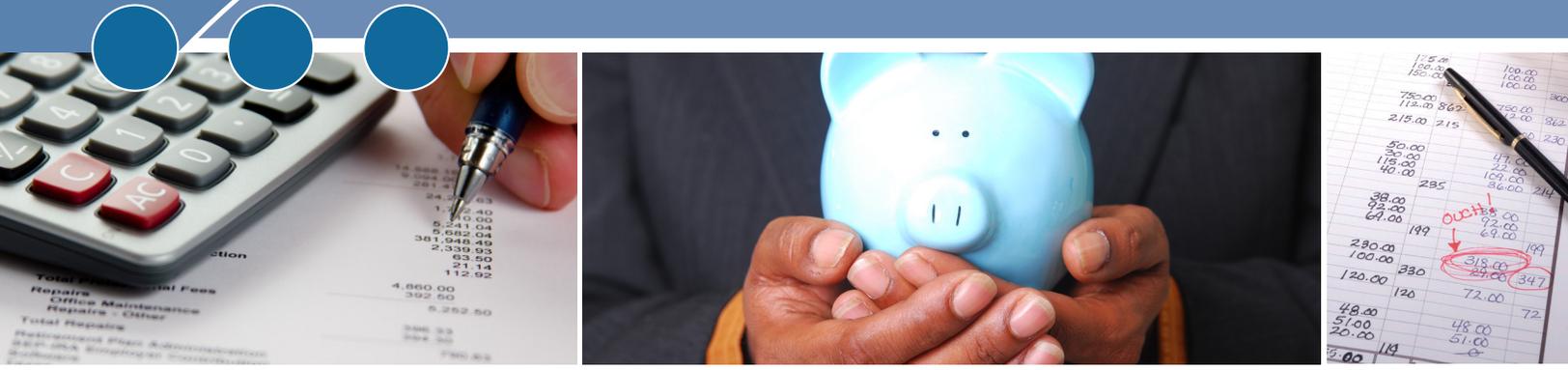


CAPLAWFAQ

A series of common legal questions and answers for the CAA network



We have a federally negotiated indirect cost rate. Can we pay an employee from both the indirect rate and directly from a particular funding source?

November 2014 For example, may our Community Action Agency (CAA) charge compensation of a data entry/cost allocation clerk in the Finance Department or of a staff person in the IT Department out of our indirect cost rate and also directly from Low-Income Home Energy Assistance Program (LIHEAP) or Community Services Block Grant (CSBG) funds?

The existing federal cost principles as well as the OMB "Super Circular" specify that if an employee performs some functions or activities that are direct in nature and others that are indirect, his or her compensation is to be allocated between those activities and charged accordingly.¹ Documentation must be maintained to support the distribution of compensation between direct and indirect functions or activities. Under the current cost principles, this documentation must generally be in the form of personnel activity reports (PARs).² Under the OMB Super Circular, PARs may be used to meet this documentation requirement, but they are not specifically required as long as the records used to document personnel expenses charged to federal awards meet certain specified standards.³

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.⁴ Costs 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, are direct costs.⁵ Indirect costs are those that have been

incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. 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.⁶

Costs must be accorded consistent treatment.⁷ Under the current federal cost principles, a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose, in like circumstances, has been allocated to an award as an indirect cost or vice versa.⁸ Both OMB Circular A-87 (which applies to state and local governments) and the OMB Super Circular emphasize that it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost.⁹

Unlike the current federal cost principles for nonprofits and state and local governments, the OMB Super Circular specifically addresses costs associated with administrative and clerical positions. The Super Circular explains that salaries of administrative and clerical staff should normally be treated as indirect costs. However, such costs may be charged directly to a federal award if all of the following conditions are met:

- Administrative or clerical services are integral to the project or activity;
- Individuals involved can be specifically identified with the project or activity;

- The costs are explicitly included in the budget or have prior written approval of the federal awarding agency; and
- The costs are not also recovered as indirect costs.¹⁰

However, neither the current cost principles nor the Super Circular detail the circumstances in which a given position may be divided between the indirect cost center and a specific grant cost center. As noted above, both include the requirement that each item of cost incurred for the same purpose must be treated consistently in like circumstances either as a direct or indirect cost. Thus, to justify dividing a position between the indirect cost center and direct charging it to a specific grant, a CAA would have to make a case that the work being done for the specific grant does not meet the standard as being for the “same purpose” as the work

direct differs substantively from the benefit it receives from that portion of the employee’s time charged as indirect. If it is possible to discern the difference and be clear that the grant program receives both benefits, then the cost of the position may be allocated between direct and indirect cost centers. Keep in mind however, that once the Super Circular becomes effective, in order to charge an administrative or clerical position directly to an award, it will also be necessary to demonstrate that the four factors listed above are met. Also remember to review the applicable program statute, regulations and grant terms and conditions to identify whether they contain any limitations on administrative costs and/or on the types of staff activities that may be charged directly to the grant.

Because of the complexity of this issue, a CAA may find it useful to discuss its position with its independent auditor—and possibly fiscal staff at the government funding source(s) involved, if their fiscal monitoring is particularly thorough—to be sure that they are in agreement.

Endnotes

1. See 2 C.F.R. Part 230, App. B, ¶ 8.m. (OMB Circular A-122); 2 C.F.R. Part 225, App. B, ¶ 8.h.(4)(c)(OMB Circular A-87); and 2 C.F.R. 200.430(i)(1)(vii) (OMB Super Circular).
2. 2 C.F.R. Part 230, App. B, ¶ 8.m. and 2 C.F.R. Part 225, App. B, ¶ 8.h.
3. See 2 C.F.R. § 200.430.
4. 2 C.F.R. Part 230, App. A, ¶ A.4.a.; 2 C.F.R. Part 225, App. A, ¶ C.3.a.; and 2 C.F.R. § 200.405.
5. See 2 C.F.R. Part 230, App. A, ¶ B.1.; 2 C.F.R. Part 225, App. A, ¶ E.1.; and 2 C.F.R. § 200.413(a).
6. 2 C.F.R. Part 230, App. A, ¶ C.1. and 2 C.F.R. § 200.403(d).
7. 2 C.F.R. Part 230, App. A, ¶ A.2.d.; 2 C.F.R. Part 225, App. A, ¶ C.1.f.; and 2 C.F.R. § 200.403(d).
8. See 2 C.F.R. Part 230, App. A, ¶¶ B.1 and C.1 and 2 C.F.R. Part 225, App. A, ¶ C.1.f.
9. 2 C.F.R. Part 225, App. A, ¶ D.2.; 2 C.F.R. §§ 200.412 and 413(a).
10. 2 C.F.R. § 200.413(c).

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being done for the indirect cost center. An example might be a data entry/cost allocation clerk who performs data entry tasks for CSBG that are very different in purpose (such as maintaining eligibility information

on clients) than the cost allocation tasks performed for the fiscal department (such as using a spreadsheet to allocate utility bills among multiple grants).

In the case of an IT staff person, it may be harder to make such a distinction if the employee is essentially performing a help desk function supporting all staff in the use of computers and software for the portion considered indirect. The CAA would therefore need to determine the distinct purpose of the IT employee’s work for the program to which his or her time is being charged directly (such as CSBG). For example, is he or she tracking time learning about and maintaining a specific database that is used only for CSBG-funded activities? Even if the answer is “yes,” it may be difficult for the CAA to justify direct charging to CSBG if the IT staff person is learning about and maintaining databases specifically required for other programs and those costs are included in the indirect cost center.

The key is to be able to demonstrate that the benefit the grant program receives from the portion of the employee’s time charged as