

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE UNIVERSITY OF SOUTH FLORIDA
DID NOT ALWAYS CLAIM COSTS
IN ACCORDANCE WITH
FEDERAL REGULATIONS**

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Office of Inspector General

<https://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

The University of South Florida did not always claim selected costs charged directly to HHS awards in accordance with Federal regulations and NIH guidelines. We estimated that the University claimed at least \$6.4 million in unallowable transactions charged directly to HHS awards.

WHY WE DID THIS REVIEW

The University of South Florida (the University) received a high level of Department of Health and Human Services (HHS) funding, including funds from the American Reinvestment and Recovery Act (ARRA). Also, audits conducted by the HHS Office of Inspector General (OIG) and by the Florida Auditor General included significant findings. For example, the Florida Auditor General found that Federal grant expenditures were not monitored to ensure that expenditures were properly approved, valid, reasonable, or necessary. On the basis of the findings of these prior audits, we are concerned that the University's grant management is a high-risk area.

Our objective was to determine whether the University claimed selected costs charged directly to HHS awards in accordance with Federal regulations and applicable guidelines.

BACKGROUND

University of South Florida

The University is a State institution located in Tampa, Florida. During the period October 1, 2009, through September 30, 2011, the University claimed reimbursement for approximately \$198 million in costs incurred on 302 grants, contracts, and other agreements (awards) from HHS. (See the table below.) This amount included \$12.5 million in ARRA funds.

Table: Federal Funding by Operating Division

Operating Division	Number of Awards	Costs
Administration for Children and Families	3	\$1,619,000
Agency for Health Care Policy and Research	8	3,119,533
Centers for Disease Control and Prevention	13	10,620,970
Centers for Medicare & Medicaid Services	1	1,000,000
Health Resources and Services Administration	43	22,635,287
National Institutes of Health	229	157,249,083
Substance Abuse and Mental Health Services Administration	5	1,679,580
Total	302	\$197,923,453

Federal Requirements

By accepting HHS awards, the University agreed to comply with regulations governing the use of Federal funds and to ensure that costs charged to those awards were allowable under the cost principles established in 2 CFR part 220, Appendix A. These cost principles require that, to be allowable, costs must be reasonable, be allocable, and conform to any exclusions or limitations set forth in the cost principles or sponsored agreements. In addition, National Institutes of Health (NIH) awards are subject to NIH guidelines, which include limitations on salary costs.

Award Administration

The University's Division of Sponsored Research accepts and administers awards on behalf of the University. It is responsible for reviewing transactions proposed by colleges, departments, and principal investigators to ensure that those transactions fully comply with Federal regulations.

Principal investigators are responsible for all programmatic and administrative aspects of an award, including the conduct of research or other activity described in a proposal for an award.

WHAT WE FOUND

The University did not always claim selected costs charged directly to HHS awards in accordance with Federal regulations and NIH guidelines. In our sample of 112 salary transactions, 78 were allowable but 34 were not, and in our sample of 110 nonsalary transactions, 70 were allowable but 40 were not. On the basis of our sample results, we estimated that, of approximately \$24.8 million in transactions, the University charged at least \$6.4 million in unallowable transactions and related facilities and administrative costs to HHS awards during fiscal years 2010 and 2011.

These unallowable transactions occurred because the University did not provide adequate oversight to ensure consistent compliance with Federal regulations.

WHAT WE RECOMMEND

We recommend that the University:

- refund \$6,467,290 to the Federal Government and
- enhance oversight of charges to Federal awards to ensure consistent compliance with Federal regulations.

UNIVERSITY OF SOUTH FLORIDA COMMENTS AND OUR RESPONSE

In written comments on our draft report, University officials disagreed with our overall findings. Specifically, the officials stated that:

- 41 of the 43 salary transactions that we questioned were allowable and
- 39 of the 43 nonsalary transactions that we questioned were allowable.

The University's written comments included a transaction-by-transaction discussion of our findings and additional supporting documentation that had not been provided to us during our fieldwork. University officials requested that we not include the additional documentation in the final report.

After reviewing the additional information that the University provided, we reduced the number of unallowable salary transactions from 43 to 34 and the number of unallowable nonsalary transactions from 43 to 40. Accordingly, we reduced our estimated overpayment to approximately \$6.4 million.

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INTRODUCTION

WHY WE DID THIS REVIEW

The University of South Florida (the University) received a high level of Department of Health and Human Services (HHS) funding, including funds from the American Reinvestment and Recovery Act (ARRA). Also, audits conducted by the HHS Office of Inspector General (OIG) and by the Florida Auditor General included significant findings. For example, the Florida Auditor General found that Federal grant expenditures were not monitored to ensure that expenditures were properly approved, valid, reasonable, or necessary. On the basis of the findings of these prior audits, we are concerned that the University's grant and contract management is a high-risk area.

OBJECTIVE

Our objective was to determine whether the University claimed selected costs charged directly to HHS awards in accordance with Federal regulations and applicable guidelines.

BACKGROUND

University of South Florida

The University is a State institution located in Tampa, Florida. During the period October 1, 2009, through September 30, 2011, the University claimed reimbursement for approximately \$198 million in costs incurred on 302 grants, contracts, and cooperative agreements (awards) from HHS. (See Table 1 below.) This amount included \$12.5 million in ARRA funds.

Table 1: Federal Funding by Operating Division

Operating Division	Number of Awards	Costs
Administration for Children and Families	3	\$1,619,000
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Total	302	\$197,923,453

Federal Requirements

By accepting HHS awards, the University agreed to comply with regulations governing the use of Federal funds and to ensure that costs charged to those awards were allowable under the cost

principles established in 2 CFR part 220, Appendix A (the Circular).¹ The cost principles require that, to be allowable, costs must be reasonable, be allocable, and conform to any exclusions or limitations set forth in the cost principles or sponsored agreements. In addition, National Institutes of Health (NIH) awards are subject to NIH guidelines, which include limitations on graduate student salary costs supported by NIH research grants and cooperative agreements.

Award Administration

The University's Division of Sponsored Research accepts and administers awards on behalf of the University. It is responsible for reviewing transactions proposed by colleges, departments, and principal investigators to ensure that those transactions fully comply with Federal regulations.

Principal investigators are responsible for all programmatic and administrative aspects of an award, including the conduct of research or other activity described in a proposal for an award.

HOW WE CONDUCTED THIS REVIEW

Our audit covered approximately \$12 million in salary transactions and approximately \$12.8 million in nonsalary transactions claimed for reimbursement from October 1, 2009, through September 30, 2011 (fiscal years (FYs) 2010 and 2011).

We selected a random sample of 112 salary transactions totaling \$334,732 and a random sample of 110 nonsalary transactions totaling \$1,494,381 for review. We initially evaluated the sample transactions on the basis of documentation in the University's project files. For transactions not adequately supported by the project files, we asked the University's Division of Sponsored Research and the principal investigators on the related awards to submit additional information.

We discussed our tentative findings with NIH representatives during our audit.² NIH provided additional information regarding the nature of the awards to which the sampled transactions were charged, and we considered that information in reaching our conclusions on the allowability of the costs.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology, Appendix B lists the Federal requirements related to awards, Appendix C contains the sample design and

¹ For Federal contracts awarded under the Federal Acquisition Regulation (FAR) to an educational institution, the OMB grant cost principles are applied to determine the allowability of costs (48 CFR § 31.303).

² We discussed our NIH grant findings with NIH during the audit because the majority of our sample transactions related to NIH grant awards.

methodology, Appendix D contains the sample results and estimates, and Appendix E contains a list of related OIG reports.

FINDINGS

The University did not always claim selected costs charged directly to HHS awards in accordance with Federal regulations and, where appropriate, NIH guidelines. In our sample of 112 salary transactions, 78 were allowable but 34 were not, and in our sample of 110 nonsalary transactions, 70 were allowable but 40 were not.³ On the basis of our sample results, we estimated that, of approximately \$24.8 million in transactions, the University charged at least \$6.4 million in unallowable transactions and related F&A costs⁴ to HHS awards during fiscal years 2009 and 2010. (See Table 2 below.)

Table 2: Unallowable Transactions Charged to HHS Awards During FYs 2010 and 2011

	Amount Unallowable
Salary transactions	\$2,270,266
Related F&A costs	<u>950,386</u>
Subtotal Salary Costs	3,220,652
Nonsalary transactions	1,731,905
Related F&A costs	<u>1,514,733</u>
Subtotal Nonsalary Costs	3,246,638
Total	\$6,467,290

These unallowable transactions occurred because the University did not provide adequate oversight to ensure consistent compliance with Federal regulations.

THE UNIVERSITY DID NOT ALWAYS CLAIM COSTS IN ACCORDANCE WITH FEDERAL REGULATIONS AND APPLICABLE GUIDELINES

Salary Costs

Of the 112 transactions totaling \$334,732 in our sample of salary costs, 34 transactions totaling \$85,618 were not allowable. Specifically:

³ For some of the transactions, we questioned only a portion of the transaction or the related facilities and administrative (F&A) costs.

⁴ The Circular § E.1 defines F&A costs as “those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity.”

- Twenty-seven transactions were for salary costs for administrative and clerical work such as ordering supplies, performing general information technology work, and supervising data collections. These costs should not have been charged directly to the award because they involved salaries of administrative and clerical staff, and neither the nature of the work performed on the projects nor any other circumstances justified any unusual degree of administrative support or showed that the employees were necessary for the performance of the awards. Salaries of administrative and clerical staff should normally be treated as F&A costs unless an unusual degree of administrative support is justified as necessary to perform the award (the Circular, § F.6.b.(2)).
- Three transactions included payments at a rate in excess of the employees' supported salary rates⁵ (45 CFR § 74.21 (b)(7)).
- Two transactions on NIH awards included amounts in excess of NIH guidelines that limit graduate student compensation. Graduate student pay must not exceed the stipend levels set by NIH for National Research Service Awards (NIH Notice NOT-OD-02-017, NIH *Grants Policy Statement* (GPS), section on "Compensation of Students" (eff. 12/1/03 – 9/30/2010) and section 11.2.9.3 (eff. 10/1/2010 – 9/30/2011)).
- One transaction was salary for an employee hired for the sole purpose of distributing promotional items. However, promotional items and memorabilia are unallowable, so the compensation paid to any individual to distribute such items would also be unallowable (the Circular, § J.1.f.(3)).
- One transaction was not allocated correctly. The University charged 100 percent of a payout for a terminated employee to one grant rather than allocating the payout on the basis of the employee's former workload. We questioned only the amount that should not have been charged to the NIH award. A cost is allocable to a sponsored agreement if it benefits both the sponsored agreement and other work of the institution in proportions that can be approximated through use of reasonable methods (the Circular, § C.4.a).

On the basis of our sample results, we estimated that these unallowable salary transactions resulted in overcharges of at least \$3,220,652 to HHS awards during our audit period (\$2,270,266 in salary costs plus \$950,386 in related F&A costs).

Nonsalary Costs

Of the 110 transactions totaling \$1,494,381 in our sample of nonsalary costs, 40 transactions totaling \$139,556 were not allowable. Specifically:

- Sixteen transactions that were otherwise allowable had F&A claimed in excess of the allowable amount. The University treated these transactions as vendor costs when they were actually subcontract costs.⁶ The amount of F&A that can be claimed on

⁵ The unallowable amount was the difference between the rate of pay on the source documents and what was actually claimed.

⁶ After our audit period, the University began treating these costs as subrecipient costs.

subrecipient costs—which includes subcontract and subgrant costs—is limited, but no such limit exists for vendor purchases.⁷ OMB Circular A-133 B § ___.210(b) lists characteristics of a subrecipient relationship. These characteristics include when the organization “[h]as its performance measured against whether the objectives of the Federal program are met; [h]as responsibility for programmatic decision making; has responsibility for adherence to applicable Federal program compliance requirements; [and u]ses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity....” Meanwhile, vendors provide “goods or services that are ancillary to the operation of the Federal program” (OMB Circular A-133 B § ___.210(c)(4)). The criteria state that the substance of the relationship is more important than the form of the agreement (OMB Circular A-133 B § ___.210(d)). In this case, the University treated a subcontractor as a vendor even though the substance of the work performed by the entity was central to the work of the award. The entity had responsibility for dealing directly with other subcontractors, giving them a decision-making role and responsibility for program compliance. By classifying subcontract costs as vendor purchases, the University claimed F&A on costs for which it should not have received F&A. Therefore, the F&A related to these transactions was unallowable because the University had already exceeded the dollar limit on subrecipient costs.

- Eleven transactions were not supported with sufficient documentation. The University charged shipping fees without documenting that the costs were allocable to the grant. It did not track the destination or contents of the shipment. Therefore, the shipment could not be tied to the award. According to 45 CFR § 74.21(b)(7), recipient financial management systems shall provide for accounting records, including cost accounting records that are supported by source documentation.
- Four transactions related to two specialized service centers were not charged in accordance with Federal regulations. The University did not provide a schedule of rates or a cost basis for its telecommunications center and did not always document the allocation of animal center costs on the basis of usage. The costs of services provided by specialized facilities must be charged based on actual usage of the services and based on a schedule of rates or established methodology (the Circular § J.47.b.).
- Four transactions were for general-use supplies such as toner, computers, and tablet computers, which should have been treated as F&A costs and not charged directly to the award. “Items such as office supplies, postage, local telephone costs, and memberships shall normally be treated as F&A costs” (the Circular § F.6.b.(3)). Furthermore, beginning in October 2010, the GPS, section 7.9.1, specifically states: “Office equipment (copiers, laptops, desktop computers, personal handheld computers, fax machines, scanners, etc.) that is used for general office purposes (rather than justified as a specific research purpose) are not allowable as direct costs; they are allowable as an F&A cost.”⁸

⁷ The Circular § G.2. limits F&A to the first \$25,000 of each subcontract or subgrant.

⁸ These transactions were claimed on NIH grant awards; therefore, NIH grant criteria apply.

- Three transactions were not allowable. These transactions included a charge for media consulting that the University paid without an agreement that specified either the service to be provided or the rate of compensation in violation of the regulations at the Circular § J.37.b.(8)). Other transactions included a donation and promotional items. Both donations and promotional items are unallowable (the Circular §§ J.15.a. and J.1.f.(3)).
- One transaction did not meet the criteria for reasonableness. One consideration for reasonableness is whether the type of cost is generally recognized as necessary for the conduct of the organization or the award performance (the Circular § C.3.(a)). The University had a contract with a labware supplier that included a handling fee in the cost of the items; however, it routinely paid extra handling fees to receive partial shipments rather than ordering a full shipment. The University did not provide a justification for partial shipments.
- One transaction was for a large amount of fiber-optic cable with no justification showing that it was used for the performance of the award. Only materials and supplies actually used for the performance of a sponsored agreement may be charged as a direct cost (the Circular § J.31.c.).

On the basis of our sample results, we estimated that these unallowable nonsalary transactions resulted in overcharges of at least \$3,246,638 to HHS awards during our audit period (\$1,731,905 in nonsalary costs plus \$1,514,733 in F&A costs).

THE UNIVERSITY DID NOT ALWAYS PROVIDE ADEQUATE OVERSIGHT

These unallowable transactions occurred because the University did not always provide adequate oversight to ensure consistent compliance with Federal regulations. Although its procedures often incorporated text from the applicable cost principles, the University's Division of Sponsored Research did not review transactions to ensure that the principal investigator's proposed transactions fully complied with Federal regulations. Without adequate oversight, the University could not ensure that administrative expenses charged as direct costs to HHS awards complied with applicable Federal regulations.

ESTIMATE OF UNALLOWABLE COSTS

On the basis of our sample results, we estimated that the University's unallowable transactions resulted in total overcharges of at least \$6,467,290 to HHS awards during our audit period.

RECOMMENDATIONS

We recommend that the University:

- refund \$6,467,290 to the Federal Government and
- enhance oversight of charges to Federal awards to ensure consistent compliance with Federal regulations.

UNIVERSITY OF SOUTH FLORIDA COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

SUMMARY OF UNIVERSITY COMMENTS

In written comments on our draft report, University officials disagreed with our overall findings. Specifically, the officials stated that:

- 41 of the 43 salary transactions that we questioned were allowable and
- 39 of the 43 nonsalary transactions that we questioned were allowable.

The University's written comments included a transaction-by-transaction discussion of our findings and additional supporting documentation that the University did not provide to us during our fieldwork. Because the documentation contained confidential and proprietary information, University officials requested that we not include it in the final report. The University's comments, excluding the additional supporting documentation, are included as Appendix F.

SUMMARY OF OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the additional documentation that the University provided, we reduced the number of unallowable salary transactions from 43 to 34 and the number of unallowable nonsalary transactions from 43 to 40. Accordingly, we reduced our estimated overpayment to approximately \$6.4 million.

DETAILED COMMENTS AND RESPONSES

Salary Costs: Transactions Involved Administrative or Clerical Work

University Comments

University officials disagreed with most of the 35 transactions that we determined involved employees whose duties were administrative or clerical. In their comments on our draft report, University officials stated that most of the employees' duties were technical or programmatic in nature. The officials further stated that the employees were also working on major projects and that, because the "sponsor" accepted the budget with the employee positions, their salaries would therefore be allowable regardless of duties.

Office of Inspector General Response

After reviewing the additional documentation that the University provided, we agree that eight transactions involving employee salaries were allowable. However, the remaining 27 transactions were for administrative or clerical employees and were, therefore, unallowable.

Documentation that the University provided for these 27 transactions showed that the employees' administrative activities were not related solely to the project to which their salary was charged. Rather, the employees' administrative duties benefited multiple activities and could not be tied to an individual project. Because the administrative activities did not solely benefit the project to which the University charged the salary costs, we applied cost principles that state: "The apportionment of employees' salaries and wages which are chargeable to more than one sponsored agreement or other cost objective will be accomplished by methods which will ... (iii) distinguish the employees' direct activities from their F&A activities" (J.10.b (1)(b) of the Circular). In addition, we could not determine the percentage of effort these employees spent on administrative activities because the University's effort reports did not reflect time spent on administrative tasks. Therefore, we continue to question the costs related to these 27 transactions.

Salary Costs: Transactions Charged in Excess of Salary Rates

University Comments

University officials agreed with two of the three transactions that we questioned because they exceeded salary rates. Although they initially argued that they had sponsor approval for the transaction involving extra compensation, they concurred with our finding that the extra compensation was incorrectly paid at a time-and-a-half rate. The officials said that a third transaction was a retroactive pay increase that was accurately documented and allocated.

Office of Inspector General Response

The additional documentation that the University provided did not show the pay increase as being retroactive. Therefore, we continue to question these costs.

Salary Costs: Transactions Charged in Excess of NIH Graduate Student Compensation Guidelines

University Comments

University officials disagreed with our finding that two transactions were paid in excess of the NIH graduate student compensation guidelines. They stated that one of the employees was not a student at the time of the charge. In addition, University officials said that they followed NIH salary guidelines for student compensation levels and that the University used its rebudgeting authority to rebudget additional funds to pay a higher compensation level.

Office of Inspector General Response

For one transaction, the University did not provide documentation showing that the employee in question was not a student at the time of the transaction.

In regard to the second transaction, NIH guidance allows institutions to rebudget funds to charge more than the awarded amount, provided that they observe the cost principles requiring

reasonable compensation. The guidance also states that graduate student compensation will not be considered reasonable if it is in excess of the amount paid to a first-year postdoctoral scientist at the same institution performing comparable work. The University did not provide any additional evidence to show that the student was performing work that justified pay in excess of a first-year postdoctoral stipend. Therefore, the amount the University paid in excess of a first-year postdoctoral stipend was not reasonable.

We continue to question these two transactions.

Salary Costs: Unallowable Transaction

University Comments

University officials said that the University's contract required it to engage in public relations efforts, including the use of incentive items such as keychains to encourage individuals to participate in a clinical trial. University officials agreed that "promotional items" were not allowable charges to Federal awards, but they argued that these keychains were incentives rather than promotional items.

Office of Inspector General Response

The Circular, § J.1.f.(3) specifically states that promotional items and memorabilia, including gifts and souvenirs, are unallowable. Items such as keychains are equivalent to promotional items. In addition, University officials did not address the reasonableness of having an employee whose sole duty was to distribute these keychains. Therefore, we continue to question this cost.

Salary Costs: Allocation Issues

University Comments

University officials did not agree that they incorrectly allocated an employee's bonus payment. The officials said that the employee's effort report showed two different account (project) numbers for the same award. The officials further explained that it is the University's practice to assign a new internal project number to a grant that has been competitively renewed. Thus, one award could have two project numbers.

In regard to a second transaction, University officials did not agree that they incorrectly allocated an employee's terminal leave payout. The officials said that the employee had worked exclusively on the project for the period of time required to accrue the amount of leave for which the University paid her.

Office of Inspector General Response

After assessing the University's explanation and the additional documentation that it provided, we agree that the costs related to the bonus payment transaction we questioned were allowable and adjusted our findings accordingly.

In regard to the second transaction, the University did not provide documentation to support its assertion that the employee's leave was accrued working exclusively on the award. Therefore, we continue to question this cost.

Nonsalary Costs: Subrecipient Claimed as Vendor

University Comments

University officials disagreed with our finding that 16 transactions that were otherwise allowable had F&A claimed in excess of the allowable amount. The officials believed that they correctly treated these transactions as vendor costs rather than as subcontract costs.

University officials stated that they had more than one agreement with the company in question. The officials said that they had a subaward established for repository services with the company that was separate from a vendor relationship with the company for supply purchases.

Office of Inspector General Response

The University treated a subcontractor as a vendor even though the substance of the work performed by the company was central to the work of the award. (See OMB Circular A-133 B § ___.210(b) for the characteristics of a subrecipient relationship.) The company had responsibility for dealing directly with other subcontractors, giving them a decision-making role and responsibility for program compliance. Therefore, the University should have treated the company as a subcontractor.

By classifying subcontract costs as vendor purchases, the University claimed F&A on costs for which it should not have received F&A. Therefore, we continue to question these 16 transactions.

Nonsalary Costs: Insufficient Documentation

University Comments

University officials disagreed that 14 transactions for shipping costs were not supported by sufficient documentation. They provided additional documentation to show what was being shipped and its relation to the award. One transaction was related to a subcontract with another university. The University provided the relevant subcontract and invoice.

Office of Inspector General Response

After reviewing the additional documentation that the University provided, we agree that the costs related to three of the transactions we questioned were allowable. The University did not provide additional documentation for the remaining 10 transactions that would allow us to determine the destination or contents of the shipments. Therefore, the shipments could not be tied to the award.

The University provided the relevant subcontract and invoice for the charge from another university. However, the invoice that the University provided did not show what services were provided or how the cost benefited the award.

We continue to question these costs.

Nonsalary Costs: Service Centers

University Comments

University officials agreed that one telecom service center transaction was unallowable. However, the officials believed their methodology for allocating research animal per diems was sufficient to support the costs claimed. The officials said that the investigators' allocation methodologies were reasonably designed to charge projects in accordance with the proportional benefit each project received.

Office of Inspector General Response

The additional documentation that the University provided showed that the awards' investigators split an invoice from the service center between multiple awards on the basis of percentage allocations. However, the investigators did not describe the method that they used to arrive at those percentages. The investigators listed several factors that they said were considered in making the allocations, but they did not describe their allocation methodology. Therefore, we continue to question the allowability of these transactions.

Nonsalary Costs: Other Questioned Transactions

University Comments

University officials argued that the Circular (§ F.6.b.3) allows it to direct charge certain nonsalary costs that are normally treated as F&A. Also, the officials stated that section D.2. contains provisions that would allow it to directly charge certain costs normally treated as F&A. The officials agreed that the University should have recovered through its F&A rate certain general-use supply costs, such as toner costs. University officials disagreed that seven other transactions were unallowable. The officials stated that the sponsor accepted the budget, which included the purchase of the computers. They further stated that the computers were used solely on the award and were therefore allowable. The officials also stated that two transactions were for "outreach efforts" that were covered under the award's scope of work.

University officials said that they provided additional documentation for the media consultant costs. The officials did not comment on our finding that they routinely paid extra handling fees to receive partial shipments. They agreed that a portion of the transaction involving fiber-optic cables was unallowable.

Office of Inspector General Response

We do not agree with the University's position regarding F&A costs charged direct. In making its argument, University officials did not consider whether the costs were necessary for performance of the award (the Circular § C.3.(a)).

Notwithstanding the sponsor's approval of the budget, University officials did not provide documentation to show that the University used the computers solely on the award and, therefore, did not adequately address why the 17 computers should be directly charged to the award. One of the University's "outreach efforts" was for the purchase of promotional items, which are specifically unallowable under the Circular. The other was a donation to a nonprofit, which was also unallowable. The additional documentation that the University provided for the media consultant costs did not include a signed contract with deliverables. Therefore, we continue to question the costs related to these transactions.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered approximately \$12 million in salary transactions and approximately \$12.8 million in nonsalary transactions claimed for reimbursement from October 1, 2009, through September 30, 2011 (FYs 2010 and 2011). We limited the audit to grants, contracts, and other agreements between the University and organizational components of HHS, including NIH, the Administration for Children and Families, and the Health Resources and Services Administration. We did not evaluate transactions charged to the University's agreements with other Federal departments and agencies.

We limited our assessment of internal controls to the University's policies and procedures for charging costs to Federal awards. We conducted our fieldwork between May 2012 and March 2013 at the University's offices in Tampa, Florida.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal regulations and NIH guidelines;
- reviewed the University's policies and procedures for charging costs to Federal awards;
- reviewed the University's Cost Accounting Standards Board Disclosure Statement (DS-2);
- reviewed the University's account codes and identified accounts that we considered administrative in nature;
- obtained from the University a list of transactions from these accounts, including approximately \$14.3 million in salary transactions and approximately \$12.7 million in nonsalary transactions charged directly to HHS awards;
- obtained a statement from the University attesting to the completeness and accuracy of the list of transactions they provided;
- removed negative and low-dollar transactions (less than \$25) to arrive at our audit sampling frame, including approximately \$12 million in salary transactions and approximately \$12.8 million⁹ in nonsalary transactions;
- selected and determined the allowability of random samples of 112 salary transactions and 110 nonsalary transactions (Appendix C);

⁹ The dollar value of our sample is greater than the dollar value of the original list of transactions that we obtained from the University because many of the transactions that we removed from the original list were negative.

- computed the F&A costs related to the transactions determined to be unallowable by our review; and
- estimated the unallowable amounts that were charged to HHS awards (Appendix D).

We initially evaluated the sample transactions on the basis of documentation in the University's project files. For transactions not adequately supported by the project files, we asked the University's Division of Sponsored Research and the principal investigators on the related awards to submit additional information.

We discussed our tentative findings with NIH representatives during our audit.¹⁰ NIH provided additional information regarding the nature of the awards to which the sampled transactions were charged, and we considered that information in reaching our conclusions on the allowability of the costs.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁰ We discussed our findings primarily with NIH during the audit because the majority of our sample transactions related to NIH awards.

APPENDIX B: FEDERAL REQUIREMENTS

FEDERAL REGULATIONS AND NIH GUIDELINES

The HHS grant administration rules require recipients of grant awards to comply with regulations governing the use of Federal funds and to ensure that costs charged to those awards were allowable under the applicable cost principles (45 CFR § 74.27(a)). The cost principles for educational institutions are established in 2 CFR part 22, Appendix A (the Circular). These cost principles require that, to be allowable, costs must be reasonable, be allocable, be treated consistently, and conform to any exclusions or limitations set forth in the cost principles or sponsored agreements (the Circular § C.2). Additionally, OMB Circular A-133 sets forth standards for obtaining consistency and uniformity in auditing. NIH awards are also subject to NIH guidelines, which include limitations on graduate student salary costs supported by NIH research grants and cooperative agreements. HHS contracts awarded under the FAR to educational institutions are subject to the Circular to determine the allowability of costs (48 CFR § 31.303(a)).

We applied a number of provisions in these rules and policies in the body of our report:

Pursuant to the Circular § C.3:

A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefore, reflects the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the sponsored agreement; the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and sponsored agreement terms and conditions; whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Federal Government, and the public at large; and, the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including sponsored agreements.

Pursuant to the Circular § C.4.a:

A cost is allocable to a particular cost objective (i.e., a specific function, project, sponsored agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a sponsored agreement if it is incurred solely to advance the work under the sponsored agreement; it benefits both the sponsored agreement and other work of the institution, in proportions that can be approximated through use of reasonable methods, or it is necessary to the overall operation of the institution

and, in light of the principles provided in this Appendix, is deemed to be assignable in part to sponsored projects.

Included in the Circular § F.6.b are specific guidelines regarding the treatment of charges for administrative and clerical expenses incurred within various departments of a college or university, including the following: “The salaries of administrative and clerical staff should normally be treated as F&A costs” (§ F.6.b.2). In addition, “Items such as office supplies, postage, local telephone costs, and memberships shall normally be treated as F&A costs” (§ F.6.b.3). Beginning in October 2010, the NIH GPS, section 7.9.1, specifically states: “Office equipment (copiers, laptops, desktop computers, personal handheld computers, fax machines, scanners, etc.) that is used for general office purposes (rather than justified as a specific research purpose) is not allowable as direct costs; it is allowable as an F&A cost.” The Circular’s F&A guidelines provide an exception for “major projects” in instances where direct charging of the salaries of administrative and clerical staff may be appropriate. “Major projects” are defined in section F.6.b.2 of the Circular as projects that require an “extensive amount of administrative or clerical support which is significantly greater than the routine level of such services provided by academic departments.”

If the costs of services provided by specialized service facilities are material, they must be charged directly to applicable awards on the basis of actual usage of the services and on the basis of a schedule of rates or established methodology (§ J.47.b). The HHS Division of Cost Allocation’s¹¹ *Best Practices Manual for Reviewing College and University Long-Form Facilities & Administrative Cost Rate Proposals*, dated December 2006, defines a specialized service facility as:

a service center that provides highly complex or specialized services that include, but are not limited to telecommunication centers, super computers, animal care facilities (vivariums), wind tunnels and reactors. The costs for these services should be charged directly to the users through a billing rate mechanism. Billing rates should be calculated for each SSF [(specialized service facility)] that do not discriminate between Federal and non-Federal users including internal university activities. The billing rates should be designed to recover the aggregate costs of providing the service and shall include both direct and an allocable portion of F&A costs. Billing rates must be adjusted biennially to adjust for under or over recoveries ... (p. 112).

Furthermore, Federal regulations require recipients’ financial management systems to provide for accounting records, including cost accounting records, that are supported by source documentation (45 CFR § 74.21(b)(7)).

The Circular, section G.2, limits to \$25,000 the amount of each subgrant and subcontract included in F&A costs that can be distributed across applicable grants and agreements.

¹¹ The Division of Cost Allocation provides negotiation services for indirect cost rate proposals and cost allocation plans, and reviews of cost allocation methods and practices of entities that receive Federal funds.

OMB Circular A-133, Subpart B, §____.210(b) lists characteristics of a subrecipient relationship. These characteristics include, but are not limited to, when the organization:

- has its performance measured against whether the objectives of the Federal program are met,
- has responsibility for programmatic decision-making, and
- has responsibility for adherence to applicable Federal program compliance requirements.

The Circular goes on to list characteristics of vendors, including the provision “goods and services that are ancillary to the operation of the Federal program.”

NIH issued guidance dated December 10, 2001, regarding graduate student compensation. NIH notice NOT-OD-02-017 states: “the entry-level postdoctoral [(National Research Service Award)] NRSA stipend provides a useful benchmark for an award amount that approximates a reasonable rate of compensation for graduate students.” The guidance further states that NIH will limit its award for graduate student compensation to the currently effective NRSA stipend level. The stipend levels are updated annually. The guidance allows institutions to rebudget funds to charge more than the awarded amount, provided that they observe the cost principles requiring reasonable compensation. In general, graduate student compensation will not be considered reasonable if it is in excess of the amount paid to a first-year postdoctoral scientist at the same institution performing comparable work. During our audit period, the NRSA stipend levels for an entry-level postdoctoral student were \$37,740 for FY 2010 and \$38,496 for FY 2011.

The NIH GPS applicable from December 1, 2003, through September 30, 2010, includes a “Selected Item of Cost for Compensation of Students,” which provides:

“The maximum amount NIH will award for compensation of a graduate student receiving support from a research grant is tied to the zero-level Kirschstein-NRSA stipend in effect when NIH issues the grant award (see current levels posted at <http://grants.nih.gov/training/nrsa.htm>.)”

The NIH GPS, which was applicable from October 1, 2010, through September 30, 2011, included a new section 11.2.9.3:

Stipend levels are updated periodically in conjunction with an NIH annual appropriation. When increases are approved, they are published in the *NIH Guide for Grants and Contracts*. Current levels are posted at <http://grants.nih.gov/training/nrsa.htm>. The NIH awarding [Institute or Center] will adjust fellowship awards on their anniversary dates to include the currently applicable stipend amount.

General information related to stipends follows:

- Predoctoral. One stipend level is used for all pre-doctoral candidates, regardless of the level of experience.

- **Postdoctoral.** The stipend level for the entire first year of support is determined by the number of full years of relevant postdoctoral experience when the award is issued. Relevant experience may include research experience (including industrial), teaching assistantship, internship, residency, clinical duties, or other time spent in a health-related field beyond that of the qualifying doctoral degree. Once the appropriate stipend level has been determined, the fellow must be paid at that level for the entire grant year. The stipend for each additional year of Kirschstein-NRSA support is the next level in the stipend structure and does not change mid-year.
- **Senior Fellows.** The amount of the Kirschstein-NRSA stipend to be paid must be commensurate with the base salary or remuneration that the individual receiving the award would have been paid by the institution with which he or she has permanent affiliation on the issue date of the fellowship award. In no case shall the stipend award exceed the current Kirschstein-NRSA stipend limit set by NIH. The level of Kirschstein-NRSA support will take into account concurrent salary support provided by the institution and the policy of the sponsoring institution. NIH support does not provide fringe benefits for senior fellows.

APPENDIX C: SAMPLE DESIGN AND METHODOLOGY

SALARY SAMPLE

Population

The population consisted of salary transactions for costs on HHS awards charged directly to normally administrative and clerical accounts for FYs 2010 and 2011.

Sampling Frame

We received an Excel file from the University's Assistant Controller of Research Financial Management containing certain salary transactions that should normally be treated as indirect but that the University charged directly to HHS awards for FYs 2010 and 2011. The file contained 44,979 transactions totaling \$14,333,912. We copied the data into a new worksheet and sorted it by transaction amount. From this worksheet, we:

- matched all positive transactions with their corresponding negative transactions by comparing the transaction date, dollar amount, and description;
- removed negative transactions and the corresponding positive transactions;
- removed all other negative transactions with no corresponding positive transaction;
- identified all items charged to fringe benefit accounts by the account numbers and account descriptions then removed these items;
- removed all items less than \$25; and
- created an Excel spreadsheet containing the remaining transactions.

This spreadsheet contained 11,789 transactions totaling \$11,961,978, which was our sample frame.

Sample Unit

The sample unit was a transaction.

Sample Design

We used a stratified sample containing four strata and divided the sampling frame on the basis of transaction amounts as follows:

Stratum	Range	Number of Transactions	Total Dollars
1	\$25 through \$999.99	7,310	\$3,448,426
2	\$1,000 through \$1,999.99	2,590	3,703,886
3	\$2,000 through \$4,999.99	1,867	4,604,608
4	\$5,000 and above	22	205,058
	Total	11,789	\$11,961,978

Sample Size

We selected a sample size of 112 transactions. The sample size by stratum was:

Stratum	Number of Sample Items
1	30
2	30
3	30
4	22
Total	112

Source of Random Numbers

We used the Office of Inspector General, Office of Audit Services (OIG/OAS), statistical software to generate the random numbers.

Method of Selecting Sample Items

We consecutively numbered each stratum. After generating the random numbers for strata 1, 2, and 3, we selected the corresponding frame items. For stratum 4, we selected all transactions.

Estimation Methodology

We used the OIG/OAS statistical software to estimate the amount of unallowable administrative and clerical salary costs claimed as direct costs. The F&A costs associated with the unallowable administrative and clerical salary costs were also estimated using the OIG/OAS statistical software.

NONSALARY SAMPLE

Population

The population consisted of nonsalary transactions for costs on HHS awards charged directly to normally administrative and clerical accounts for FYs 2010 and 2011.

Sampling Frame

We received an Excel file from the University's Assistant Controller of Research Financial Management containing certain nonsalary transactions that should normally be treated as indirect but that the University charged directly to HHS awards for FYs 2010 and 2011. The file contained 21,486 transactions totaling \$12,728,356. We copied the data into a new worksheet and sorted by transaction amount. From this worksheet, we:

- matched all positive transactions with their corresponding negative transactions by comparing the transaction date, dollar amount of the transaction, and transaction description;
- removed negative transactions and the corresponding positive transactions;
- removed all other negative transactions with no corresponding positive transaction;
- removed all items less than \$25; and
- created an Excel spreadsheet containing the remaining transactions.

This spreadsheet contained 18,750 transactions totaling \$12,860,135,¹² which was our sample frame.

Sample Unit

The sample unit was a transaction.

Sample Design

We used a stratified sample containing four strata. We divided the sampling frame on the basis of transaction amounts as follows:

¹² The dollar value of our sample is greater than the dollar value of the original list of transactions that we obtained from the University because many of the transactions that we removed from the original list were negative.

Stratum	Range	Number of Transactions	Value of Transactions
1	\$25 through \$499.99	14,501	\$2,464,661
2	\$500 through \$4,999.99	3,873	5,293,147
3	\$5,000 through \$49,999.99	361	4,094,787
4	\$50,000 and above	15	1,007,540
	Total	18,750	\$12,860,135

Sample Size

We selected a sample size of 110 transactions. The sample size by stratum was:

Stratum	Number of Sample Items
1	30
2	30
3	35
4	15
Total	110

Source of Random Numbers

We used the OIG/OAS statistical software to generate the random numbers.

Method of Selecting Sample Items

We consecutively numbered each stratum. After generating the random numbers for strata 1, 2, and 3, we selected the corresponding frame items. For stratum 4, we selected all 15 transactions.

Estimation Methodology

We used the OIG/OAS statistical software to estimate the amount of unallowable administrative and clerical nonsalary costs claimed as direct costs. The F&A costs associated with the unallowable administrative and clerical nonsalary costs were also estimated using the OIG/OAS statistical software.

APPENDIX D: SAMPLE RESULTS AND ESTIMATES

Sample Results for Salary Transactions

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Unallowable Transactions	Value of Unallowable Transactions	Value of F&A Associated With Unallowable Transactions
1	7,310	\$3,448,426	30	\$15,597	9	\$4,589	\$1,783
2	2,590	3,703,886	30	42,205	9	9,625	3,642
3	1,867	4,604,608	30	71,872	9	19,714	9,265
4	22	205,058	22	205,058	7	51,690	28,706
Total	11,789	\$11,961,978	112	\$334,732	34	\$85,618	\$43,396

Estimated Value of Unallowable Salary Transactions
(Limits Calculated for a 90-Percent Confidence Interval)

	<u>Unallowable Transactions</u>	<u>Unallowable F&A</u>
Point estimate	\$3,227,657	\$1,354,132
Lower limit	2,270,266	950,386
Upper limit	4,185,048	1,757,877

Sample Results for Nonsalary Transactions

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Unallowable Transactions	Value of Unallowable Transactions	Value of F&A Associated With Unallowable Transactions
1	14,501	\$2,464,661	30	\$3,743	4	\$609	\$286
2	3,873	5,293,147	30	48,652	11	18,800	8,583
3	361	4,094,787	35	434,446	14	59,161	73,437
4	15	1,007,540	15	1,007,540	11	60,986	347,303
Total	18,750	\$12,860,135	110	\$1,494,381	40	\$139,556	\$429,609

Estimated Value of Unallowable Nonsalary Transactions
(Limits Calculated for a 90-Percent Confidence Interval)

	<u>Unallowable Transactions</u>	<u>Unallowable F&A</u>
Point estimate	\$3,098,348	\$2,212,807
Lower limit	1,731,905 ¹³	1,514,733 ¹⁴
Upper limit	4,465,400	2,911,168

¹³ In accordance with OAS policy, we did not use the results from stratum 1 in calculating the estimated overpayments. Instead, we added the actual overpayment from stratum 1 (\$609) to the lower limit (\$1,731,296), which resulted in an adjusted lower limit of \$1,731,905.

¹⁴ In accordance with OAS policy, we did not use the results from stratum 1 in calculating the estimated F & A overpayments. Instead, we added the actual overpayment from stratum 1 (\$286) to the lower limit (\$1,514,447), which resulted in an adjusted lower limit of \$1,514,733.

APPENDIX E: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Review of Select Expenditures Claimed by The Research Foundation of the State University of New York, State University of New York at Stony Brook</i>	A-02-11-02008	8/28/12
<i>Florida State University Did Not Always Claim Selected Costs Charged Directly to Department of Health and Human Services Awards in Accordance With Federal Regulations and National Institutes of Health Guidelines</i>	A-04-11-01095	7/19/12
<i>Review of Administrative and Clerical Costs at The Ohio State University for the Period July 1, 2008, Through June 30, 2010</i>	A-05-11-00030	12/13/11
<i>Review of Select Expenditures Claimed by The Research Foundation of the State University of New York, State University of New York at Albany</i>	A-02-11-02000	10/13/11
<i>Review of Administrative and Clerical Costs at Dartmouth College for Fiscal Years 2009 Through 2010</i>	A-01-11-01500	8/05/11
<i>Review of Administrative and Clerical Costs at Duke University for the Period October 1, 2002, Through September 30, 2004</i>	A-04-05-01014	1/21/09

APPENDIX F: UNIVERSITY OF SOUTH FLORIDA COMMENTS



January 6, 2014

Lori S. Pilcher
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region IV
61 Forsyth Street, SW, Suite 3T41
Atlanta, GA 30303

Re: Audit Report Number: A-04-12-01016

Dear Ms. Pilcher:

The University of South Florida appreciates the opportunity to respond to the November 20, 2013 U.S. Department of Health and Human Services ("DHHS") draft audit report titled "The University of South Florida Did Not Always Claim Costs in Accordance With Federal Regulations". Our response consists of the enclosed global comments, and a detailed transaction-by-transaction discussion of each cost questioned by the government. We have also submitted a set of binders with sample-by-sample tabs that contain detailed supporting documentation for each transaction. We ask that DHHS maintain the confidentiality of our transaction-by-transaction discussion and the supporting documentation, which contain confidential and proprietary information exempt from disclosure under FOIA.

We would be pleased to meet with you and your team at any point as you consider the material we submit today. In the meantime, we will look forward to your final report and to resolving this matter as expeditiously as possible.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Puig".

Rebecca Puig
Assistant Vice President, Research & Innovation
University of South Florida

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University of South Florida – Response to Draft Audit Report

The University of South Florida ("USF" or "the University") submits these comments in response to the November 20, 2013 U.S. Department of Health and Human Services ("DHHS") draft audit report titled "*The University of South Florida Did Not Always Claim Costs in Accordance With Federal Regulations*" (hereinafter "the Draft Audit Report").

These comments on the Draft Audit Report are organized into the following sections: (a) the University's position on the costs the auditors preliminarily questioned, (b) the University's views on the auditors' observations regarding the University's oversight of its federally sponsored projects, and (c) notwithstanding its disagreement with the Draft Audit Report's findings, a brief discussion of some structural enhancements that the University believes will further improve its sponsored projects administrative infrastructure.

Although the University appreciates the work of the DHHS audit team, USF respectfully disagrees with most of the Draft Audit Report's findings. As discussed in detail below, most of the questioned salary transactions involve individuals who are characterized in the Draft Audit Report as administrative and clerical personnel and who, therefore, should not have been charged directly to DHHS awards. However, a large majority of those University employees were performing technical or programmatic work. Furthermore, even if that were not the case, the projects to which they were charged were generally large, complex, data intensive, international, multi-site clinical trials that are quintessential "major projects." In the area of non-salary charges, most of the questioned costs relate to the Draft Audit Report's conclusions (a) that a laboratory supply agreement should have been treated as a subaward, thereby limiting F&A recovery, and (b) that supporting documentation was inadequate. As described in detail below, the University has fully addressed those issues. Because the University believes that most of the preliminarily questioned costs are allowable, it also disagrees with the Draft Audit Report's observation that it was not adequately overseeing its DHHS sponsored projects.

A. The Draft Audit Report's Preliminarily Questioned Costs

The Draft Audit Report explains that the auditors reviewed a random sample of 112 salary and 110 non-salary transactions. The Draft Audit Report further explains that the auditors questioned 43 salary transactions and 43 non-salary transactions.

In the salary category, the auditors tentatively reached the following conclusions:

- Thirty-five transactions were questioned on the basis that they reflected administrative or clerical compensation costs that should have been recovered through the University's F&A rate.
- Three transactions were questioned on the basis that they reflected salary payments in excess of the employee's base salary rate.
- Two salary charges purportedly exceeded the NIH operating guidelines on graduate student compensation.

- One transaction was associated with the distribution of what the auditors characterized as unallowable promotional items.
- Two salary charges were deemed to have been misallocated.

In the non-salary category, the auditors tentatively reached the following conclusions:

- Sixteen charges that were otherwise allowable were incurred under an instrument improperly treated as a vendor agreement as opposed to a subaward; thus the auditors questioned the amount of F&A recovered.
- Fourteen transactions were questioned because of a lack of adequate documentation.
- Four transactions related to service center costs purportedly not charged in accordance with applicable regulations.
- Four transactions were deemed to have been for general use supplies.
- Three transactions were found unallowable.
- One transaction was deemed unreasonable.
- One transaction was considered unallocable.

Accompanying these comments on the Draft Audit Report as Attachment A is a detailed, transaction-by-transaction analysis of the questioned costs. The remainder of this section provides some more general responses to the Draft Audit Report's findings.

1. The University's Views on the Questioned Salary Costs

a. Costs characterized as administrative/clerical that are actually technical/programmatic

The salary costs of technical/programmatic staff are addressed in OMB Circular A-21, sec. F.6.b(1), which explicitly provides that they are to be treated as direct costs whenever they are specifically identifiable with a particular sponsored project. Most of the 35 transactions questioned on the basis that they reflect improper direct charging of administrative/clerical personnel are actually associated with individuals performing technical work.¹

For example, the Draft Audit Report questions nine salary costs paid to eight Clinical Research Administrators who were charged directly to the previously mentioned large, multi-site, international clinical trial focusing on diabetes. Reliance on the fact that the job title of these employees includes the word "administrator" is an untenable example of form over function. These employees actually perform highly specialized and technical tasks including laboratory monitoring, specimen quality control, serving as content experts on one or more protocols, and managing adverse event reporting. The project budget also explicitly included costs for these individuals. Thus, each of these nine transactions should be accepted. One other Clinical Research Administrator who performed similar functions on another study and whose salary costs were also questioned should also be allowed.

¹ OMB Circular A-21, sec. F.6.b(2) addresses the circumstances when administrative and clerical personnel can be charged directly to federal awards and is discussed in detail below.

Likewise, the Draft Audit Report questions the costs of numerous professional employees who have titles such as "Assistant Director," "Associate Director," and "Research Compliance Administrator." These are not, however, administrative or clerical positions. For example, the USF's "Senior University Leadership Classification Table" explains that in terms of the "Scope of Leadership" criterion, an Assistant Director "[m]ust be the manager of a program, function or subdivision of a larger department, responsible for policy, execution and results." Likewise, in terms of management expectations, an Assistant Director's "primary duty is management of staff and execution of professional job duties." Finally, an Assistant Director's decisions "have significant impact within the function or program and influence service delivery on a department and division basis." In sum, these are highly trained, professional employees who make substantial technical contributions to the projects they support. For example, one such employee was the technical expert for specimen isolation and storage techniques, including those governing serum, plasma, RNA, DNA, and peripheral blood mononuclear cells. Another employee provided project-specific regulatory oversight required to perform a clinical trial. The salary costs of these technical/programmatic personnel should be accepted.

Overall, and as discussed in detail in Attachment A, virtually all of the salary costs for the employees mischaracterized as administrative or clerical should be accepted.

b. Charging administrative and clerical salary expenses directly

For the reasons discussed above, most of the 35 transactions questioned on the basis that they were improperly direct charged administrative and clerical salary costs are in fact associated with specialized technical/programmatic employees. But, even if the auditors continue to view them as administrative/clerical personnel, they would still be appropriate direct charges, as are those few employees who were actually providing administrative or clerical services.

OMB Circular A-21, sec. F.6.b(2) addresses when a university may charge administrative and clerical salary costs directly to federal awards:

The salaries of administrative and clerical staff should normally be treated as F&A costs. Direct charging of these costs may be appropriate where a major project or activity explicitly budgets for administrative or clerical services and individuals involved can be specifically identified with the project or activity.

Circular A-21 also provides six examples of the type of federal award that can be considered a major project:

Large, complex programs such as General Clinical Research Centers, Primate Centers, Program Projects, environmental research centers, engineering research centers, and other grants and contracts that entail assembling and managing teams of investigators from a number of institutions.

Projects which involve extensive data accumulation, analysis and entry, surveying, tabulation, cataloging, searching literature, and reporting (such as epidemiological studies, clinical trials, and retrospective clinical records studies).

Projects that require making travel and meeting arrangements for large numbers of participants, such as conferences and seminars.

Projects whose principal focus is the preparation and production of manuals and large reports, books and monographs (excluding routine progress and technical reports).

Projects that are geographically inaccessible to normal departmental administrative services, such as research vessels, radio astronomy projects, and other research fields sites that are remote from campus.

Individual projects requiring project-specific database management; individualized graphics or manuscript preparation; human or animal protocols; and multiple project-related investigator coordination and communications.

Id. at Ex. C. The University notes that Circular A-21 is clear that its examples are just examples and that the foregoing list does not exhaust the types of projects that can be considered major.

As reflected in the examples, the common denominator for major projects is that they require a level of administrative support beyond that which a typical academic department can provide. In some cases, that demand is due to the size and complexity of the project, in others it is because the project generates significant data that needs to be managed, and there are also projects that cannot be served by the usual level of administrative resources because of their location. In all cases, however, it is the unusual demand for administrative support that establishes the "unlike circumstances" and not the duties being performed by a given individual.

Notwithstanding Circular A-21's specific focus on large, complex projects, and projects that require management of large amounts of data, 17 of the 35 salary transactions questioned in the Draft Audit Report on the basis that they reflect improperly direct-charged administrative and clerical salary costs are associated with a very large, multi-site, international diabetes-focused clinical trial that is, if not the largest, among the largest federally sponsored projects currently in operation. In its budget justification, the University expressly stated that the project's size, scope, and complexity reflected the "unlike circumstances" of a major project to which administrative and clerical salaries can be charged directly. The University also explicitly budgeted for necessary administrative and clerical positions, and the sponsor accepted those budgets. For example, the University expressly budgeted, by name, for a Fiscal and Business Analyst to assist with the massive amount of financial work associated with this project. That cost, and similar administrative and clerical salary costs charged to the diabetes-related clinical trial, should be accepted.

In another large, multi-site, international clinical trial, the University specifically budgeted for a dedicated systems administrator to help manage the massive amounts of data the study accumulated. As was the case with the diabetes-related trial, the University stated in its budget that the project's size, scope and complexity was consistent with the "unlike circumstances" of a major project and that it was, therefore, going to charge administrative and clerical salaries directly. The University believes that this clinical trial is also a major project and the system administrator charge should also be accepted.

The University respectfully submits that the foregoing charges, and other similar charges discussed in detail in Attachment A, are allowable.

c. Transactions questioned on the basis of the salary rate

The Draft Audit Report preliminarily questioned three transactions on the basis that compensation in excess of an employee's base salary was charged to a federal award.

The first of the three questioned costs involved a salary adjustment that was actually implementing a retroactive pay increase. The University has produced ample documentation showing that this payroll adjustment was accurately allocated. The second transaction involved extra compensation for which the University sought and obtained written sponsor approval. Although overtime is an allowable cost to HRSA awards (see HHS Grants Policy Statement at II.40), the University will concur with the Draft Audit Report's finding to the extent the approved extra-compensation was paid at a time-and-a-half rate. The third charge relates to \$24 of overtime for which the University will no longer seek recovery.

d. Transactions allegedly in excess of the NIH guidelines on graduate student compensation

The first of these transactions was the result of an inadvertent mischaracterization of an employee's status within the University. At the time the University submitted the proposal that resulted in the award of the grant to which this employee was charged, the individual was a graduate student. However, by the time of award, the individual was no longer a student and had instead been re-hired as an Other Professional Services employee. Thus, the employee was not subject to the NIH guidelines addressing graduate student compensation. The second transaction involved a graduate student whose salary charge was within the chargeable compensation limit, but did exceed the rate of awardable compensation. Although NIH may only award graduate student compensation at a rate equivalent to the zero-level post-doctoral NRSA stipend, a university may rebudget to pay salary costs up to the rate it compensates first-year postdoctoral scientists performing comparable work. NIH Notice NOT-OD-02-017 (December 10, 2001). The University, therefore, submits this an allowable charge.

e. The unallowable transaction

The Draft Audit Report questioned the salary charge associated with an employee whose duties were characterized as distributing "promotional items," in this case key chains associated with the large diabetes-related clinical trial. The auditors reasoned that because promotional items are unallowable expenses, the salary costs associated with an individual who is tasked with distributing such items are also unallowable. Actually, however, the key chains at issue in this finding are not promotional items but are instead used to incentivize individuals to participate in a clinical trial that has a goal of screening more than 20,000 people per year. Moreover, a modification to the clinical trial contract explicitly added to the agreement's scope of work public relations activities that included the use of incentive items to facilitate recruitment. This cost should, therefore, be accepted.

f. Misallocated transactions

The Draft Audit Report questioned two costs for allocation reasons. The first transaction relates to a bonus payment that the Draft Audit Report found was not allocated in accordance with the employee's effort. The University believes that the auditors may not have understood during their fieldwork that two different account numbers appearing on the employee's effort report were associated with the same project. Specifically, it is the University's practice to assign a new internal project number to a grant after receipt of a competitive renewal. Accompanying this submission is additional data that establishes the allowability of this cost. The second transaction involves the terminal leave payout of an employee. The Draft Audit Report tentatively concluded that this payment was unreasonably posted to the award that supported the employee when she left the University and was not allocated based on the individual's former workload. This was done, however, consistent with University policy inasmuch as the employee in question worked exclusively on the DHHS grant in question when she left and had worked exclusively on this project during the time required to accrue the amount of leave for which she was paid.

2. The University's Views on the Questioned Non-Salary Costs

a. Laboratory supplies

The Draft Audit Report allowed 16 transactions associated primarily with the purchase of laboratory supplies for the previously mentioned large diabetes-related clinical trial but took the position that the University recovered F&A in excess of the allowable amount because the contract under which those supplies were procured should have been designated a subaward. The University respectfully disagrees with the Draft Audit Report's conclusion.

The University has three separate agreements with the company that provides the laboratory supplies at issue. The agreement under which the laboratory supplies were procured was established so that the project's more than 200 clinical trial sites could order and receive directly necessary laboratory supplies.

The University submits this is a classic vendor relationship inasmuch as the laboratory services provider:

- Offers the service as part of its normal business operations;
- Provides a similar service to many different customers;
- Operates in a competitive environment (*i.e.*, it competes with other companies that provide the same services); and
- Was not involved with providing programmatic or intellectual support to the project.

Finally, the Draft Audit Report includes a footnote stating that the University began treating this agreement as a subaward after the completion of the audit period. That is not accurate. The University's subaward relationship with this company is under a separate agreement and is for the purpose of providing biosample repository services. The company is considered a subawardee under that agreement because it carries out aspects of the clinical trial program, including receiving, accessioning, and storing biological samples.

Because these are separate agreements with separate scopes of work, the University submits that the F&A recovered under the laboratory supplies agreement was an allowable cost that should be accepted.

b. Cost questioned because of a lack of documentation

The Draft Audit Report questioned 14 transactions on the basis that they were not adequately documented.

Most of the questioned transactions relate to shipping costs charged to the large diabetes-related clinical trial. The Draft Audit Report questioned these costs on the basis that the University had not provided sufficient documentation to establish that the costs were allowable. A significant majority of the transactions involved sending blood samples from clinical trial sites to laboratories. The University believes that the costs associated with shipping these blood samples are allowable. A limited number of the shipments transported, among other items, diabetes screening kits and other types of clinical supplies. These too are allowable costs. Although the University believes it provided a significant amount of documentation during the fieldwork phase of the audit, accompanying this response are additional highly detailed analyses of each of the questioned shipping costs that explain through shipping manifests what was being transported and also identify the sender and recipient of the packages. Given this additional support, the University submits that all of these costs should be accepted.

Another questioned cost related to a subcontract awarded to a partner university participating in a large clinical trial project. The contract at issue supported DNA analyses and genotyping and specifically addressed in the project's scope of work. In addition, the University has attached the relevant contract, invoice, and contracting officer approval to enter into the agreement.

c. Service centers

The Draft Audit Report questioned three service center transactions related to per diems for research animals on the basis that the University did not establish an allocation methodology for those charges. As explained in the materials accompanying this response, the University believes in each case that the investigator's allocation methodology was reasonably designed to charge projects in accordance with proportional benefit among the projects that utilized the animals in question. These are allowable costs.

The Draft Audit Report questioned another service center transaction related to telecom costs, and the University concurs with the auditors' views on that charge.

d. Other questioned non-salary transactions

The Draft Audit Report has tentatively questioned an additional nine transactions on the basis that they reflect administrative costs, or costs that are unallowable, unreasonable, or unnecessary.

OMB Circular A-21, sec. F.6.b(3) addresses non-salary administrative expenses and explains that "[i]tems such as office supplies, postage, local telephone costs, and memberships shall normally be treated as F&A costs." Costs that are "normally" treated as F&A costs may be treated as direct

costs if the University can "readily and specifically" identify them "with a particular sponsored project." There is no major project rule applicable to non-salary costs. Also noteworthy is that Circular A-21 explains that whether a cost can be specifically identified with a particular sponsored project does not depend on whether that cost is administrative or technical. "[I]dentification with the sponsored work rather than the nature of the goods and services involved is the determining factor in distinguishing direct costs from F&A costs of sponsored agreements." OMB Circular A-21 at sec. D.2.

Of the costs questioned on the basis that they were administrative charges that should have been recovered through the University's F&A rate, the University concurs with the Draft Audit Report's decision to question certain toner costs but submits that the computer costs are allowable because they were used solely to further the aims of the project to which they were charged. Moreover, the University included, and the sponsor accepted, a budget that proposed the purchase of replacement computers.

As for the purportedly unallowable charges, two are related to the outreach efforts of the large diabetes-related clinical trial and both are allowable. The first questioned cost pertains to key chains that were referred to above in our discussion of questioned salary costs and that were used to incentivize participation in the clinical trial project. The University agrees that "promotional items" are not allowable charges to federal awards but these key chains are not "promotional items." Circular A-21, sec. J.1 recognizes that public relations activities required by the sponsored agreement and activities that are part of the outreach effort for the sponsored agreement are allowable. One aspect of the diabetes-related trial is to screen more than 20,000 individuals per year. Thus, the contract specifically requires the University to engage in public relations efforts, including the use of incentive items such as the key chains to encourage and incentivize participation in the trial's screening efforts. The relevant contract modification accompanies this response. Another cost was characterized as an unallowable donation, but it was actually a payment to a non-profit organization to participate in a diabetes-related outreach event. As noted above, such activities are required by the contract and this expense was specifically vetted with the sponsor.

The third transaction relates to a media consultant cost. The University has located the relevant agreement, which includes a detailed scope of work and information on the costs charged. The cost was also addressed in detail in a progress report that explained why the consultant's efforts benefitted the grant's health disparities center. Thus, the University requested and received additional funding to support the consultant's work. This should be accepted.

Finally, a fiber optic cable charge was questioned on the basis of whether it was used to further the objectives of the award to which it was charged. The cables were part of a dedicated information technology system that supported a highly data intensive clinical trial and are, therefore, allowable. The University does, however, acknowledge that three spare cables should be considered unallowable contingency costs and to that extent concurs with the Draft Audit Report's finding.

3. Summary of the University's position on the questioned costs

Accompanying this submission is extensive documentation and analysis supporting the vast majority of the preliminarily questioned costs. To assist the auditors' in their review of this material, we have

prepared Attachment B, which is a table that briefly summarizes the University's views on each of the costs questioned in the Draft Audit Report. As reflected in Attachment B, the University respectfully requests that the auditors (a) accept \$106,317 of the questioned salary costs; (b) accept \$166,582 of the questioned non-salary costs, plus the F&A on the lab supplies; and (c) issue a Final Audit Report reflecting these adjustments.

Finally, although the University reserves the right to challenge the auditors' use of the OAS/OIG statistical software referred to in the Draft Audit Report, it believes it would be premature to do so at this time because there are other reasons why any repayment should be limited to the dollar value of any costs ultimately found to be unallowable. First, 19 of the salary transactions and 33 of the non-salary transactions are associated with the large diabetes-related clinical trial. Because of its sheer magnitude, that project is unique. That project has a highly unusual scope of work that is not reflective of the vast majority of the University's sponsored projects. Assuming for the sake of argument that the auditors continue to view some of these unusual costs as unallowable, which they should not, there is no basis to infer that they are reflective of broader weaknesses. Finally, because most of the preliminarily questioned costs are allowable, there is no basis to infer widespread unallowable costs and extrapolate the audit findings.

B. The Auditors' Position That the University Did Not Always Provide Adequate Oversight

Pages six through seven of the Draft Audit Report include a section titled "The University did not always provide adequate oversight," which we have reproduced in its entirety below:

These unallowable transactions occurred because the University did not provide adequate oversight to ensure consistent compliance with Federal regulations. Although its procedures often incorporated text from the applicable cost principles, the University's Division of Sponsored Research did not review transactions to ensure that the principal investigator's proposed transactions fully complied with Federal regulations. Without adequate oversight, the University could not ensure that administrative expenses charged as direct costs to HHS awards complied with applicable Federal regulations.

The University takes very seriously its obligation to charge only allowable costs to federal awards and respectfully, but strongly, disagrees that its oversight was wanting.²

Because the Draft Audit Report's observation regarding the University's oversight is limited to direct charging administrative-type costs, the University will assume that the auditors identified no weaknesses with its oversight in other areas. In the area of charging administrative type costs directly, the University submits that of the 35 salary charges questioned on the basis that they were unallowable administrative/clerical costs, 27 were associated with individuals performing technical

² The Draft Audit Report states that one of the reasons it performed this audit was that the Florida Auditor General "found that Federal grant expenditures were not monitored to ensure expenditures were properly approved, valid, reasonable, and necessary." The University respectfully suggests that is a mischaracterization of the University's FY2012 A-133 audit, which had a finding raising an issue concerning charging administrative costs directly to federal awards. For reasons discussed in this response, the University disagreed with that finding.

work. The numerous Clinical Research Administrators whose salaries were questioned are a prime example of this issue. All of the 7 charges that actually involved a decision to direct charge administrative and clerical salaries were allowable.³ Finally, almost all of the projects involved in the questioned “administrative” costs were large, data intensive, international clinical trials—in other words classic “major projects.” With respect to non-salary administrative expenses, the University has explained why 39 of the 43 questioned costs were allowable or partially allowable. In sum, the University does not believe that there were a significant amount of unallowable administrative type costs charged to federal awards. Because the assumption on which it is based is flawed, so too is the Draft Audit Report’s conclusion regarding the efficacy of the University’s oversight.

C. The University’s Enhancements to its Sponsored Projects Administrative Infrastructure

Although the University disagrees with the oversight section of the Draft Audit Report, it is worth noting that USF has numerous policies, procedures, and processes in place that apply to charging administrative-type costs to federal awards, as well as all other aspects of research administration. In the area of direct charging administrative-type costs, the University has developed and implemented a Research and Research Grants policy that requires that all sponsored project proposals be reviewed by the Division of Sponsored Research. There are also guidelines specifically addressing the issues associated with charging costs directly or indirectly and a separate set of guidelines addressing CAS compliance.

Recently, the University has developed some enhancements that further strengthen its policies and procedures in the area of charging administrative-type costs directly to federal awards. For example, the University has promulgated a Clarification or Change in Procedure titled “Determining Costs Applicable to Sponsored Agreements” and has also developed new CAS exception budget account codes that provide more granular insight into administrative-type costs charged directly to Federal awards.

The University also has robust training initiatives for all members of its sponsored research community. For example, there is a “USF Certified Research Administrator” program that covers, among other topics, cost allowability. The University has also developed “The Research Administration Improvement Network (TRAIN®)” with the goal of developing its research support infrastructure by enhancing the professional competencies of those who contribute to the research enterprise, implementing training and education, improving business processes and reporting, and enhancing communication within the research community. To those ends, among TRAIN’s components are the FacultyOne-Stop and TRAIN® Toolbox, which collectively provide the USF sponsored research community with quick links to guides and instructions, tools and forms, and online training addressing each phase of the research administration life cycle. Among the “quick links” are ones to Sponsored Research Forms and the detailed Sponsored Research Desk Manual.

Finally, as the University has noted throughout this response, most of the preliminarily questioned costs relate to a few large clinical trial projects. Several of these projects have overlapping staff and are currently administered by the University’s College of Medicine. The University has recently completed the administrative process of establishing a new independent research center called the

³ The 35th charge involved a training grant that the University understands was inadvertently included in the sample.

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University of South Florida Health Informatics Institute, which will house and administer these significant clinical trial projects. Among the benefits of establishing the Health Informatics Institute will be the creation of a dedicated team of administrative professionals who will be highly familiar with these complex projects.

Conclusion

The University believes that 41 of the 43 questioned salary charges and 39 of the 43 questioned non-salary charges are allowable, either in whole or in part. Detailed documentation supporting the University's position accompanies this response as Attachment A and its accompanying binders of source documentation.