated self-insured

liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the present value of the liability.

- (e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see **subparagraph 7.f(4)**). The cost of such insurance when the organization is identified as the beneficiary is unallowable.
 - (f) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the organization's materials or workmanship are unallowable.
 - (g) Medical liability (malpractice) insurance. Medical liability insurance is an allowable cost of State and/or DMR research programs only to the extent that the State and/or DMR research programs involve human subjects or training of participants in research techniques. 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.
- (3) Actual losses which could have been covered by permissible insurance (through the purchase of insurance or a self-insurance program) are unallowable unless expressly provided for in the award, except:
- (a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice are allowable.
 - (b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of operations, are allowable.
- b. Indemnification includes securing the organization against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Department of Mental Retardation is obligated to indemnify the organization only to the extent expressly provided in the award.

24. Interest, fundraising, and investment management costs.

a. Interest.

- (1) Costs incurred for interest on temporary use of endowment funds, however represented, are unallowable. However, interest on debt incurred to acquire or replace capital assets (including renovations, alterations, equipment, land, and capital assets acquired through capital leases), used in support of sponsored agreements is allowable, provided that:

(a) Upon request, the needs justification must be provided to the Department of Mental Retardation as a prerequisite to the continued allowability of interest on debt and depreciation related to the facility. The needs justification for the acquisition of a facility should include, at a minimum, the following:

A statement of purpose and justification for facility acquisition or replacement

A statement as to why current facilities are not adequate

A statement of planned future use of the facility

A description of the financing agreement to be arranged for the facility

A summary of the building contract with estimated cost information and statement of source and use of funds

A schedule of planned occupancy dates

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

(c) 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.

(d) Organizations are also subject to the following conditions:

(i) Interest on debt incurred to reacquire assets after the effective date of this Document is not allowable.

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

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

(2) The following definitions are to be used for purposes of **paragraph 24**:

(a) **Re-acquired assets** means assets held by the organization prior to the effective date of this revision that have again come to be held by the

organization, whether through repurchase or refinancing. It does not include assets acquired to replace older assets.

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

(c) **Asset costs** means the capitalizable costs of an asset, including construction costs, acquisition costs, and other such costs capitalized in accordance with GAAP.

- b. Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable.
- c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.
- d. Fundraising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in **subparagraph B.2 of Attachment A**.

25. **Labor relations costs.** Costs incurred in maintaining satisfactory relations between the organization and its employees, including costs of labor management committees, employee publications, and other related activities are allowable.

26. **Lobbying.**

- a. Notwithstanding other provisions of this standards, 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: (i) The introduction of Federal or State legislation; or (ii) 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 with any Government official or employee in connection with a decision to sign or veto enrolled legislation;
 - (4) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) 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, fundraising 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 **subparagraph a**:

- (1) Providing a technical and factual presentation of information on a topic 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 hearing.
- (2) Any lobbying made unallowable by **subparagraph a(3)** to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.
- (3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. (1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the Cost Allocation Plan, and thereafter treated as other unallowable activity costs in accordance with the procedures of **subparagraph B.3 of Attachment A**.

(2) Organizations shall submit, as part of the annual Cost Allocation Plan, a certification that the requirements and standards of this paragraph have been complied with.

(3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to **paragraph 26** complies with the requirements of this Document.

(4) Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this paragraph during any particular calendar month when: (1) the employee engages in lobbying (as defined in **subparagraphs (a)**

and (b)) 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 organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions **(1) and (2)** are met, organizations are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions **(1) and (2)** 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.

(5) Agencies shall establish procedures for resolving in advance, in consultation with the Department of Mental Retardation, any significant questions or disagreements concerning the interpretation or application of **paragraph 26**. Any such advance resolution shall be binding in any subsequent settlements, audits or investigations with respect to that grant or contract for purposes of interpretation of these standards; provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

27. **Losses on other awards.** Any excess of costs over income on any award is unallowable as a cost of any other award. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or any under-recoveries through negotiation of lump sums for, or ceilings on, indirect costs.
28. **Maintenance and repair costs.** Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment (including Federal or State 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 **paragraph 15**).
29. **Materials and supplies.** The costs of materials and supplies necessary to carry out an award are allowable. Such costs should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the organization. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges may be a proper part of material cost. Materials and supplies charged as a direct cost should include only the materials and supplies actually used for the performance of the contract or grant, and due credit should be given for any excess materials or supplies retained, or returned to vendors.

30. **Meetings and conferences.**

- a. Prior Approval is required for amounts \$500 or greater per event.
- b. Meetings and conferences include the attendance at meetings, attendance at conferences, and the costs of conducting meetings, which includes the cost of renting facilities, meals, speakers' fees, and the like. Costs of meetings and conferences should also include the costs of travel associated with the attendance at meetings and conferences. But see **paragraph 14**, Entertainment costs, and **paragraph 35**, Participant support costs.
- c. To the extent that these costs are identifiable with a particular cost objective, they should be charged to that objective (see **paragraph B of Attachment A**). These costs are allowable, provided that they meet the general tests of allowability, shown in **paragraph A of Attachment A** to this Document.
- d. Costs of meetings and conferences held to conduct the general administration of the organization are allowable.

31. **Memberships, subscriptions, and professional activity costs.**

- a. Costs of the organization's membership in business, technical, and professional organizations are allowable, to the extent membership is relevant to the DMR funded award.
- b. Costs of the organization's subscriptions to business, professional, and technical periodicals are allowable, to the extent subscriptions are relevant to the DMR funded award.
- c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information are allowable, to the extent meetings and conferences are applicable and relevant to the DMR award. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.
- d. Costs of membership in any civic or community organization located in the State of Connecticut are allowable with prior approval of the Department of Mental Retardation. Costs of memberships in any civic or community organization located outside the State of Connecticut are unallowable.
- e. Costs of membership in any country club, recreational clubs or memberships, or social or dining club or organization are unallowable.

32. **Organization costs.** Expenditures, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection

with establishment or reorganization of an organization, are unallowable except with prior approval of the Department of Mental Retardation.

33. **Overtime, extra-pay shift, and multi-shift premiums.** Premiums for overtime, extra-pay shifts, and multi-shift work are allowable.

34. **Page charges in professional journals.** Page charges for professional journal publications are allowable as a necessary part of research costs, where:
 - a. The research papers report work supported by the Federal, State or Local Government; and
 - b. The charges are levied impartially on all research papers published by the journal, whether or not by federally, state or locally sponsored authors.
 - c. The charge to DMR funded programs are relative to objectives of the DMR funded program.

35. **Participant / client support costs.** These costs are direct costs for items such as travel allowances, recreation expenses, and registration fees paid to or on behalf of participants or trainees, whose programs are funded by DMR, in connection with meetings, conferences, symposia, or training projects. These costs are allowable subject to the DMR Ethics Protocols. The costs of employees attending with clients are allowable, subject to the DMR Ethics Protocols.

36. **Parties/Picnics.** All costs related to parties and/or picnics are unallowable regardless of their nature, i.e. employee morale, client related, etc.

37. **Patent costs.**
 - a. Must be approved by the Department under prior approval.
 - b. Costs of (i) preparing disclosures, reports, and other documents required by the award and of searching the art to the extent necessary to make such disclosures, (ii) 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 (iii) general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements are allowable (but see **paragraph 40**).
 - c. Cost of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures, if not required by the award, are

unallowable. Costs in connection with (i) filing and prosecuting any foreign patent application, or (ii) any United States patent application, where the award does not require conveying title or a royalty-free license to the Federal Government, are unallowable (also see **paragraph 50**).

38. Pension plans. See **subparagraph 7.h**.

39. Plant security costs. Necessary expenses incurred to provide security requirements or for facilities protection, including wages, uniforms, and equipment of personnel are allowable.

40. Pre-award costs.

- a. Must be approved by the Department under prior approval.
- b. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they are allowable under the rate setting regulations of the applicable DMR funded programs.

41. 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 organization, are allowable, subject to **subparagraphs b and c** when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal, State or Local Government.
- 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 organization's capability in the particular area.
 - (3) The past pattern of such costs, particularly in the years prior to the DMR awards.
 - (4) The impact of DMR awards on the organization's business (i.e., what new problems have arisen).

- (5) Whether the proportion of DMR work to the organization's total business is such as to influence the organization in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under grants and contracts funded by this award.
 - (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.
 - (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 b**, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

42. Profits and losses on disposition of depreciable property or other capital assets.

- a. Must be approved by the Department under prior approval.
- b. (1) Gains and losses on sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to cost grouping(s) in which the depreciation applicable to such property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate 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 to a DMR funded program.
 - (a) The gain or loss is processed through a depreciation reserve account and is reflected in the depreciation allowable under **paragraph 11**.
 - (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 **subparagraph 23.a(3)**.
 - (d) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions shall be considered on a case-by-case basis.
- b. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in **subparagraph a** shall be excluded in computing award costs.

43. 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.
- 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 organization.
- c. The cost of page charges in journals is addressed **paragraph 34**.

44. Rearrangement and alteration costs.

- a. 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 Department of Mental Retardation.

45. Reconversion costs. Costs incurred in the restoration or rehabilitation of the organization's facilities to approximately the same condition existing immediately prior to commencement of the awards, fair wear and tear excepted, are unallowable.

46. Recruiting costs.

- a. Subject to **subparagraphs b and c**, 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, are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the organization uses employment agencies, costs that are 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 organizational 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 organizations that do not meet the test of reasonableness or do not conform with the established practices of the organization, are unallowable.
- d. Costs incurred by candidates as part of the recruitment process are unallowable.

47. Related Party Transactions.

- a. Related party transactions are transactions with persons or organizations related through marriage, ability to control, ownership, family or business association. Past exercise or influence or control needs not be shown, only the potential or ability to directly or indirectly exercise influence or control.
- b. Related party transactions are allowable if they comply with the CLA rate setting regulations Section 17-313b-3(5). Whenever costs are incurred between related parties, allowable cost shall be defined as and limited to the cost to the related party. Findings of relatedness may be made in the absence of majority stock ownership of the related parties in respective organizations. The related party principle applies to any transaction between a provider and a related party, including but not limited to one time or multiple transactions involving services or supplies and one time sales or lease of the facility itself. Related party transactions must be identified as such in the (A)COR and the unallowable portion excluded in the appropriate section of the (A)COR.
- c. Compliance to the Department of Mental Retardation's Ethic's Protocols must be adhered to for all related party transactions.

48. Relocation costs. Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are unallowable.

49. Rental costs.

- a. Subject to the limitations described in **subparagraphs b through d**, 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.
- b. 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.
- c. Rental costs under less-than-arms-length leases are allowable only to the extent they comply with rate setting regulations and contract provisions pertaining to related party transactions. Less-than-arms-length leases incurred in the operation of DMR funded programs to be funded as an allowable cost, must be in compliance with the DMR Ethics Protocols, and approved by the Department's Ethic Committee. For this purpose, a less-than-arms-length lease is one under

which is a related party as defined in the Rate Setting Regulations and DMR awards. They are lease agreements where 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 an organization; (ii) organizations under common control through common officers, directors, or members; and (iii) an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

- d. 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 **subparagraph 24.a**. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the organization purchased the facility.

50. Return on Investment/Agency Profit Margins. Charges to awards for return on investment for the use of an organization's assets, or charges to awards for the organization's profit margin are unallowable.

51. Royalties and other costs for use of patents and copyrights.

- a. Must be approved by the Department under prior approval.
- b. 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 and State 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.
- c. Special care should be exercised in determining reasonableness where the royalties may have arrived at as a result of less-than-arm's-length bargaining, e.g.:
 - (1) Royalties paid to persons, including corporations, affiliated with the organization.

- (2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a DMR award would be made.
- (3) Royalties paid under an agreement entered into after an award is made to an organization.
- d. In any case involving a patent or copyright formerly owned by the organization, the amount of royalty allowed should not exceed the cost which would have been allowed had the organization retained title thereto.

52. **Selling and marketing.** Costs of selling and marketing any products or services of the organization (unless allowed under **paragraph 1 allowable advertising and public relations costs**) are unallowable. These costs, however, are allowable as direct costs, when they are necessary for the performance of programs.

53. **Severance pay.**

- a. Must be approved by the Department under prior approval.
- b. Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by organizations to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by law or has been approved by DMR.
- c. Costs incurred in certain severance pay packages (commonly known as "a golden parachute" payment) which are in an amount in excess of the normal severance pay paid by the organization to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the organization's assets are unallowable.

54. **Specialized service facilities.**

- a. Must be approved by the Department under prior approval.
- b. The costs of services provided by highly complex or specialized facilities operated by the organization are allowable, provided the charges for the services meet the conditions of either **subparagraph c or d** and, in addition, take into account any items of income or Federal or State financing that qualify as applicable credits under **subparagraph A.6 of Attachment A**.
- c. 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 (i) does not discriminate against federally or state-supported activities of the organization, including usage by the organization for internal purposes, and (ii) 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 indirect costs. Advance agreements pursuant to **Prior Approval** are particularly important in this situation.

- d. Where costs incurred for a service are not material, they may be allocated as indirect costs.

55. Taxes.

- a. In general, taxes which the organization is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (i) taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Federal, State or Local Government and in the latter case when the awarding agency makes available the necessary exemption certificates, (ii) special assessments on land which represent capital improvements, and (iii) Federal, State or Local income taxes.
- b. Any refund of taxes, and any payment to the organization of interest thereon, which were allowed as award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the DMR award.

56. Termination costs. Costs incurred as a result of the termination of awards are unallowable except costs the awarding agency specifically agrees to fund.

57. Training and education costs.

- a. Costs of preparation and maintenance of a program of instruction including but not limited to on-the-job, classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, salaries or wages of trainees (excluding overtime compensation which might arise therefrom), and (i) salaries of the director of training and staff when the training program is conducted by the organization; or (ii) tuition and fees when the training is in an institution not operated by the organization, are allowable.
- b. Costs of part-time education, at an undergraduate or post-graduate college level, including that provided at the organization's own facilities, are allowable only when the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work, and are limited to:
 - (1) Training materials.
 - (2) Textbooks.

- (3) Fees charges by the educational institution.
 - (4) Tuition charged by the educational institution or, in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution.
 - (5) Salaries and related costs of instructors who are employees of the organization.
 - (6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year and only to the extent that circumstances do not permit the operation of classes or attendance at classes after regular working hours; otherwise, such compensation is unallowable.
- c. Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time education, including that provided at the organization's own facilities, at a post-graduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which the employee is now working or may reasonably be expected to work, and only where the costs receive the prior approval of the Department of Mental Retardation. Such costs are limited to the costs attributable to a total period not to exceed one school year for each employee so trained. In unusual cases the period may be extended.
 - d. Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees' salaries, subsistence, and travel. Costs allowable under this paragraph do not include those for courses that are part of a degree-oriented curriculum, which are allowable only to the extent set forth in **subparagraphs b and c**.
 - e. Contributions or donations to educational or training institutions, including the donation of facilities or other properties, and scholarships or fellowships, are unallowable.
 - f. Training and education costs in excess of those otherwise allowable under **subparagraphs b and c** may be allowed with prior approval of the Department of Mental Retardation. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.
 - g. Training classes, i.e. computer training, med-cert training, CPR, etc. These types of training are allowable to the extent that it relates to the DMR funded programs.

58. **Transportation costs.** Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly charged as transportation costs or added to the cost of such items (see **paragraph 29**). Where identification with the materials received cannot readily be made, transportation costs may be charged to the appropriate indirect cost accounts if the organization follows a consistent, equitable procedure in this respect.

59. **Travel costs.**

- a. 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 organization. Travel costs are allowable subject to **subparagraphs b through f**, when they are directly attributable to specific work under an award or are incurred in the normal course of administration of the organization.
- b. Such costs may be charged on an actual basis, on a per diem or mileage basis not to exceed the mileage allowance allowed by the Internal Revenue Service, in lieu of actual costs incurred, or on a combination of the two, provided the method used results in charges consistent with those normally allowed by the organization in its regular operations.
- c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (i) require circuitous routing, (ii) require travel during unreasonable hours, (iii) greatly increase the duration of the flight, (iv) result in additional costs which would offset the transportation savings, or (v) offer accommodations which are not reasonably adequate for the medical needs of the traveler.
- d. Direct and/or indirect charges to an award for travel in the organization's vehicles that are 100% funded and assigned to a DMR award do not require travel/utilization logs. However cost allocation plans must document the allocation of the vehicle if the vehicle is allocated to different DMR funded programs, funded by different SIDs, i.e. DMR funded day programs and DMR funded residential programs.

Direct and/or indirect charges to an award for travel in the organization's vehicles that are not permanently assigned to DMR funded programs, must be documented by travel logs and/or utilization logs that identify the date of travel, the starting point and destination point of the travel, the number of miles, and the purpose of the travel if the vehicle is not 100% funded by DMR awards.

Agency owned vehicles that are assigned to individuals and are garaged at the individual's home must have travel and/or utilization logs that document 100% of

how the vehicle is used. Personal mileage is unallowable and must be eliminated from the program's costs.

Direct and/or indirect charges to an award for travel in personal vehicles, must be documented by travel logs and/or utilization logs that identify the date of travel, the starting point and destination point of the travel, the number of round trip miles, and the purpose of the travel.

- e. Direct and/or indirect charges to an award for transportation other than personal motor vehicles, various forms of public transportation, to include but not limited to agency owned/leased/chartered/ aircraft, watercraft, etc. must be documented by travel logs and/or utilization logs that document the starting point, the destination point of the travel, the number of round trip miles traveled, the business nature of the travel, and the names of the employees that utilized this mode of transportation. The organization's total direct and indirect costs incurred of this travel must fully documented to support the benefit to the organization's award from the Department of Mental Retardation, and to document the cost benefit of this mode of transportation.
- f. Direct charges for foreign travel costs are allowable only when the travel has received prior approval from the Department of Mental Retardation. Each separate foreign trip must be approved. For purposes of this provision, foreign travel is defined as any travel outside of the continental United States.

60. **Trustees.**

- a. Must be approved by the Department under prior approval.
- b. 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 **paragraph 58**.

61. **Web pages.** Costs of creating and maintaining web pages are unallowable public relations costs that promote the organization and are not required by DMR sponsored awards.
