DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, California 95814

September 28, 2007

ALL COUNTY INFORMATION NOTICE NO. I-50-07

REASON FOR THIS TRANSMITTAL
[ ] State Law Change
[ ] Federal Law or Regulation Change
[ ] Court Order
[ ] Clarification Requested by One or More Counties
[X] Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY FOOD STAMP COORDINATORS

SUBJECT: FEDERAL GUIDANCE FOR THE USE OF FOOD STAMP EMPLOYMENT AND TRAINING (FSET) PROGRAM FUNDS

The purpose of this letter is to transmit guidelines received from the Food and Nutrition Service (FNS) regarding the use of funds in the administration of the Food Stamp Employment and Training (FSET) program. The guidelines are in the form of questions and answers and the document contains no text generated by the California Department of Social Services.

The questions and answers are divided into the following seven categories:

A. Allowable Costs

B. Allowable Components and Related Costs

C. Participant Reimbursements

D. Fifty Percent Reimbursements

E. Expenditures Not Charged to the State Agency

F. Cash Donations

G. In-kind Contributions

If your county offers an FSET program we advise you to review the attached document regarding federal FSET funding requirements.

If you have any questions concerning this letter or the attached questions and answers, please contact Program Analyst Robert Nevins at (916) 654-1408.

Sincerely,

Original Document Signed By:

RICHTON YEE, Chief
Food Stamp Branch

Attachment

United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive

Alexandria, VA 22302-1500

MAY 23 2

SUBJECT: Employment and Training - Questions and Answers

TO: Food Stamp Directors
All Regions

Please find attached a question and answer (Q&A) package on financial issues related to the Employment and Training Program (E&T). In the last several years, State agencies have expanded their approaches to E&T programs, both in component coverage and how activities are funded. We are hopeful that this package will make financial policies associated with these new practices more understandable. If you need additional help on E&T issues, please contact Dale Walton (703-305-2404) or Mike Atwell (703-305-2449). We appreciate your office's contributions in developing this package.

Arthur T. Foley
Director
Program Development Division

Attachments

Q&A Package on E&T Financial Policy

May 2006

Q&A Package on E&T Financial Policy

Table of Contents

G. In-kinds 12

FOOD STAMP PROGRAM (FSP)
EMPLOYMENT & TRAINING (E&T)
Financial Q&A Package

A. Allowable Costs

1. Does FNS have a reference guide on cost policies for E&T?

There is not a reference guide specifically for E&T. However, FNS plans to extract general Federal cost policy guidance from Appendix C of the Food Stamp Nutrition Education (FSNE) guidance and create a more generic document for wider use. In the meantime, the guidance in the FSNE guidance is a good resource for general cost policies for the Program. The 2007 FSNE Guidance is posted at:

- the National Agricultural Library Food Stamp Nutrition Connection: http://www.nal.usda.gov/foodstamp;
- the FSP web site: http://www.nal.usda.gov/foodstamp/National_FSNE.html#guidance
- and the Partner Web site: https://www.fnspartner.usda.gov/.

2. Are there general guidelines that can be used to assess whether E&T expenditures are allowable?

To be allowable, charged costs must be valid obligations of the State, local government or subgrantee and must be necessary, reasonable and allocable charges under an approved E&T plan. Allowable costs are specified in Office of Management and Budget (OMB) cost circulars, Department rules and FSP rules.[1] Guidance for allowable costs for FSNE is contained in Appendix C, of the FSNE Guidance. Although this guidance includes information that is specific to FSNE, the financial policies are standard financial management guidance (except for the FSP disallowance of reimbursements for in-kinds from non-governmental entities, as specified in program regulations at 7 CFR 277.4(e)). Refer to question A-1 above.

Allowable costs for E&T must meet the following conditions:

- The product or service must directly relate to an approved E&T Program component and be necessary and reasonable;
- The product or service may not be for the purpose of overcoming barriers to participation that make clients exempt from Federal work registration altogether or from State E&T Program participation requirements;

[1] OMB regulations at 2 CFR part 225 (OMB Circular A-87), 2 CFR 220 (OMB Circular A-21), 2 CFR 215 (OMB Circular A-110) and 2 CFR 230 (OMB circular A-122), Departmental rules at 7 CFR 3016 and FSP rules at 7 CFR 277.

- The product or service may not be available through another government program or available at no cost to the participant through a private source, e.g., charitable donations; and
- The State Plan must contain information about the product or service and its cost and the Regional office must review and approve the State Plan.

3. What do the terms "reasonable and necessary" mean when applied to costs?

The OMB Circulars provide guidance for selected types of allowable administrative costs. All costs covered by E&T also must meet a "reasonable and necessary" test.

A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. Thus, reasonable costs:

- Provide a program benefit generally commensurate with the costs incurred;
- Are in proportion to other program costs for the function that the costs serve; and
- Are within the scope of E&T.

A cost is *necessary* if it is needed in the performance of the program. Thus, necessary costs:

- Are incurred to carry out essential functions of E&T;
- May not be avoided without adversely affecting program operations;
- Are a priority expenditure relative to other demands on availability of administrative resources; and
- Do not duplicate existing efforts.

4. What are the documentation, reporting and recordkeeping requirements required for contracts?

For there to be a State agency obligation to pay, there must be legal documents that tie any expenditure to a payment process, i.e. contract, invoices, checks, etc. Generally Accepted Accounting Standards would apply to the entire contract performance and payment system. The contract must stipulate the terms and conditions for the entire process, including performance reporting, invoicing, and payment by the State. There must be a written trail which may be reviewed by FNS and audited by USDA.

In PART 3016--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS, 7 CFR 3016.36 (i) provides direction on what grantees and subgrantees should include as contract provisions and 7 CFR 3016.36(i)(11), provides that records must be maintained for three years after grantees or subgrantees make final payments and all pending matters are closed. These are federal requirements.

5. What are the differences in the meanings of costs, expenditures, and State agency obligations?

"Expenditure" is the correct term when talking about cash outlays. "Costs" is a more general term that may apply to certain amounts which are not due for payment. The term "State Obligation to Pay" is used for certain expenditures made by a grantee or implementing agent, for which there is a legal requirement for payment. Generally these are costs or expenditures which are defined by legal documents, such as contracts or memorandum of understanding. PART 3016--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS, 7 CFR 3016.3 provides definitions of financial terms for Federal grants.

6. May the State agency use E&T funds to pay for solicitation of contract proposals? For example, if a State agency is issuing a "Request for Applications" to select three to five contractors to perform E&T statewide, is the State agency allowed to charge its advertising costs for the procurement of those services to E&T?

Yes. FSP Regulations allow advertising as an allowable charge if it is being done for the procurement of goods and services. This assertion is supported in 7 CFR 277 Appendix A, Paragraph A (2)(b) and by the OMB Cost Circular.

7. If a client obtains a job after participating in an E&T component, may the State agency award the subgrantee a bonus?

The State agency may award a bonus to the subgrantee for job placement when job placement is defined as occurring no later than 30 days after the participant begins work. E&T funds may not be used as bonuses for job retention or for job placements defined as occurring more than 30 after a client begins work.

B. Allowable Components and Related Costs

1. What guidance is available to help determine whether an E&T component may be approved?

An approvable component must support the purpose of the E&T Program in accordance with section 6(d)(4)(A)(i) of the Food Stamp Act of 1977, as amended (the Act). The purpose of the E&T program is to assist members of FSP households in gaining skills, training, work, or experience that will increase their ability to obtain regular employment. To be approvable, a component must entail a certain level of effort and may not delay the individual's eligibility for benefits or issuance of benefits. Per section 6(d)(4)(B) of the Act and FSP regulations at 7 CFR 273.7(e)(1), the State E&T program must include one or more of the following six components: 1) job search; 2) job search training; 3) workfare; 4) work experience or training; 5)

project, program or experiment aimed at accomplishing the purpose of E&T; and 6) educational programs or activities.

An E&T component designed for overcoming barriers to employability that qualify the applicant or recipient for a Federal or State exemption from E&T is not allowable because the component would be unnecessary due to the participant's exemption from E&T. An E&T component that provides for the purchasing of services and goods associated with beginning and retaining employment is not allowable since this is beyond the scope of E&T, which is limited to providing goods and services leading up to employment. Refer to question A-1 above.

2. May the E&T grant be used to fund an educational component?

Section 6(d)(4)(B)(v) of the Act and 7 CFR 273.7(e)((1)(vi) identify as an allowable component "educational programs or activities to improve basic skills and literacy, or otherwise improve employability, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program…" .

E&T may not be charged more than the general public (or what the client would pay if not participating in E&T) for education. Section 6 (d)(4)(H) of the Act states: "Federal funds made available to a State agency for purposes of the component authorized under subparagraph (B)(v) [educational programs or activities] shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component." FSP regulations at 7 CFR 273.7(d)(ii)(G) provide that Federal funds made available to a State agency to operate an educational component under paragraph 7 CFR 273.7(e)(1)(vi) must not be used to supplant non-Federal funds for existing educational services and activities of this component. Consequently, E&T may not be charged for the difference between the actual costs of instruction and the tuition and fees that are charged to the general public. If a subsidy is available to all students but is made a separate charge for FS recipients, E&T participants are being treated differently than other students and in so doing State funds are being supplanted.

3. May mental health services be provided under E&T?

Persons in need of mental health services would either be exempt from Federal work registration requirements as mentally unfit for employment (refer to 7 CFR 273.7(b)(ii)) or be eligible for a State to exempt from its E&T participation requirements due to difficulties of a lesser degree. Therefore, mental health treatment is not a necessary participant cost and may not be funded by E&T.

4. May an E&T component address substance abuse issues?

Generalized anti-drug, anti-alcohol and mental health discussions are permissible as part of an approved component. The amount of time spent on such discussions

should not be more than would normally be dedicated to other aspects of the component that do not deal directly with its main thrust. For instance, if a component requires 20 hours, 10 hours or more should not be spent talking about drugs and alcohol abuse or mental health issues. In another example, if a training component covers job search, interview preparation, dress, hygiene, etcetera, then the drug, alcohol or mental health discussion should take up no more time--and probably significantly less--than the other activities do.

Substance abuse treatment, defined as behavior modification therapy for those who use drugs or alcohol to the detriment of themselves and others is not a reimbursable E&T activity. Food stamp applicants and recipients regularly undergoing such treatment are exempt from program work requirements per 7 CFR 273.7(vi).

The bottom line is that an E&T component should not be the forum for "support groups, referrals and treatment planning and implementation," but may be used for general discussions and the distribution of brochures and other materials.

5. May E&T funds be used to pay for services related to self-improvement?

Services related to general self-improvement that are part of an approved E&T component, such as costs associated with running a job club support group or providing a workshop designed to increase job hunters' motivation and self-confidence, may be allowable provided there is a direct link between the activities and job-readiness.

6. May E&T funds be used for medical screening to determine physical or mental fitness for work if a State's TANF program requires such screening?

E&T participation commences with the start of participation in an E&T component. Consequently, activity prior to an applicant's participation in an E&T component, such as this medical screening, may not be charged to E&T.

However, this charge may be an appropriate administrative charge to the certification process. Section 6(d)(1)(D)(iii)(II) of the Act prohibits a State agency from using a meaning, procedure, or determination for the FSP that is less restrictive than what is used for TANF. Although there is no Federal definition or requirements for establishing physical or mental incapacity for TANF, State agencies do have flexibility to make their own eligibility and payment rules. State agencies are prohibited from using Federal TANF funds to pay for medical services. The expense associated with a doctor's examination or medical assessment required to substantiate that an individual is unable to participate in work or training activities, or to establish eligibility under the deprivation factor of incapacity, is an allowable cost for determining eligibility. Therefore, use of FSP administrative funds for determining eligibility may be used to reimburse State agencies for half of their expenses for such verification, as this cost is considered reasonable and necessary to the program.

Again, although this may be an allowable certification cost, E&T funds cannot be used for this purpose.

C. Participant Reimbursements

1. What are allowable participant reimbursements?

State agencies must provide payments to E&T participants for expenses that are reasonable and necessary and that directly relate to participation in E&T. State agencies receive a 50 percent reimbursement for these costs. Costs may include, but are not limited to: dependent care, transportation, and other work, training or education related expenses such as uniforms, personal safety items or other necessary equipment, books and training manuals. The expense specified as ineligible for reimbursement is meals away from home. Refer to FSP regulations at 7 CFR 273.7(d)(3).

2. May the 100 percent E&T grant allocation be used to pay for participant reimbursements?

No. The 100 percent E&T grant allocation may not be used to pay for participant reimbursements per 7 CFR 273.7(d)(3). However, a participant reimbursement is an allowable cost under the 50/50 regular funding.

3. Are there guidelines to assess whether a participant expense is an approvable participant reimbursement?

A participant reimbursement must directly relate to an approved E&T Program component and be necessary and reasonable to be allowable.
Participant expenses:

- May not be for the purpose of overcoming barriers to participation that make clients exempt from Federal work registration altogether or from State E&T Program participation requirements (these costs are unnecessary due to the client's exemption);
- May not be available through another government program or available at no cost to the participant through a private source, e.g., charitable donations (these costs are unnecessary due to their availability from another source); and
- Cannot be for a client's regular employment, that is, employment that is not part of an E&T component (this is beyond the mission of the program).
- The State Plan must contain information about the service and its cost and the FNS regional office must review and approve the State Plan.

Refer to FSP regulations at 7 CFR 273.7(d)(3).

4. What types of expenditures are potentially approvable for participant reimbursements?

Examples of approvable purchases have included:

- Clothing suitable for job interviews;
- Uniforms needed to participate in an E&T component;
- Licensing and bonding fees for a work experience or workfare placement in an E&T component;
- Vision correction (such as eyeglasses, bifocals, eye exam);
- Dental work (such as teeth cleaning, bridge);
- Legal services; and
- Housing assistance.

All reimbursements must meet the standards in question C-3 above.

5. May FNS reimburse participant costs for an E&T exempt individual to overcome a barrier to participation?

Historically, we have not paid these costs since they are beyond the mission of E&T; that is, these costs are unnecessary due to the individual's exemption from E&T. Examples of expenses denied for exempt clients to overcome an E&T participation barrier include:

- Medical services;
- Mental health treatment;
- Drug and alcohol counseling;
- Automobile purchase;
- Automobile insurance;
- Automobile ownership and operator taxes (tag, title, license); and
- Automobile repairs.

6. Are participant costs related to starting or retaining employment reimbursable costs?

The costs related to starting or retaining employment are not allowed since they are beyond the mission of E&T Program, which is to assist clients in obtaining employment. Transportation costs for clients to participate in an E&T component are reimbursable expenses, but we would not reimburse these same expenses transportation costs (or any other costs) if they are associated with a client's job instead of an E&T component. The following types of costs related to a client's employment have been disallowed:

- Clothing required for the job;
- Equipment or tools required for the job;
- Test fees;
- Union dues;
- Relocation expenses;
- Tools; and
- Licensing and bonding fees.

7. May the State agency use TANF reimbursement guidelines for E&T?

The significant differences that exist between E&T and TANF Work Programs preclude FNS from allowing States to cover the entire array of expenditures considered suitable under TANF guidelines. A person participating in a TANF Work Program is exempt from participation in FS E&T. In addition, State agencies are prohibited from expending any Federal E&T funds on Title IV cash assistance recipients.

8. May the State agency overspend its approved amount for one category of participant expenses, such as transportation/other, as long as it does not spend more then what was approved for total participant expenses?

This is not a problem provided the expenses do not exceed the dependent care limits established in 7 CFR 273.7 (d)(3)(I) and do not exceed the approved totals for participant expenditures in the approved plan. If the State agency overspends the approved total, the Regional office has the authority to approve the increased amount.

D. 50 Percent Reimbursements

1. What is the difference between a State match and a reimbursement?

The FSP is a reimbursement program and not a matching program. In a reimbursement program, in order to be eligible for payment, funds for allowable activities must be expended, after which FNS reimburses the State for 50 percent of expenditures. As long as the State agency records total outlays, FNS will reimburse the State agency 50 percent of the total outlays. In a matching program, the amount of funds made available to the State agency is simply matched on a dollar per dollar basis. This is an important distinction because under FSP rules, cash from nongovernmental sources cannot be used for administrative costs without a waiver.

2. May a State agency receive reimbursement for expenses paid for by the E&T grant?

No. The E&T allocation is a grant that may be used to pay 100 percent of allowable costs. FNS is not allowed to reimburse State agencies for E&T grant expenditures since that that would be reimbursing federal funds with federal funds, which is not allowed.

3. Must a State agency expend its 100 percent E&T grant allocation before it may receive the additional 50 percent reimbursements of administrative costs?

No. A State agency does not have to spend its 100 percent E&T grant before using its own funds and applying for federal reimbursement. However, from a financial management perspective it makes more sense for a State agency to deplete its 100 percent E&T grant prior to expending State funds.

4. When determining the value of allowable goods and services for reimbursement, may a profit be included?

If the entity is allowed to make a profit (a profit entity or not-for-profit entity in certain circumstances), a reasonable profit may be included in the cost of goods and services charged to E&T. Government entities are forbidden from charging a profit. Companies are required to declare their profit/non-profit status with the IRS. Although a profit may be included, the cost of goods and services must pass the reasonable costs test by being consistent with market prices for comparable goods and services.

Issues regarding profits normally do not come up since most grantees and subgrantees are government entities and forbidden from making a profit. When grant funds pay for services in the private sector, profits are being paid. As long as the entity is allowed to make a profit a profit may be included in the costs of the services provided.

If dealing with for-profit or not-for-profit entities, the profit normally will be built into the cost of the service being purchased and the profit percentage may not be included as a number. When an entity says it will perform some service for $75 per case, a judgment as to whether that charge is necessary and reasonable must be made. If there is a profit in that $75, the profit is not really being accepted or rejected. The guard against overcharge is the determination that the expenditure is necessary and reasonable. This is determined by looking at costs of salaries, supplies and other charges.

Contracts that specify that cost plus a percentage of costs will be used to calculate the charge are not allowed so grantees and subgrantees may not recognize a profit using this methodology.

E. Expenditures Not Charged to the State Agency

1. May the State agency receive reimbursements for expenditures that the subgrantee has agreed not to require the State agency to pay?

For nongovernmental organizations, there must have been a cost (expenditure) for the goods or services that were provided for them to qualify for reimbursement for E&T. For example, if a non-profit subgrantee spent actual cash for an allowable activity, 50 percent of the allowable outlay will be reimbursed, provided the following conditions are met: 1) The subgrantee spent funds that did not include any federal funds; and 2) The expenditure was for an allowable E&T activity approved in the E&T plan. FNS reimburses 50 percent of allowable expenditures regardless of whether the State agency actually pays the full cost for the activity. Therefore, if a State agency agrees to reimburse a subgrantee for 50 percent of its expenditures for activities approved in the E&T plan, provided such expenditures are made with non-Federal funds, FNS has a legal obligation to reimburse 50 percent.

There is a vulnerability to improper payment if the full value of contracted services is not provided and this could be hard to prevent on the front end. Consequently, it is recommended that a review or audit be required to examine these types of funding agreements.

2. What is the reimbursement amount in the following example?

Example*: *The State agency contracted to pay a company one half of the cost of the services it provides. Services costing $120,000 are provided; the negotiated amount that must be paid to the contractor by the State agency is $60,000.

FNS reimburses 50 percent of allowable costs. In this example, the Federal reimbursement will be $60,000. It does not matter that this is the total amount that will be charged to the State agency for the services. As long as the government receives goods or services contracted to be provided consistent to their worth, the Federal government matches the expenditures at a full 50 percent, whether or not the State agency actually pays the subgrantee any State funds for the services provided. This transaction does not short change the Federal government because the full value ($120,000) of the services was provided. Our concern is not whether the State agency actually paid the subgrantee full price for expenditures but rather whether there were allowable expenditures for which FNS has an obligation to pay.

In the same example, if the subgrantee had expenditures of only $60,000, the reimbursement would be $30,000. The reimbursement will always be 50 percent of allowable expenditures in the approved E&T plan, regardless of how much the State agency actually pays on the bill (0 percent, 20 percent, 50 percent or 80 percent).

3. Why aren't the services that the State agency doesn't have to pay for (that is, the amount the contractor agrees to absorb) a cash donation or an in-kind?

If there is an expenditure for allowable goods and services approved in the E&T plan, it is not in-kind. Also, since no cash is exchanged, a cash donation is not involved. The State agency may receive reimbursement from FNS for 50 percent of the expenditure.

4. What types of problems have arisen when a State agency has been permitted to use private source funds to pay for E&T activities?

In the past, FNS authorized a State agency to operate a "pass–through" program, under which an approved waiver of food stamp regulations allowed the State agency to use private source funds to pay for E&T activities at the county level without having to provide the required 50 percent match of Federal funds. Safeguards were built into the waiver to ensure that the private funds would be transferred to the applicable local county agency and would remain under its control.

A subsequent OIG audit found substantial irregularities and potential fiscal fraud in the pass–through operation. It found that county officials did not obtain local matching funds to fulfill contracted E&T services, but they reported that the matches were made. It also found that there was no support for the costs claimed for reimbursement. The claims were approved because State agency and county officials failed to adequately monitor and review pass–through. As a result, the State agency had to repay $2.2 million in over–claimed pass–through funds, and several individuals were prosecuted and served time. This is an example of why we believe that closer oversight is warranted in these situations.

F. Cash Donations

1. Is the State agency allowed to receive reimbursement for private cash donations?

Under certain conditions, reimbursement may be provided for private cash donations spent on E&T. Private cash donations are cash donations from a private source that is not operating under formal agreement with the State agency to provide local FSP services. FSP regulations at 7 CFR 277.4(c)(2) provide that matching costs may consist of project costs financed with cash or in-kind contributions donated by other non-federal public agencies and institutions. Paragraph (d) provides that except as prohibited by paragraph (e) (which prohibits matches for in-kinds from non-governmental entities for the FSP), all such contributions are allowable when certain conditions are met. Therefore, if cash is donated to a State agency, for it to be allowable for reimbursement the State must obtain a waiver from the Regional office. The waiver is basically a statement that four conditions will be met:

- The cash is under the control of the state (the entity making the donation has no influence on how the money is spent);
- The cash will not revert to the donor;
- There are no strings attached to the cash; and
- There will be no advertising use of the cash donation but acknowledgement of the donation can be made, such as this action was made possible thru a donation from Safeway Groceries, or something along those lines.

A waiver is needed for each cash donation. Only cash donations to the State agency from third parties that are not operating under formal agreement with the State agency to provide local FSP services are considered relevant to this section of regulations.

2. May State agencies obtain general blanket waivers for prior approval in the event they might receive a private donation, providing there are also blanket assurances of compliance to the four conditions cited above?

No. This pro forma activity circumvents the intent of cash donation waivers. FNS will not provide approvals of prospective blanket waivers because there is no information provided in such waivers, making it not possible to provide the necessary assurances as they pertain to a specific donation. Such waivers should be sought when a specific cash donation is impending at which point FNS will process the waiver expeditiously.

3. Is cash held by local subgrantees considered private cash that may be federally reimbursed only after a private cash donation waiver has been approved?

No, a waiver is not necessary in this situation. Funding held by a State subgrantee of the State agency is not considered to be private cash and need not be donated to the State agency in order to be expended for FSP purposes or federally reimbursed. Nothing in Federal policy requires that cash from subgrantees be subjected to the waiver requirements for private cash donation nor donated to the State agency in order to be expended for FSP purposes or federally reimbursed. This funding is simply a financial resource of the subgrantee. Consistent with the State plan, the subgrantee may spend the cash it holds on approved E&T activities and submit its billings to the State agency, at which point the State agency my reimburse the subgrantee for 50 percent of the subgrantee's allowable expenses. (Note that States may have different operating policies.)

4. Are there limitations on the types of private entities that may make cash donations for which the State agency may receive reimbursement?

Cash donations may be accepted from any entity as long as the State agency obtains a waiver from the Regional office and the cash donation meets waiver conditions (Refer to question F-1 above).

5. Once the State agency receives the private cash donation (as long as the donation meets private cash donation conditions and a waiver has been approved), may the state utilize other organizations to perform the actual services (public or private)?

Yes. The money may be thought of as state revenue to be spent on allowable program expenditures by the State agency and its subagents.

G. In-kinds

1. What is the definition of an "in-kind"?

In Federal grants, "in-kind" means a non-cash contribution, usually the value of volunteer time. But it may also be things like office space. Regulations at 7 CFR 3016.3 define third party in-kind contributions as property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee or a cost-type contractor under the grant agreement. FNS does not consider cash to be an in-kind, although some State agencies may identify cash as an in-kind from a subgrantee or use the term to mean the funds provided by a subgrantee.

2. What are common examples of in-kinds?

Examples of in-kinds benefits may include:

- Use of classroom space from a School District for E&T, when they do not expect reimbursement for use of the space.
- Teachers' time donated by School districts or State university staff time for providing FSE&T education. With use of teachers' time, you must be careful that their time cannot be billable to any other Federal grant.

3. What types of entities are allowed to receive reimbursements for in-kinds?

For the FSP, only governmental entities may receive reimbursements for in-kinds. A governmental entity is defined as any organization of State or local government that is supported by funds derived from general tax revenues (receipts) of a State or locality specifically allocated from appropriate budgetary authority such as a State legislature, county or local government. Examples of governmental entities that may receive reimbursements for in-kinds include:

- Public entities, which are an arm of government;
- Public libraries;
- State universities; and
- State community colleges.

Refer to FSP regulations at 7 CFR 277.4(e).

4. What types of entities are not allowed receive federal reimbursements for in-kinds?

Entities that may not receive reimbursement for in-kinds include:

- Private entities, even if under contract with State government;
- Private university;
- Private nonprofits (such as YMCA); and
- Public/private organizations. *

  *There can be entities that are technically classified as public but do not initially appear to be public entities. For example, in one case OGC ruled that the Almond Board was an instrument of government because it was allowed to collect taxes. If there are any doubts about the public nature of a third party contributor, the question should be referred to the Regional office.

Refer to 7 CFR 277.4 (e),

5. What basis is used to determine whether an entity may receive reimbursements for in-kinds?

To make this determination, the entity's establishing authority and work activity need to be known. For the FSP, only governmental entities may receive reimbursements for in-kinds, per 7 CFR-277.4(e).

6. What basis is used to determine whether a contribution is "in-kind" and if it is, whether it is allowable?

The key to understanding policy regarding an in-kind is to know whether the goods or services that were made on behalf of the FSP E&T incurred costs and were in the approved plan. If costs were incurred, then it is not an "in-kind". If in-kinds (services and goods that were free to the provider) were used, you will need to know whether the provider entity is a governmental entity, which is the only type of entity that may receive reimbursement for in-kinds for the FSP.

Using space as an example:

- If space is paid for, then it would qualify as an expenditure that may be reimbursed;
- If space was free - no costs were incurred for it - it is an in-kind and may be reimbursed by the FSP only if the provider is a governmental entity; and
- If space was free, no costs were incurred so it is an in-kind and may not be reimbursed if provided by non-governmental agencies. This limitation is unique to the FSP.

Using staff as an example:

- If paid staffs devote 10 percent of their time doing an allowable program activity, the costs for that 10 percent are considered expenditures that may be reimbursed;
- If unpaid staffs (volunteers) devote 10 percent of their time doing an allowable program activity and the provider is a governmental entity, the value of the services rendered may be reimbursed; and
- If unpaid staff (volunteers) devote 10 percent of their time doing an allowable program activity and the provider is not a governmental entity, the value of their services may not be reimbursed. Again, this limitation is unique to the FSP.

7. Are Federal reimbursements for private in-kinds allowed by the FSP?

No. The FSP allows only state and local governments to charge for in-kinds (non-cash) as outlays to the FSP, per 7 CFR 277.4(e). Therefore, the status of the subgrantee has to be determined to determine whether in-kinds are allowable. If the subgrantee is a public/private entity, it may be an organization that is not eligible.

8. May a State agency seek 50 percent reimbursement or use the E&T grant to pay for an allowable in-kind from a governmental entity?

Yes. The State agency may seek reimbursement for 50 percent of the value of the allowable in-kind or expend the E&T grant. For example, if a governmental entity donated space worth $100, the State agency could receive Federal reimbursement of $50 (one-half the value of the donated service/item) or expend $100 of the E&T grant. (Attachment 2 provides an option for on calculating the value of space in government owned buildings.) For services, the State agency may receive Federal reimbursement for one-half of the common market rates for the services rendered or expend the E&T grant. The value of the service actually rendered must be considered. For example, if a medical doctor were to volunteer to hand out

pamphlets, the value of the service would not be calculated using doctor's wages. In addition, if more than one entity benefits from the donation of goods or services, they should be cost allocated. For example, if donated computer equipment is used by both E&T and TANF, both programs must bear a portion of the cost.

9. Why don't we reimburse for the value of private in-kinds?

This answer will walk you through how we arrived at this policy.

7 CFR 277.4(c) provides that "State agency costs for Federal matching funds may consist of ...
(1) "Charges reported on a cash or accrual basis by the State agency as project costs,"
(2) "Project costs financed with cash contributed or donated to the State agency by other non-Federal public agencies and institutions" and
(3) "Project costs represented by services and real or personal property donated by other non-Federal public agencies and institutions."

7 CFR 277.4 (e) provides that "The value of services rendered by volunteers or the value of goods contributed by third parties, exclusive of the State and Federal agencies, are unallowable for reimbursement purposes under the Food Stamp Program."

We read (c) to mean public agencies and (public) institutions. "Public" means government and non-Federal limits it to the State or local government agency. Thus, paragraph (c) says the State agency may accept and use cash and in-kinds from state or local government agencies and paragraph (e) says the State agency may not claim for the value of in-kinds from private third parties such as private nonprofits, for-profit businesses, and private individuals.

Section 16(a) of the FS Act says we are authorized to reimburse States by paying them 50 percent "of all administrative costs". "Costs" means outlays or expenditures.

We have allowed waivers of 277.4(c) so State agencies may accept and use private cash donations. We do this because when the State spends the cash donation for something it becomes a true administrative cost. In the 1990s OGC advised us that we may not pay for private in-kinds under the FS Act because there is no State expenditure related to the private in-kind, and so there is nothing to reimburse.

Our current policy has been in place for 30 years. On December 17, 1974, FNS issued an interim final rule in which it took exception to the OMB Circular A-102 regarding the payment to State agencies for the value of in-kind goods and services from third parties. The rule did not allow private third party in-kinds to be considered a cost of the State agency. State agency cost was defined as a cash outlay. The regulation allowed costs financed with private cash contributions as long as the State had control of the funds. In-kinds from other agencies of the State were allowable.

The current in-kind language comes from the final rule on payment of administrative costs which was published December 30, 1980. That rule simply restated the 1974 policy on in-kinds.

05/18/06

I:PDD:PDB: Employment and Training: FY 2006 Meeting: Final ET Financial Qs and As Version3(2).doc

April 11, 2006

Calculations for Space in Government Owned Buildings for use in Food and Nutrition Service Programs

Food Stamp Directors
Financial Management Directors
All Regions

This memorandum provides a standard cost calculation that may be used in lieu of using actual depreciation cost data to charge the cost of government owned space by FNS grantees. This method is in response to requests from Food Stamp Program grantees for a more simplified, less labor-intensive approach to determining these costs.

Office of Management and Budget (OMB) Circulars require grantees to use depreciation or use allowances for computation of charges for space in government owned buildings. The current OMB Circulars allow construction of a use allowance for space that is fully depreciated; thus we have computed standard costs per square foot, with the help of financial staff of the Cooperative Extension Service.

Use of this standard cost is optional. A grantee may use actual data if available and preferred. In addition, the grantee may use the standard deduction for space charges while using actual expenses for maintenance and operations and they may also use part of the standard cost such as the space or maintenance or utilities costs separately. The State must note in its State Plan how it derived its cost calculations.

Enclosed are detailed computations to show how FNS derived a standard hourly cost per square foot for both the space and for maintenance and operations of that space. A large number of assumptions were necessarily made, such as the number of days that the building was open, and the number of hours per day that the space was available for use. These factors were considered so that all users paid for a portion of the unused time. The total yearly cost was prorated per day and then per hour.

These calculations resulted in an hourly charge for space of .002041 per square foot. Using this standard allowance, an average classroom of 1000 square feet would result in an hourly charge of $2.04. A similar calculation was done for maintenance and utility costs. This amount was determined to be .003265 per hour per square foot. For the same 1,000 square feet of space, there would be a $3.27 charge. A total of $5.31 ($2.04 + $3.27) per hour could be charged for 1,000 square feet of space in use for one hour.

Please share this information with Food Stamp State agencies and other FNS State agencies as appropriate. An electronic copy of this document will be sent to you.

/s/
Lael Lubing
Director
Grants Management

Enclosure

Formulas and Examples

Standard Space Cost

[($200/sq ft replacement / 40 yr depreciation) = $5] + [$8 O&M/sq ft] = $13/sq ft/yr

Ongoing Use Space Calculation Formula (example – county buildings):

Actual use formula based on hours:
Actual square footage x days/year x hours/day x constant = $ amount allowed for space/year

Example*

1,000 sq ft x 50 days/yr x 8 hours/day x 0.005306 = $2,122.40 per year

*See next page for calculation of hourly rate constant

Actual use formula based on FTEs:
Actual square footage x (total FSNE FTEs/total FTEs) x $13 standard space allowance = $ amount allowed for space/year

Example

1,000 sq ft x (1.35 FSNE FTEs/4.5 total FTEs) x $13 = $3,900 per year

Incidental Use Space Calculation option (example schools)

Actual use formula based on space standard (1,000 sq ft classroom)
Number of standard space units x hours/year x hourly rate standard = $ amount allowed for space

Example

3 classrooms x 12 hours/year/classroom x $5.30/hour = $190.80per year

Calculation of constant using an hourly rate

A. Space cost factor = ($5 x 0.004081633 x 0.1) = 0.002041 cost/sq ft/hr

cost of building space used = $200/sq ft x actual sq ft used / 40 years useful life

$200/sq ft x 1 sq ft / 40 years = $5/year

prorated days used

1 day / 245 days open = .004081633

prorated hours/day used

1 hour/day / 10 hours open = 0.1

O&M cost factor = ($8 x 0.004081633 x 0.1) = 0.03265 cost/sq ft/ hr

average O&M cost/sq ft/yr = $8/sq ft/yr

$8/sq ft / yr x 1 sq ft/yr = $8/yr

prorated days used

1 day / 245 days open = .004081633

prorated hours/day used

1 hour/day / 10 hours open = 0.1

Space and O&M combined constant = 0.002041 + 0.003265 = 0.005306

A + B = C

Grants Management Division