

## III. Postaward Requirements

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### 3.13 UNALLOWABLE COSTS

#### Introduction

Federal awards generally provide recipients and/or subrecipients with the funds necessary to cover costs associated with the award program. There are other costs, however, categorized as [unallowable costs](#), that will not be reimbursed. Non-Federal entities must not use award or match funding for unallowable costs. Also within the category of unallowable costs are any costs considered inappropriate by the awarding agency. See [2 C.F.R. § 200.1 \(Disallowed Costs\)](#).

The allowability of certain costs is discussed in [2 C.F.R. § 200, Subpart E - Cost Principles](#). (For-profit entities and hospitals follow different cost principles – see [FAR 31.2](#), and [2 C.F.R. Part 200b Appendix IX](#), respectively; and certain nonprofit organizations are exempted from the cost principles in Subpart E, see [2 C.F.R. Part 200 Appendix VIII](#)).

Unallowable cost items that may be of particular relevance for DOJ-funded programs are highlighted below.

#### Land Acquisition

DOJ grant funds may not be used for land acquisition. See, e.g., [34 U.S.C. 10233](#).

#### Compensation of Federal Employees

This category of unallowable costs includes salary payments, consulting fees, or other compensation to full-time Federal employees.

#### Travel of Department of Justice (DOJ) Employees

Award funds may not be spent on transportation, lodging, subsistence, and related travel expenses of agency DOJ employees.

#### Bonuses or Commissions

Recipients and subrecipients cannot pay any bonus or commission to any individual or organization to obtain approval of an application for award assistance.

Distribution of earnings in excess of costs, such as when used for bonuses and commissions for certain positions for non-profit organizations, may be unallowable. See [2 C.F.R. § 200.430\(g\)](#).

#### ACTION ITEM

Be sure to check the award package to determine which salaries, fringe benefits, and other personnel costs are allowable under the specific award.

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#### Lobbying

Recipients and subrecipients must comply with the provisions in [2 C.F.R. § 200.450 \(Lobbying\)](#) and [18 U.S.C. 1913](#), as appropriate. Also, see [Chapter 2.1](#) of this *Guide* for more specifics about restrictions on lobbying.

- The lobbying cost prohibition applies to all award recipients and subrecipients.
- Award funds cannot be used for the following purposes:
  - ▶ Attempting to influence the outcome of any Federal, State, or local election, referendum, initiative, or

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- similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;
- ▶ Establishing, administering, contributing to, or paying for the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcome of elections;
  - ▶ Attempting to influence (a) the introduction of Federal or State legislation; or (b) 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), (c) the enactment or modification of any pending Federal or state legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign, or (d) with any Government official or employee in connection with a decision to sign or veto enrolled legislation;
  - ▶ Engaging in or supporting the development of publicity or propaganda designed to support or defeat legislation pending before legislative bodies;
  - ▶ Paying, directly or indirectly, for any personal service, advertisement, telephone, letter, printed or written matter, or other device, intended or designed to influence a member of Congress or of a State legislature to favor or oppose, by vote or otherwise, any legislation or appropriation by either Congress or a State legislature, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation;
  - ▶ Engaging in 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 out in support of or in knowing preparation for an effort to engage in unallowable lobbying;
  - ▶ Paying a publicity expert for purposes unallowable under the anti-lobbying rules; or
  - ▶ Attempting to improperly influence, either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter.
- The [Anti-Lobbying Act, 18 U.S.C. § 1913](#), contains significant restrictions on the use of appropriated funding for lobbying.
    - ▶ These anti-lobbying restrictions are enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per each individual occurrence of lobbying activity.
    - ▶ These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by [31 U.S.C. § 1352](#).
  - All recipients must understand that no federally appropriated funding made available under the grant program may be used, either directly or indirectly, to support the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government, without the express approval of DOJ.
  - Any violation of this prohibition is subject to a minimum \$10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB guidance.
  - Any question(s) relating to the lobbying restrictions should be submitted in writing to the awarding agency's ethics official (typically in the awarding agency's Office of the General Counsel) through the DOJ program manager.

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#### ▶ OVW SPECIFIC TIP

OVW has some programs with purpose areas that expressly authorize “developing and promoting state, local, or tribal legislation and policies that enhance best practices for responding to domestic violence, dating violence, sexual assault, and stalking.” Recipients with questions on specific authorized activities should contact their grant manager.

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#### Fundraising

The 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 may not be charged as direct or indirect costs against awards. However, certain fundraising costs for the purposes of meeting the Federal program objectives may be allowable with prior approval of the DOJ awarding agency. See [2 C.F.R. § 200.442](#) for more details.

- The portion of a person’s salary that covers time spent engaged in unallowable fundraising, and any indirect costs associated with those salaries, may not be charged to the award.
- An organization may accept donations (e.g., goods, space, services) towards fundraising, as long as the value of the donations is not charged as a direct or indirect cost to the award.
- Nothing in this section should be read to prohibit a recipient from engaging in fundraising activities, as long as such activities are not financed by Federal or matching funds.

#### Corporate Formation

The cost for corporate formation (startup costs) may not be charged as either direct or indirect costs against the award except with prior approval from the awarding agency. See [2 C.F.R. 200.455](#).

#### ▶ OVW SPECIFIC TIP

OVW’s Grants to Tribal Domestic Violence and Sexual Assault Coalitions may allow for corporate formation costs to be charged directly to the award.

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#### Other Unallowable Costs

Other categories of unallowable costs include:

- Entertainment, including amusement, diversion, social activities, and any associated costs (i.e. tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable. Certain exceptions may apply when such costs have a programmatic purpose and have been approved by the awarding agency ([2 C.F.R. 200.438](#));
- Fines and penalties, except when incurred as a result of compliance with specific provisions of an award or contract, or with prior written approval from the awarding agency ([2 C.F.R. 200.441](#));
- Home office workspace and related utilities ([2 C.F.R. 200.465\(c\)\(6\)](#) and [\(f\)](#));
- Honoraria is unallowable when the primary intent is to confer distinction on, or to symbolize respect, esteem, or admiration for the recipient of the honorarium. A payment for services rendered, such as a speaker’s fee under an award is allowable;

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- Bar charges/alcoholic beverages ([2 C.F.R. 200.423](#)), and
- Membership fees to organizations whose primary activity is lobbying ([2 C.F.R. 200.454\(e\)](#)).

#### ▶ OJP SPECIFIC TIP

The use of BJA grant funds for unmanned aircraft systems (UAS), including unmanned aircraft vehicles (UAV), and all accompanying accessories to support UAS or UAV is unallowable.

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#### Costs Incurred Outside the Project Period

Any costs that are incurred either before the start of the project period or after the expiration of the project period are not allowable, unless written approval covering these costs is granted by the awarding agency. See [Section 3.2, Period of Availability of Funds](#).