



Food & Federal Funds Rules & Regulations 101



Idaho State Department of Education

DEBBIE CRITCHFIELD, SUPERINTENDENT OF PUBLIC INSTRUCTION

Food & Allowability



- Navigating the allowable use of federal funding for food can be like trying to get through a maze – if you don't know the rules.



2 CFR 200 Learning “The Rules”



Welcome to [2 CFR 200](#)!

LEA personnel responsible for spending federal grant funds and for determining allowability must be familiar with the Part 200 selected items of cost section.

The LEA must follow these rules when charging these specific expenditures to a federal grant.

When applicable, LEA staff must check costs against the selected items of cost requirements to ensure the cost is allowable.

Do not assume that an item is allowable because it is specifically listed in the regulation as it may be unallowable despite its inclusion in the selected items of cost section.

In addition, State, LEA, and program-specific rules may deem a cost as unallowable and LEA personnel must follow those non-federal rules as well.



Scenarios for Food & Beverage Purchases



- Professional Development/Conferences
- Program Related Meetings
- Parent Engagement Meetings
- Student Related



Breaking Down the Rules & Reg's



There is an extreme high burden of proof, and whether food is reasonable, necessary, allocable, and an excess cost. See federal [cost principles: 2CFR200](#)

General Food Purchasing Guidance with Federal Funds in Conjunction with Federal Funding:

Any food-related expense (including meals, snacks, light refreshments, etc.) charged to a federal award must satisfy **BOTH** criteria below:

1. Fit into one of the five Uniform Grant Guidance (UGG) as described in 2 CFR 200, direct cost categories or one of the two other circumstances listed below (and apply under a specific use of funds by grant, such as IDEA Part B, Migrant Education, etc.):

a. DIRECT COST CATEGORIES:

- i. Participant Support
- ii. Travel
- iii. Entertainment
- iv. Lobbying
- v. Conference

b. OTHER CIRCUMSTANCES: If a cost doesn't fit into one of the above five direct cost categories the food-related expense must:

- i. Be fundamental to the project and crucial, necessary and indispensable for carrying out the scope of work, or
- ii. Be specifically approved in writing by the Fiscal Accountability Office in response to a written prior approval request that was reviewed, approved and submitted to the SDE Funding and Accountability Coordinator.



Allowability



- **2. Be allowable under:**
- i) the UGG, (Uniform Grant Guidance)
- ii) the Federal award terms and conditions,
- iii) sponsor policy, and
- iv) any related IDAPA or Idaho State Department of Education policies.



Costs incurred that are associated **will be allowable only if they are reasonable, necessary, and allocable to the grant**, consistent with the Federal cost principles described in the OMB Uniform Guidance (2 C.F.R. 200.403, 200.404, and 200.405), adequately documented (2 C.F.R. 200.403(g)), and do not conflict with the applicable statute and regulations.

Factors Affecting Allowability of Costs



Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

(a) Be **necessary and reasonable for the performance of the Federal award** and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.



2 CFR 200.403 – Allowability continued



- (d) Be accorded **consistent treatment**. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (**GAAP**), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also § 200.306(b).
- (g) Be adequately documented. See also §§ 200.300 through 200.309 of this part.
- (h) Cost must be **incurred during the approved budget period**. The Federal awarding agency is authorized, at its discretion, to waive prior written approvals to carry forward unobligated balances to subsequent budget periods pursuant to § 200.308(e)(3).

2 CFR 200.404 Reasonable Costs



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 cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly Federally funded. In determining reasonableness of a given cost, consideration must be given to:

- (a) Whether the cost is of a type generally recognized as **ordinary and necessary for the operation** of the non-Federal entity **or the proper and efficient performance of the Federal award**.
- (b) The restraints or requirements imposed by such factors as sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- (c) **Market prices for comparable goods** or services for the geographic area.
- (d) Whether the individuals concerned **acted with prudence** in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.

Food for Grant-Related Conferences and Meetings:



ED released [frequently answered questions on using Federal education funds for meetings and conferences.](#)

Generally, under EDGAR, meeting and conference costs are allowable provided the primary purpose is to disseminate technical information.

ED guidance makes clear, however, that to determine whether a meeting or conference is necessary, the agency should consider whether the goals and objectives of the grant can be achieved without a meeting or conference and whether there is an equally effective and more efficient way to achieve the goals.

For example, an agency should take into consideration whether a face-to-face meeting is more effective or efficient versus alternatives, such as webinars or video conferences, that may be equally or similarly effective and more efficient in terms of time and costs. Regardless of the decision, the agency must ensure all meeting and conference costs are necessary and reasonable and document the determination accordingly.



Conferences & Attending Professional Development



2 CFR 200.432 Conferences.

- A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity *and is necessary and reasonable for successful performance under the Federal award.*
- Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award.



Meetings & Working Lunches



On Feb. 20, 2014, ED's Office of Elementary and Secondary Education released a guidance letter that outlines the **"very high burden of proof to show that paying for food and beverages with Federal funds is necessary to meet the goals and objectives for a Federal grant."** According to this guidance, ED considers it unlikely that anything but a working lunch (including breakfasts, snacks, dinners, and networking receptions) would be allowable. To determine whether a working lunch is allowable, the following factors must be considered:

1. Is a working lunch necessary?
2. **Is the portion of the agenda to be carried out during lunch substantive** and integral to the overall purpose of the conference or meeting?
3. **Is there a genuine time constraint** that requires the working lunch?
4. If a working lunch is necessary, is the cost of the working lunch reasonable?
5. Has the agency carefully documented that a working lunch is both reasonable and necessary?



Therefore, the agency must determine first whether a working lunch is necessary or whether a meeting could be scheduled at another time of the day when no lunch or meal would be necessary. Also, the agency should consider whether conference calls, webinars, virtual meetings, etc. could achieve the goals and objectives of the agency.

Winters T. (2017). Can Title I-A Pay for This? LRP Publication

Red Flags



While it is understandable that face-to-face meetings are often necessary to achieve certain objectives and results, is the lunch appropriate, given the agency's needs? For example:

- Can a longer break be provided so staff can obtain their own lunch? Would a brown bag meeting be appropriate if the staff are already responsible for their lunches?
- If the working lunch is necessary, say to avoid an overnight stay for attendees driving a long distance, the agency must make certain the lunch portion provides substantive and integral information during the lunchtime agenda and that the costs are reasonable.
- **Since this is a "red flag" area that monitors and auditors review closely,** ample documentation of these decisions and reasoning must be maintained.



Specific Program Restrictions



In order for a cost to be allowable, the expenditure **must also be allowable under the applicable program statute** (e.g., Title I of the Elementary and Secondary Education Act (ESEA), or the Individuals with Disabilities Education Act (IDEA) Part B and Preschool *along with accompanying program regulations, non-regulatory guidance and grant award notifications.*

As a practical matter, the LEA staff should also consider whether the proposed cost is consistent with the underlying needs of the program. For example, program funds must benefit the appropriate population of students for which they are allocated. This means, for instance, that funds allocated under Title III of the Elementary and Secondary Education Act (ESEA) governing language instruction programs for English Learners must only be spent on EL students and cannot be used to benefit non-EL students.

Also, funds should be targeted to address areas of weakness, as necessary. To make this determination, the LEA staff should review data when making purchases to ensure that federal funds meet these areas of concern.



Exceptions: Federal Programs that *May Allow Some Food Costs*



Parent & Family Engagement Food Costs

- **Title I-A According to ED guidance:** an agency may provide "light refreshments" as a way to encourage parents of Title I, Part A students to participate in school activities. Therefore, the analysis defaults back to the basic considerations and a *determination* that any food costs are necessary, reasonable, and allocable.
- **Title I-C Migrant The MEP Non-Regulatory Guidance (NRG) states:** that reasonable expenditures for refreshments or food provided during parent meetings or trainings are allowable, particularly when such meetings extend through mealtime. The NRG does not distinguish between snacks and a meal. As long as there is a connection to a programmatic purpose and the cost is reasonable, a State or subgrantee may provide food at MEP parent meetings.



ESSER & GEER FAQs

C-16. May an LEA use ESSER and GEER funds to provide meals for students?

Typically, an LEA has other means of providing for food services, such as through the U.S. Department of Agriculture (USDA) or other Federal programs. As a result, the Department encourages LEAs to use those Federal funds with the specific purpose of providing food services to students prior to using ESSER or GEER funds for this purpose.

However, if additional funds are necessary or such funding is not available, an LEA may use ESSER and GEER funds to provide meals. For example, ESSER or GEER funds could be used to increase the staff capacity and cover additional labor costs associated with serving meals to students during the pandemic, or for supporting COVID-19 pandemic-related expenses, such as school meal service equipment/supplies, meal packaging, and transportation services.

Many flexibilities have been extended through school year 2021-2022

IDEA Part B (Special Education)



OSEP(Office of Special Education) has a high standard for justification of the use of IDEA funds for food, and these purchases are audited very closely.

In general: Food purchases such as candy/snacks for students are NOT allowed unless they are directly tied to a particular student's IEP. If this is the case, accurate documentation must be kept and you must provide an explanation with the purchase.

Example: Students receiving special education services receive services based on evaluation and assessment and individualization for each student. If you have a student that has a specific IEP goal that addresses fine motor skills associated with picking up small items, or opening containers, etc. then you might have an acceptable reimbursable *item* under IDEA. Consider non-food items for improving the fine motor skills for the IEP goal.

Can you verify if the item is used under indicator 7, outcome 3, such as tying the motor skills to increasing self-sufficiency? Was this a classroom goal, individual goal, etc.? Provide a detail of how the item was used for improving outcomes, and how it was tied to an indicator.



Allowable or Unallowable?



STEP 1: Determine if the food-related expense qualifies as a legitimate business expense (i.e. appropriate and necessary to carry out THE SCOPE OF WORK).

- If not, STOP. The food-related expense is not allowable
- If YES, go to Step 2

STEP 2: Is the food purchase essential to accomplish the scope of work supported by the federal award?

- If No, DO NOT charge this expense to the federal award, instead charge it to an unrestricted fund source
- If YES, are the expenses allowable, allocable and reasonable in accordance with the UGG, other governing regulations / policies for the grant as well as specific policies applicable to the grant?



Quiz! Is it allowable?



Party time for the kids?

16.29	Reimb Pumpkins and Candy	11-2022
15.00	Reimbursement Pumpkins	11-2022
50.24	Reimbursement Lunches for PreK Conference	11-2022
166.84	Reimb Pizza & Trampoline Rental	11-2022



Is it allowable?



- Mental Health “celebration” for the adults?



Office Parties Using Federal Funds?



Example of misuse of funds on food and beverage



- Public Buildings Service (PBS) of the General Services Administration (GSA) held its biennial Western Regions Conference (WRC), which had approximately 300 attendees, in October of 2010, at the M Resort Spa Casino just outside Las Vegas, Nevada.
- The OIG found that many of the expenditures on this conference were excessive and wasteful and that in many instances GSA followed neither federal procurement laws nor its own policy on conference spending. Conference costs included eight off-site planning meetings and significant food and beverage costs. The total cost of the conference was over \$820,000.



What did they spend it on?



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Phase	Description	Costs
Pre-Conference	Travel, Catering, Vendors, and Other Hotel Costs	\$136,504
Conference	Travel, Catering, and Vendors	\$686,247
TOTAL		\$822,751



Questionable Expenditures for Food



- GSA spent \$146,527.05 on catered food and beverages during the WRC itself, for 300 staff, over 4 days. That amount breaks down as follows:

Food and Beverage Catering	Costs
Light Refreshments and Breakfast Buffets	\$ 79,511
In-Room Parties	\$ 5,600
Networking Reception	\$ 31,208
Cocktail Reception and Award Dinner	\$ 30,208
TOTAL	\$146,527

- Approximate daily rate, for 300 staff, over 4 days = \$122 per person.



Exceeding the daily rates



- Per diem rates at the time: \$12 for breakfast, \$18 for lunch, and \$36 for dinner, totaling \$66 per day.
- In 2010, the meal and incidental expenses allowance for Las Vegas was \$71 per day.

Specific questionable expenditures included the following:

The “networking reception” on the conference’s first evening included 400 pieces of \$4.75 “Petit Beef Wellington,” 400 “Mini Monte Cristo Sandwiches” at \$5.00 each, 1,000 sushi rolls for \$7.00 apiece, 150 units of a \$19 per person “American Artisanal Cheese Display,” and 225 units of a \$16 per person “Pasta Reception Station.”

\$7,000 on sushi rolls and \$2,850 on a cheese display?!



Findings & Consequences



U.S. General Services Administration
Office of Inspector General

[Findings Report](#): The excessive pre-conference planning, catering, and other costs, as well as the luxury accommodations and overall approach, show that GSA's planning and expenditures for the 2010 WRC were incompatible with its obligation to be a responsible steward of the public's money.

[Consequences](#): A decision to take disciplinary action against several senior management officials, included a range of disciplinary actions, up to and including suspensions or removals.

In the wake of the [IG report](#), GSA [administrator Martha Johnson resigned](#), two of her top deputies who attended the Las Vegas conference were fired and four regional commissioners were placed on administrative leave.

Additional Actions



- Directing PBS to cancel all future Western Regions Conferences;
- Reducing PBS travel budgets for FY 2013 in Regions 7, 8, 9 and 10;
- Shifting reporting and oversight of all Regional PBS budgets to the Central Office PBS; and
- Directing the GSA Chief Financial Officer and Senior Procurement Executive to review contracts and expenses not only associated with the WRC, but also all conferences currently in the planning phase, but also all conferences currently in the planning phase
- GSA Action: The Chief Administrative Services Officer will review and approve any awards ceremonies where food is provided by the Federal government. This topic will be covered in mandatory training for supervisors and managers.

Any Questions?



References



- Frequently answered questions on using Federal education funds for meetings and conferences.
- OIG Management Deficiency report, 2010 Western Regions Conference
- House Committee Report