



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



July 12, 2012

TO: Nancy Gunderson
Deputy Assistant Secretary for Grants and Acquisition Policy
and Accountability

FROM: /Gloria L. Jarmon/
Deputy Inspector General for Audit Services

SUBJECT: 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
(A-04-11-01095)

Attached, for your information, is an advance copy of our final report on selected costs charged by Florida State University directly to Department of Health and Human Services awards. We will issue this report to Florida State University within 5 business days.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Kay L. Daly, Assistant Inspector General for Audit Services, at (202) 619-1157 or through email at Kay.Daly@oig.hhs.gov or Lori S. Pilcher, Regional Inspector General for Audit Services, Region IV, at (404) 562-7750 or through email at Lori.Pilcher@oig.hhs.gov. Please refer to report number A-04-11-01095.

Attachment



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

July 19, 2012

Report Number: A-04-11-01095

Eric J. Barron, Ph.D.
President
Florida State University
211 Westcott Building
Tallahassee, FL 32306-1470

Dear Dr. Barron:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *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*. We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Kay L. Daly, Assistant Inspector General for Audit Services, at (202) 619-1157 or through email at Kay.Daly@oig.hhs.gov or Lori S. Pilcher, Regional Inspector General for Audit

Services, Region IV, at (404) 562-7750 or through email at Lori.Pilcher@oig.hhs.gov. Please refer to report number A-04-11-01095 in all correspondence.

Sincerely,

/Lori S. Pilcher/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Director, Division of Audit Resolution
Office of Grant and Acquisition Management
Assistant Secretary of Management and Budget
U.S. Department of Health and Human Services
Wilbur J. Cohen Building, Room 1067
330 Independence Avenue, SW
Washington, DC 20201

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**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**



Daniel R. Levinson
Inspector General

July 2012
A-04-11-01095

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

EXECUTIVE SUMMARY

BACKGROUND

Florida State University

Florida State University (the University) is a State institution located in Tallahassee, Florida. During the period October 1, 2008, through September 30, 2010, the University claimed reimbursement for approximately \$37.7 million in costs incurred on 217 grants, contracts, and other agreements (awards) with components of the Department of Health and Human Services (HHS). In addition to its regular funding through grants and contracts, the University was awarded 28 grants totaling \$8.6 million in funding provided by the American Recovery and Reinvestment Act of 2009, P.L. No. 111-5.

Cost Principles

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. The Division of Sponsored Research 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.

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.

SUMMARY OF FINDINGS

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 100 salary transactions, 53 were allowable but 47 were not, and in our sample of 100 nonsalary transactions, 55 were allowable but 45 were not. Based on our sample results, we estimated that, of

approximately \$10.6 million in transactions, the University charged approximately \$3 million in unallowable transactions to HHS awards during fiscal years 2009 and 2010.

These unallowable transactions occurred because the University did not provide adequate oversight to ensure consistent compliance with Federal regulations. Although its finance and accounting procedures often incorporated text from Federal regulations, the University largely left it to the discretion of its individual colleges, departments, and principal investigators to interpret the procedures correctly and to comply with Federal regulations. In addition, the University's Division of Sponsored Research did not review transactions to ensure that they complied with Federal regulations.

RECOMMENDATIONS

We recommend that the University:

- refund \$2,977,548 to the Federal Government and
- enhance oversight of charges to Federal awards to ensure consistent compliance with Federal regulations.

UNIVERSITY COMMENTS

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

- 66 of the 71 salary transactions that we questioned were allowable, either in whole or in part and
- 55 of the 63 nonsalary transactions that we questioned were allowable, either in whole or in part.

The University also took exception to our methodology for extrapolating our sample results and conclusions about the University's internal controls.

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. These comments, excluding this additional information, are included as Appendix E. The University requested that we not include the additional information in the final report.

OFFICE OF INSPECTOR GENERAL RESPONSE

Based on our analysis of the additional information that the University provided with its comments on our draft report, we reduced the number of unallowable salary transactions from 71 to 47 and the number of unallowable nonsalary transactions from 63 to 45. This reduction of unallowable transactions decreased our recommended overpayment recovery from \$5.8 million to approximately \$3 million.

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- D: SAMPLE RESULTS AND ESTIMATES—NONSALARY TRANSACTIONS
- E: UNIVERSITY COMMENTS

INTRODUCTION

BACKGROUND

Florida State University

Florida State University (the University) is a State institution located in Tallahassee, Florida. During the period October 1, 2008, through September 30, 2010, the University claimed reimbursement for approximately \$37.7 million in costs incurred on 217 grants, contracts, and other agreements (awards) with components of the Department of Health and Human Services (HHS). In addition to its regular funding through grants and contracts, the University was awarded 28 grants totaling \$8.6 million in funding provided by the American Recovery and Reinvestment Act of 2009, P.L. No. 111-5 (Feb. 17, 2009).

Cost Principles

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 220 (Office of Management and Budget (OMB) Circular A-21). 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. The Division of Sponsored Research 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.

OBJECTIVE, SCOPE, AND METHODOLOGY

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.

Scope

Our audit covered \$2.2 million in salary transactions and \$8.4 million in nonsalary transactions claimed for reimbursement from October 1, 2008, through September 30, 2010 (fiscal years

(FY) 2009 and 2010). 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 December 2010 and May 2011 at the University's offices in Tallahassee, 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);¹
- 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 \$2.2 million in salary transactions and \$18 million in nonsalary transactions charged directly to HHS awards;
- removed transactions involving scholarships, indirect cost revenue, and low-dollar transactions (less than \$100 for salary and less than \$10 for nonsalary) to arrive at our audit universe, including \$2.2 million in salary transactions and \$8.4 million in nonsalary transactions;
- selected and determined the allowability of statistical samples of 100 salary transactions (Appendix A) and 100 nonsalary transactions (Appendix B);
- computed the facilities and administrative (F&A) costs related to these unallowable transactions; and
- estimated the unallowable amounts that were charged to HHS awards (Appendixes C and D).

¹ Educational institutions that receive aggregate sponsored agreements totaling \$25 million or more are required to disclose their cost accounting practices by filing a disclosure statement (DS-2). The University has submitted a DS-2 to the HHS Division of Cost Allocation.

We initially evaluated the sample transactions based on 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 and conclusions with NIH representatives during our audit. 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.²

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 objective.

FINDINGS AND RECOMMENDATIONS

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 100 salary transactions, 53 were allowable but 47 were not, and in our sample of 100 nonsalary transactions, 55 were allowable but 45 were not.³ Based on our sample results, we estimated that, of approximately \$10.6 million in transactions, the University charged approximately \$3 million in unallowable transactions to HHS awards during FYs 2009 and 2010. (See Appendixes C and D.)

Unallowable Transactions Charged to HHS Awards During FYs 2009 and 2010

	Amount Unallowable
Salary transactions	\$425,762
Related F&A costs	160,608
Subtotal salary costs	586,370
Nonsalary transactions	1,687,907
Related F&A costs	703,271
Subtotal nonsalary costs	2,391,178
Total	\$2,977,548

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

³ For some of the transactions, we disallowed only a portion of the transaction.

The unallowable transactions occurred because the University did not provide adequate oversight to ensure consistent compliance with Federal regulations. Although its finance and accounting procedures often incorporated text from the Circular, the University largely left it to the discretion of its individual colleges, departments, and principal investigators to interpret the procedures correctly and to comply with Federal regulations. In addition, the University's Division of Sponsored Research did not review transactions to ensure that they complied with Federal regulations.

FEDERAL REGULATIONS AND NATIONAL INSTITUTES OF HEALTH 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 220, (OMB Circular A-21). 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 (2 CFR part 220, App. A, § C.2). In addition, NIH awards are subject to NIH guidelines, which include limitations on salary costs.

Pursuant to 2 CFR part 220, App. A, § C.3:

A cost may be considered reasonable if the nature of the goods or services acquired or applied ... reflect the action that a prudent person would have taken under the circumstances Major considerations involved in the determination of the reasonableness of a cost are: whether ... the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the sponsored agreement ... Federal and State laws and regulations, and sponsored agreement terms and conditions; whether ... the individuals concerned acted with due prudence ... and, the extent to which the actions taken with respect to the ... cost are consistent with established institutional policies and practices

Pursuant to 2 CFR part 220, App. A, § C.4.a:

[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 ... is deemed to be assignable in part to sponsored projects.

Included in 2 CFR part 220, App. A, § F.6.b, is specific guidance 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).

The only specific exception to this guidance is provided for “major projects,” where direct charging of administrative and clerical expenses may be appropriate. “Major projects” are defined in § 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.”⁴

Pursuant to 2 CFR part 220, App. A, § J.47.b, costs of services provided by specialized service facilities, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology. The HHS Division of Cost Allocation’s *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)).

NIH issued guidance dated December 10, 2001, regarding graduate student compensation. 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 the cost principles requiring reasonable compensation are observed. 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 level for an entry-level postdoctoral student was \$37,368 per year. At FSU, entry level postdoctoral students doing comparable work earned between \$16,640 and \$31,200 per year.

⁴ Examples of major projects include large complex programs, projects that include extensive data accumulation, or projects that are geographically inaccessible. The rules specify that direct charging of these examples to a sponsored agreement is not appropriate “... if, in similar circumstances, the costs of performing the same type of activity for other sponsored agreements were included as allocable costs in the institution’s F&A cost pools” (2 CFR part 220, App. A, Exhibit C).

UNALLOWABLE COSTS

Salary Costs

Of the 100 transactions in our sample of salary costs, 47 transactions totaling \$54,423 were not allowable. Specifically:

- Twenty-three transactions were salary costs for administrative and clerical type work such as cleaning glassware, ordering supplies, 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.
- Seventeen transactions were supported with documentation that did not corroborate the amount of effort charged to the award. For example, our sample included a direct charge to an award⁵ for the biweekly salary of a laboratory researcher. The \$1,536 charge represented 100 percent of the researcher's compensation. According to the award's principal investigator, 40 percent of the researcher's effort was devoted to the award, and the remaining 60 percent involved managing a zebrafish facility and other nonresearch-related duties. Although these nonaward duties may have benefited Federal awards in general, they were administrative in nature and not assignable to a single award. Therefore, 60 percent (\$922) of the researcher's salary was unallowable.
- Four transactions were not supported with sufficient documentation. For example, the University charged a technology specialist's salary to an award.⁶ Although the employee was included in the award's budget, the University could not provide an effort report documenting the time charged to the award.
- Three transactions did not comply with NIH guidelines that limit graduate student compensation to \$37,368 per year. Our sample included direct costs to three awards⁷ for a doctoral student. The employee's annual compensation was \$67,176, consisting of a salary of \$30 per hour and tuition remission of \$4,776.⁸

⁵ Award entitled *Developing Models of Retinal and Eye Defects*.

⁶ Award entitled *Genome Plasticity During ES Cell Differentiation to Neural Lineages*.

⁷ Awards entitled *Social Communication Phenotype of Autism Spectrum Disorder in the Social Year*, *1/2 Effects of Parent-Implemented Intervention for Toddlers with Autism Spectrum Disorder*, and *Improving and Streamlining Screening and Diagnosis of Autism Spectrum Disorder at 18-24 Months of Age*.

⁸ For purposes of estimating our sample results, we excluded tuition remission from the student's total compensation and questioned only the salary portion of his compensation. Because our sample transactions were biweekly salary charges, we converted the NRSA yearly stipend level to an hourly rate calculated by dividing the yearly zero-level postdoctoral stipend level, \$37,368, by the 2,080 work hours in a year ($\$37,368 \div 2,080 = \17.89). The \$12 per hour paid in excess of the amount allowed by the guidelines was unallowable.

Based on our sample results, we estimated that these unallowable salary transactions resulted in overcharges of \$586,370 to HHS awards during our audit period (\$452,762 in salary costs plus \$160,608 in related F&A costs).

Nonsalary Costs

Of the 100 transactions in our sample of nonsalary costs, 45 transactions totaling \$247,621 were not allowable. Specifically:

- Eleven transactions were not supported with sufficient documentation. For example, the University charged student registration fees but did not provide support showing that the student was appointed to the award.
- Sixteen transactions were for general-use supplies, such as toner, that should have been treated as F&A costs and not charged directly to the award.⁹
- Eleven transactions related to two specialized service centers were not charged in accordance with Federal regulations. For example, the rates charged by the animal facility and telecommunications centers were not designed to recover only the aggregate costs of the services. For the animal facility, the University computed the rates by averaging the rates that other universities charged. Moreover, the University did not perform biennial reviews on the facility to adjust the rates based on actual costs. The telecommunications center did not charge based on actual usage of the service provided. Furthermore, it charged administrative fees that were not part of the aggregate cost of providing the service.
- Seven transactions were not reasonable. For example, the University charged an award¹⁰ \$3,968 for 5 backup computers as a contingency should any of the 10 primary computers became inoperable before a presentation. The University requested 10 computers in the award budget but purchased 15.

Based on our sample results, we estimated that these unallowable nonsalary transactions resulted in overcharges of \$2,391,178 to HHS awards during our audit period (\$1,687,907 in nonsalary costs plus \$703,271 in related F&A costs).

INADEQUATE CONTROLS

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 largely left it to the discretion of its individual colleges, departments, and principal investigators to interpret the procedures correctly and to comply with Federal regulations, and the University's Division of

⁹ Award entitled *Reducing Cardiovascular Disease Risk in Midlife and Older African Americans*.

¹⁰ Award entitled *Influencing Employer Benefit Purchasing Behavior*.

Sponsored Research did not review transactions to ensure that the colleges, departments, and principal investigators proposed transactions that 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

Based on our sample results, we estimated that the University's unallowable transactions resulted in total overcharges of \$2,977,548 to HHS awards during our audit period.

RECOMMENDATIONS

We recommend that the University:

- refund \$2,977,548 to the Federal Government and
- enhance oversight of charges to Federal awards to ensure consistent compliance with Federal regulations.

UNIVERSITY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

University Comments

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

- 66 of the 71 salary transactions that we questioned were allowable, either in whole or in part and
- 55 of the 63 nonsalary transactions that we questioned were allowable, either in whole or in part.

The University also took exception to our methodology for extrapolating our sample results and conclusions about the University's internal controls.

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. These comments, excluding this additional information, are included as Appendix E. The University requested that we not include the additional information in the final report.

Office of Inspector General Response

Based on our analysis of the additional information that the University provided with its comments on our draft report, we reduced the number of unallowable salary transactions from 71 to 47 and the number of unallowable nonsalary transactions from 63 to 45. This reduction of

unallowable transactions decreased our recommended overpayment recovery from \$5.8 million to approximately \$3 million.

Salary Costs: Transactions Involved Administrative and Clerical Type Work

University Comments

The University disagreed with 33 of the 35 transactions that, based on the documentation that the University provided us during our fieldwork, we determined involved employees whose duties were administrative or clerical. In its comments on our draft report, the University stated that it conducted a detailed analysis of the actual duties of the employees and determined that 33 were technical employees, such as researchers, technicians, or lab assistants, and were assigned to a specific project. The University also stated that, of the two employees who it agreed were not technical employees, one was assigned to a major project; therefore, the direct charging of her salary was appropriate. The University further noted several instances in which we questioned an entire salary charge even though administrative duties were only part of the employees' job responsibilities. In these instances, the University disagreed that the entire salary was unallowable.

Office of Inspector General Response

Based on our review of the additional documentation that the University provided with its comments on our draft report, we agreed that 11 transactions that we had determined involved employees whose duties were administrative or clerical were, in fact, related to technical employees assigned to a specific project. Additionally, we agreed that one employee was assigned to a major project; therefore, the direct charging of her salary was appropriate. However, the remaining 21 transactions that the University disagreed with were for employees performing administrative duties.

The employees' administrative activities were not related solely to the project to which their salary was charged. Rather, the 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 salary costs were charged, we applied cost principles at 2 CFR part 220, App. A, § J.10.b (1)(b), which 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 ... (3) Distinguish the employees direct activities from their F&A activities." We could not determine the percentage of effort spent on administrative activities because the effort reports did not reflect time spent on administrative tasks. Therefore, we questioned the costs.

Salary Costs: Documentation Did Not Corroborate Amount of Effort Charged

University Comments

The University disagreed with 25 of the 26 salary transactions that, based on the documentation that the University provided us during our fieldwork, did not support the amount of effort

charged to the award. As an example, the University stated that we questioned the salary of one employee because 60 percent of his duties involved managing a zebrafish facility and other nonresearch-related duties. According to the University, the zebrafish facility is used only to support the NIH grant, is a complicated endeavor, and the grant is the only activity in the lab; therefore, the direct charging of the employee's salary was appropriate.

Office of Inspector General Response

Based on our review of the additional documentation that the University provided with its comments on our draft report, we agreed that 9 of the 26 transactions that we had questioned were supported. However, the documentation for the remaining 16 transactions with which the University disagreed did not support the amount of effort charged to the award. In the case of the employee who managed the zebrafish facility, the NIH grant was not the only activity in the lab. According to the University's space survey, approved by the HHS Division of Cost Allocation, the lab is also used for instruction; therefore, this grant is not the only activity in the lab. The cost of the zebrafish facility, including the cost of the technician, is included in a per diem rate that is used to charge costs to multiple projects.

Salary Costs: Transactions Not Supported With Sufficient Documentation

University Comments

The University disagreed with five of the seven transactions that we questioned because of insufficient documentation. The University stated that in one case, we did not recognize that the salary costs were not charged to the grant; they were cost shared. The University stated that it provided additional documentation for each of the five transactions.

Office of Inspector General Response

The additional documentation that the University provided with its comments on our draft report supported three of the seven transactions that we had questioned because of insufficient documentation. The additional documentation that the University provided for the remaining two transactions did not support the allowability of the costs. In regard to these two transactions, the University stated that it claimed them as cost sharing and did not charge them to the grant. Although the budget stated that the salaries would be claimed as cost sharing, the two transactions were charged to the grant. The University did not provide any evidence showing that it later transferred the cost of the transactions from the grant.

Salary Costs: Transactions Did Not Comply With National Institutes of Health Guidelines

University Comments

The University disagreed with the three transactions that we had determined were inconsistent with NIH's graduate student compensation guidelines. According to the University, "the individual involved in these transactions was not serving on the grants to which he was charged

as a graduate student; thus, the University was not bound by the NIH graduate student compensation guidelines.”

Office of Inspector General Response

Although the University stated that the individual involved in these transactions was not serving on the grants to which he was charged as a graduate student, the individual received tuition remission on each of the grants. The graduate student’s area of study was Communication Disorders; his classes, including Doctoral Research, all related to autism spectrum disorders. The NIH grants to which his tuition remission was charged were for autism spectrum disorders research. Therefore, there is no meaningful distinction between the work this individual performs on research grants as a graduate student and the work the individual was hired to perform in his capacity as a speech language pathologist. There is no support for hiring the individual as a graduate student on one research grant and in a professional capacity on another. Further, paying the individual less than what the University would have paid a practicing speech language pathologist in the area does not support the salary charges to the NIH grant. As stated in the report, the NIH guidelines apply to graduate students at the grantee institution who are supported by NIH research grants and cooperative agreements. Tuition remission is included in the graduate student compensation limits. Therefore, we audited against the NIH guidelines.

Nonsalary Costs: Transactions Not Supported With Sufficient Documentation

University Comments

The University disagreed with 23 of the 24 transactions that we had determined were not supported with sufficient documentation. As an example, the University noted five transactions for tuition remission and stated that it had provided us relevant appointment forms, effort reports, and tuition waiver documentation. The University stated that it also supplied copies of the training plans and progress reports to support two transactions for tuition charged to NIH training grants.

Office of Inspector General Response

Based on our review of the additional documentation that the University provided with its comments on our draft report, we agreed that 13 of the 24 transactions that we had questioned, including the transactions for tuition remission, were supported. The additional documentation provided for the remaining 11 questioned transactions did not support the transactions.

Nonsalary Costs: Transactions for General-Use Supplies

University Comments

The University disagreed with 14 of the 18 transactions that we had determined were the type of cost generally treated as an F&A expense. The University stated that the transactions were primarily for lab supplies, which it believes are not general-use supplies, and that the items were readily identifiable with the specific sponsored project to which they were charged. As an example, the University noted that we questioned the cost of pipette tips, which are lab supplies.

The pipette tips were charged to a project that was the only sponsored or nonsponsored project being conducted in the lab where they were used. In another example, the University stated that a freezer was charged directly to a grant because it was needed for the project and was used only to hold samples for the grant to which it was charged.

The University acknowledged that the auditors identified some lab supplies that could not readily be identified with a specific project. Although the University disagreed with the auditors that lab supplies should be treated as F&A costs, it did agree that lab supplies benefitting multiple projects should be allocated to sponsored projects on a reasonable basis. The University noted that most of the Principal Investigators whose lab supply charges we questioned had established reasonable allocation methodologies.

Office of Inspector General Response

The University provided additional support justifying 2 of the 18 transactions that we had determined were the type of cost generally treated as an F&A expense. The University supported the freezer as necessary for, and related specifically to, the project to which it was charged. In regard to lab supplies, such as the pipette tips, the labs where the supplies were used were also used for instructional purposes per the HHS Division of Cost Allocation space survey. The lab supplies are general-use items, as indicated by the University's statement that these items "are the most basic building blocks of any scientific laboratory...." Also, the University noted that most of the Principal Investigators whose lab supply charges we questioned had established reasonable allocation methodologies. However, while conducting our audit work, most of the Principal Investigators informed us that the allocation method they actually used was: The project that first needed an item ordered it and charged the entire cost of the item to the award. This methodology does not constitute a fair and equitable manner of allocating cost.

Nonsalary Costs: Specialized Service Centers' Costs Not Charged in Accordance With Federal Regulations

University Comments

The University disagreed with the 11 transactions related to 2 specialized service centers that we had determined were not charged in accordance with Federal regulations. It stated that the transactions related primarily to the animal facility. According to the University, it retroactively completed a detailed analysis of its animal facility rates for FYs 2009 and 2010 and determined that Federal grants were actually undercharged for services.

Office of Inspector General Response

The University did not comply with Federal regulations governing specialized service centers (2 CFR part 220, App. A, § J.47.b). The University performed a retroactive analysis of one of its specialized service centers after our audit took place. The University did not provide any supporting documentation for its analysis. However, we noted that the center's expenses included unallowable items such as memberships and office supplies. We also noted that the

expenses included a large amount for “technicians’ salaries.” During our audit of salary charges, we determined that these positions were charged directly to Federal grants.

Nonsalary Costs: Transactions Not Reasonable

University Comments

The University disagreed with 7 and partially disagreed with 1 of the 10 transactions that we had identified as unreasonable. For example, the University stated that a \$43,740 item of equipment that we questioned was needed for the project and that prior NIH approval was not required because the purchase of the equipment did not represent a change in scope for the project. In another example, the University stated that our supposition that five computers were purchased for contingency purposes was incorrect. According to the University, the computers were needed to accommodate additional recruits working on the project and were used solely to collect study data.

Office of Inspector General Response

Based on our review of the additional documentation that the University provided with its comments on the draft report, we agreed that the costs related to 3 of the 10 transactions that we had questioned were reasonable. For example, the University supported the need for the \$43,740 item of equipment. However, we disagree with the University’s position in regard to the five computers purchased for one grant. The Principal Investigator told us that the computers were purchased as backups in case one broke down during a presentation.

Statistical Methodology

University Comments

The University stated that its repayment of costs should be limited to any unallowable costs agreed to through the audit resolution process because our statistical methodology and extrapolation was flawed. The University stated that, although it was denied any meaningful opportunity to access our statistical methodology, it was able to make several observations regarding the sampling:

- The University stated that, although we professed to have selected our sample from cost categories that are usually treated as administrative or clerical expenses, very few of the selected transactions were actually administrative or clerical expenses.
- The University stated that our sample did not appear to be reasonably representative. For example, the University noted that one department is associated with approximately 37 percent of all questioned costs even though it contributed only 13 percent of the University’s HHS expenditures over the FY2009-2010 period.
- The University stated that because it believes the vast majority of the questioned costs are allowable, we cannot judge the University’s internal controls as weak and infer the

existence of systemic deficiencies that would lead to widespread mischarging and justify extrapolation of the audit results.

Office of Inspector General Response

The Departmental Appeals Board has supported our use of statistical sampling to calculate disallowances in accordance with our longstanding policies. Our audit approach and methodology were explained to the University during the entrance conference at the outset of the audit, during the course of the audit, and at the exit conference. In regard to the University's observations:

- We selected general ledger accounts within the University's accounting system that are generally recognized as administrative and clerical in nature and usually treated as indirect costs. Once sample items were randomly selected, we reviewed them to determine whether each was allowable in accordance with Federal regulations and applicable guidelines.
- Statistical samples, by nature, are always representative of the population from which they are selected. Neither the number of transactions nor the dollar value of the transactions on individual grants bias a statistically random selection.
- We disagree that the vast majority of costs were allowable. Of the 200 sample items reviewed, 46 percent were determined unallowable. Moreover, the deficiencies noted in the University's controls were based on a review of its policies and interviews with University personnel. The results of the audit verified that weaknesses existed. Finally, it is not necessary that a majority of transactions be unallowable to justify extrapolation of audit results.

Internal Controls

University Comments

The University strongly disagreed with our conclusion that it did not provide adequate oversight to ensure consistent compliance with Federal regulations. The University stated that it has strong policies and procedures, educates its research community on them, and monitors compliance. The University noted that its internal controls are reflective of what "is actually a very low incidence of unallowable costs being charged to Federal awards."

Office of Inspector General Response

We disagree with what the University characterizes as "a very low incidence of unallowable costs being charged to Federal awards." The University describes its controls as a review of purchase orders over \$1,000, journal entries, and personnel appointments. Most general supplies are under \$1,000. Journal entries show nothing other than the account charged, the amount, and occasionally the vendor. Similarly, personnel appointments do not describe duties performed. The large incidence of unallowable costs demonstrates that the University's controls need improvement.

APPENDIXES

APPENDIX A: SAMPLE DESIGN AND METHODOLOGY— SALARY TRANSACTIONS

POPULATION

The population consisted of salary transactions that were charged to Department of Health and Human Services (HHS) awards from fiscal years (FY) 2009 and 2010. These transactions were for employee categories that are generally administrative and clerical in nature and treated as indirect costs and recovered through Florida State University's (the University) negotiated facilities and administrative (F&A) rates. These transactions were charged directly to Federal awards.

SAMPLING FRAME

We received from the University an Excel file totaling \$2,231,861 for FYs 2009 and 2010 that contained 4,375 salary transactions, which are normally treated as F&A costs but were charged directly to HHS awards. We identified and removed 770 transactions that were less than \$100. The remaining 3,605 transactions totaling \$2,199,338 were our sampling frame.

SAMPLE UNIT

The sample unit was a transaction.

SAMPLE DESIGN

We used a stratified random sample containing three strata as follows:

Stratum	Range	Number of Transactions	Value of Transactions
1	\$100 through \$999.99	2,774	\$1,068,972
2	\$1,000 through \$2,499.99	816	1,074,366
3	\$2,500 and above	15	56,000
	Total	3,605	\$2,199,338

SAMPLE SIZE

We selected a sample size of 100 transactions. The sample size by stratum was:

Stratum	Number of Sample Items
1	35
2	50
3	15
Total	100

SOURCE OF RANDOM NUMBERS

We generated the random numbers with the Office of Inspector General (OIG), Office of Audit Services (OAS), statistical software.

METHOD OF SELECTING SAMPLE ITEMS

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

ESTIMATION METHODOLOGY

We used the OIG, OAS statistical software to estimate the total amount of unallowable salary costs claimed as direct costs. We also estimated the amount of unallowable F&A costs associated with the unallowable salary costs.

APPENDIX B: SAMPLE DESIGN AND METHODOLOGY— NONSALARY TRANSACTIONS

POPULATION

The population consisted of all nonsalary transactions that were charged directly to HHS awards from FYs 2009 and 2010. These transactions were for categories generally treated as indirect costs and recovered through the University's negotiated F&A rates.

SAMPLING FRAME

We received from the University an Excel file totaling \$18,035,772 for FYs 2009 and 2010 that contained 84,675 nonsalary transactions, which are normally treated as F&A costs but were charged directly to HHS awards. We removed the 60,461 transactions in the "Contract and Grant" and "Scholarship Award" accounts, which totaled \$9,855,544. We then removed 5,038 transactions less than or equal to \$10. The remaining 19,176 transactions totaling \$8,417,374 were our sampling frame.

SAMPLE UNIT

The sample unit was a transaction.

SAMPLE DESIGN

We used a stratified random sample containing three strata as follows:

Stratum	Range	Number of Transactions	Value of Transactions
1	\$10.01 through \$749.99	17,645	\$2,733,399
2	\$750 through \$19,999.99	1,514	3,218,907
3	\$20,000 and above	17	2,465,068
	Total	19,176	\$8,417,374

SAMPLE SIZE

We selected a sample of 100 transactions. The sample size by stratum was:

Stratum	Number of Sample Items
1	30
2	53
3	17
Total	100

SOURCE OF RANDOM NUMBERS

We generated the random numbers with the OIG, OAS, statistical software.

METHOD OF SELECTING SAMPLE ITEMS

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

ESTIMATION METHODOLOGY

We used the OIG, OAS, statistical software to estimate the amount of unallowable nonsalary costs claimed as direct costs. We also estimated the amount of unallowable F&A costs associated with the unallowable nonsalary costs.

**APPENDIX C: SAMPLE RESULTS AND ESTIMATES—
SALARY TRANSACTIONS**

Sample Results: Unallowable 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 Transactions¹
1	2,774	\$1,068,972	35	\$12,228	12	\$2,341	\$760
2	816	1,074,366	50	66,875	24	20,983	9,281
3	15	56,000	15	56,000	11	31,099	6,675
Total	3,605	\$2,199,338	100	\$135,103	47	\$54,423	\$16,716

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

	<u>Unallowable Transactions</u>	<u>Unallowable F&A</u>
Point estimate	\$559,040	\$218,327
Lower limit	425,762	160,608
Upper limit	692,317	276,047

¹ The University's negotiated F&A rates were 67 percent for research performed in the National High Magnetic Field Laboratory, 47% for on-campus research, 26 percent for off-campus research, and 8 percent for training grants. We applied the applicable F&A rate to each unallowable transaction and added the amounts to arrive at the F&A associated with unallowable transactions.

**APPENDIX D: SAMPLE RESULTS AND ESTIMATES—
NONSALARY TRANSACTIONS**

Sample Results: Unallowable 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 Transactions¹
1	17,645	\$2,733,399	30	\$3,999	13	\$1,405	\$351
2	1,514	3,218,907	53	122,776	25	57,277	24,365
3	17	2,465,068	17	2,465,068	7	188,939	88,801
Total	19,176	\$8,417,374	100	\$2,591,843	45	\$247,621	\$113,517

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

	<u>Unallowable Transactions</u>	<u>Unallowable F&A</u>
Point estimate	\$2,651,516	\$990,903
Lower limit	1,687,907	703,271
Upper limit	3,615,125	1,278,534

¹ The University's negotiated F&A rates were 67 percent for research performed in the National High Magnetic Field Laboratory, 47% for on-campus research, 26 percent for off-campus research, and 8 percent for training grants. We applied the applicable F&A rate to each unallowable transaction and added the amounts to arrive at the F&A associated with unallowable transactions.

APPENDIX E: UNIVERSITY COMMENTS



THE FLORIDA STATE UNIVERSITY
OFFICE OF THE SENIOR VICE PRESIDENT
FOR FINANCE & ADMINISTRATION

January 30, 2012

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-04-11-01095

Dear Ms. Pilcher:

Florida State University welcomes the opportunity to respond to the November 15, 2011 Department of Health and Human Services draft audit report entitled *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 Institute of Health Guidelines*. Our response consists of the enclosed comments, as well as a detailed transaction-by-transaction discussion of each cost questioned by the government. We have also submitted a set of binders containing supporting documentation for each transaction. We ask that HHS maintain the confidentiality of our transaction-by-transaction discussion and the supporting documentation.

The University looks forward to receiving the final audit report and to bringing this matter to closure as expeditiously as possible. To that end, we would be pleased to meet with you and your team if that would be helpful to you as you consider the voluminous material we are submitting today. In the meantime, please let me know if there is anything else we can provide to you.

Sincerely,

Ralph Alvarez
Associate Vice President for
Budget/Planning & Financial
Services

Enclosure

Cc: Eric Barron Olivia Pope
 John Carnaghi Martha Little
 Kirby Kemper Pete Derham

January 31, 2012
Florida State University Response

Florida State University – Response to Draft Audit Report

Florida State University (“FSU” or “the University”) submits these comments in response to the November 15, 2011 U.S. Department of Health and Human Services (“DHHS”) draft audit report titled *“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 Institute of Health Guidelines”* (hereinafter “the Draft Audit Report”).

The University’s comments on the Draft Audit Report address the following topics: (a) the University’s views on the costs the auditors questioned, and the statistical methodology the auditors used to extrapolate the results of their findings, (b) the auditors’ position regarding the University’s internal controls during the period covered by the audit, and (c) steps the University has taken to improve the policies, procedures, and processes governing charges to DHHS awards.

As discussed in more detail below, the University disagrees with the auditors’ initial conclusions regarding the allowability of most of the costs that are questioned in the Draft Audit Report. Likewise, the University believes there are assumptions associated with the statistical methodology applied to the tentatively questioned costs, which render the resulting extrapolation unreliable. And, because it disagrees with many of the questioned costs, the University respectfully submits that the inferences the auditors have drawn about its internal controls in the area of charging Federal awards are unsustainable. Although the University does take issue with many of the preliminary conclusions in the Draft Audit Report, it has used the audit process to take a fresh look at some of its policies, procedures, and processes governing the administration of sponsored projects and will discuss some enhancements it is considering in that area.

A. The University’s position on the costs questioned in the Draft Audit Report

The Draft Audit Report explains that the auditors reviewed 100 salary and 100 non-salary transactions. Attachment A to these comments sets forth a detailed, charge-by-charge analysis of the 71 questioned salary and 63 questioned non-salary transactions. We provide here some preliminary and general observations about the auditors’ findings.

With respect to the sampled charges, the auditors identified the following categories of questioned costs: (a) administrative or clerical salaries or non-salary administrative expenses improperly charged directly to Federal awards, (b) charges for which the documentation provided did not support the amount of effort charged, (c) non-salary transactions that were not supported by sufficient documentation, (d) charges that were unreasonable, and (e) transactions that purportedly violated specific rules or guidance, e.g., National Institutes of Health (“NIH”) guidance on charging graduate student compensation.

The remainder of this section discusses each category of costs the auditors questioned.

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1. Charging administrative and clerical expenses directly to Federal awards

a. Direct charging administrative and clerical salaries

The Draft Audit Report correctly explains that all direct charges to Federal awards must be reasonable, allowable, and allocable. The Draft Audit Report also accurately states that in addition to those generally applicable principles, OMB Circular A-21 (2 CFR Part 220 App. A) provides specific guidance regarding the direct charging of salary and non-salary administrative and clerical expenses at Section F.6.b.

i. Circular A-21 explicitly distinguishes between administrative/clerical and technical personnel

With respect to salaries, Circular A-21, sec. F.6.b(2) explains that “[t]he 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.” (emphasis added) What is significant about that language is that it explicitly does not apply to personnel who are performing technical functions. Indeed, such personnel are addressed in Section F.6.b(1), which states that the “salaries of technical staff . . . shall be treated as direct cost.”

That point is quite significant because, although the Draft Audit Report explains that the auditors selected their salary sample from “employee categories that are generally administrative and clerical in nature and treated as indirect costs,” the duties performed by the vast majority of the employees in the sample are technical as opposed to administrative or clerical. This is evidenced by both a cursory review of the employees’ job titles and through a detailed analysis of their actual function.

With respect to job titles, that alone should have been a red flag for the auditors that they had not selected a sample comprised of administrative or clerical personnel. For example, seventeen transactions are associated with the job title “Laboratory Researcher,” sixteen with the title “Laboratory Assistant,” eleven have the title “Researcher,” four employees are “Technicians,” two are “Research Assistants,” one is a “Research Scientist,” and one is a “Scientific and Research Technician.”¹ In contrast, there are only nine transactions (of the 71 questioned) associated with titles that use the words “administrative” or “clerical,” and two employees who are titled “Assistant Director.”

Of course, titles alone are not dispositive of an employee’s actual duties. Thus, the University has conducted a detailed analysis of the actual duties of the sampled employees. This analysis involved reviewing the duties of each employee with the supervising Principal Investigator; collecting documentary evidence such as job descriptions and budget justifications submitted to and approved by the sponsor; and identifying manuscripts, posters, and other scholarly output credited to the purportedly administrative or clerical personnel. Although the auditors did not acknowledge that their sample selection process was flawed, the University submits that it is telling that what began as an audit focused on direct charging administrative and clerical expenses directly to DHHS awards

¹ In some cases, more than a single transaction pertains to the same employee.

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changed to one more general in nature.² For example, by the end of their fieldwork, the auditors had questioned 71 salary transactions. But of those 71 transactions, only 35³ were questioned on the basis that the University had improperly charged administrative or clerical personnel directly to a DHHS award.⁴ Of the 35 transactions that the auditors continued to assert were administrative or clerical, the University submits that 33 actually involve technical personnel.

Although the University discusses each of the 35 questioned costs in Attachment A, it is worth highlighting some of those transactions in these comments. For example, eight of the 35 transactions involve students working in one of the University's research centers. Among the areas in which this center focuses its research are language development, language disorders, and neurological disorders. One specific project examines the social communication characteristics or traits in very young children with autism. To support the project, the Principal Investigator engaged several undergraduate students who were assigned the job title of "Researcher." These students performed substantive programmatic work that involved observing and coding autistic children who were the project's research subjects. The University respectfully submits that questioning these costs on the basis that the students were performing administrative or clerical tasks is untenable.

Similarly, the auditors questioned the costs associated with a technician charged to a grant that utilized electron paramagnetic resonance (EPR) spectroscopy experiments to map interactions of substrate/product analogs with a human enzyme important to human inflammation. At the time of the audit, it was the only research project active in the Principal Investigator's laboratory. The technician whose salary charges were questioned was performing duties explained in detail in the budget submitted to and approved by NIH, namely technical work that involved preparing solutions and reagents for experiments, performing enzyme assays, analyzing chromatography results, and maintaining cryogens for EPR magnet and experiments. Those too are technical duties.

Finally, the auditors questioned a cost associated with a Laboratory Assistant charged to a project studying the chromosomal order of replication changes. The Laboratory Assistant whose salary was questioned was a former graduate student who stayed on in the Principal Investigator's lab to study an embryonic stem cell line that had a mutant gene and to determine how it affected chromosomal order of replication. Her duties were limited exclusively to that work, she had numerous lab notebook entries supporting her activities, and she authored and published a paper in the Proceedings of the National Academy of Sciences journal directly relevant to her research on this project. The University, therefore, does not agree that she was performing administrative or clerical tasks.

² It is possible DHHS may be considering narrowing the scope again because in a January 27, 2012 letter to the University regarding their statistical sampling methodology, DHHS referred to this audit as the "Audit of Costs Normally Treated as Administrative and Clerical Costs but Charged Directly to HHS Awards at Florida State University"

³ Although the Draft Audit Report refers to 35 transactions questioned on this basis, the remarks made by the auditors at the Exit Conference were not always consistent with the numbers provided to the University earlier in the process and again referenced in the Draft Audit Report. For the purpose of these comments, we have tried to use as examples transactions consistent with both the numbers provided in the Draft Audit Report and the Exit Conference discussion.

⁴ As discussed in more detail later in these comments, it is difficult to understand how the selection of a sample inconsistent with the population it is supposed to represent can be extrapolated in any reliable manner.

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The examples discussed above are reflective of most of the 35 transactions questioned on the basis that they represent improper direct charges of administrative or clerical personnel to Federal awards.

ii. Administrative and clerical personnel

There are a limited number of administrative or clerical positions within the costs the auditors questioned. As discussed above, such costs may be charged directly to Federal awards when a "major project" explicitly budgets for such costs. Circular A-21 goes on to explain that a "major project" is one that "requires an extensive amount of administrative or clerical support, which is significantly greater than the routine level of such services provided by academic departments." OMB Circular A-21 at sec. F.6.b(2).

Circular A-21 provides six examples of the kinds of projects that can be considered major projects:

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. Circular A-21's examples can be divided into three distinct categories: (a) projects that are inherently large and complex, (b) projects that, although not necessarily either large or complex, require for some other reason (e.g., extensive data accumulation) more than the usual level of administrative support, and (c) projects that because of their location cannot be served by the usual departmental infrastructure. Importantly, Circular A-21 expressly states that Exhibit C provides examples; it is not required that a project fall within one of the six illustrative categories in order to be designated a "major project." Rather the "unlike circumstances" are present because the project's demand for administrative support cannot be satisfied by normal departmental resources. The

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geographically remote example demonstrates this point insofar as there is no discussion in Circular A-21 even suggesting that the remote project must be large, complex, or even require an atypical level of administrative support. It is enough that because of its location the project cannot be served by the normal departmental support functions.

With that as background, the auditors have questioned eleven transactions that involved personnel whose titles are perhaps suggestive of an administrative or clerical function. Only in two of those instances, however, is the employee actually performing such duties. This employee whose title is "Business Office Clerical" served in a secretarial and administrative role insofar as her duties included preparing correspondence and mailings, making travel arrangements, and assisting with the preparation of course materials. The grant to which she was charged was a HRSA training grant to establish a new Doctor of Nursing Practice (DNP) program with a specialty as a family nurse practitioner (FNP) at the FSU College of Nursing. Creation of the program required extensive administrative and clerical assistance pertaining to logistics, new student admission and registration, mailings, information technology support, faculty workshops, and curriculum development. The University also included in the approved budget support for a secretary. Thus, the University respectfully submits that the project to which the secretarial costs were charged is "major" and that the costs at issue were included in the budget approved by the sponsor; they should therefore be accepted.⁵

Finally, there were several instances when the auditors questioned the entirety of a salary charge because one element of an employee's duties involved performing what they characterized as administrative or clerical duties. For example, the job descriptions of some laboratory technicians include the phrase "ordering supplies."⁶ In effect, the auditors have taken the view that if an employee is performing any administrative duties, no matter how limited, his or her salary may not be charged directly to a Federal award. The University disagrees with that position. There is no reason why an employee cannot have a job with both technical and administrative functions, and no basis to deem that employee's technical effort an unallowable direct charge. Likewise, there would be no principled basis on which to assert that an administrative assistant who spends half of his time providing general departmental support cannot charge the other half of his time to a conference grant for which he makes travel and meeting arrangements.

b. Direct charging non-salary administrative-type expenses

OMB Circular A-21 addresses non-salary administrative-type expenses in Section F.6.b(3), which states that "[i]tems such as office supplies, postage, local telephone costs, and memberships shall normally be treated as F&A costs." Although the Draft Audit Report correctly cites that language it goes on to state that "[t]he only specific exception to this guidance [the F.6.b(2) language] is provided for 'major projects.'" There is, however, no basis to apply the "major project" guidance to

⁵ To the extent the auditors have questioned this cost on the basis that administrative and clerical salaries cannot be charged directly to training grants, that issue is discussed in detail in Attachment A.

⁶ That some laboratory assistants' job descriptions contain that phrase is in any event irrelevant. The University interviewed all Principal Investigators supervising those laboratory assistants and in all cases, the only element of supply ordering that the employee was responsible for was informing an administrative assistant that the lab may be low on a given supply(ies). They do not actually order the supplies. Further, the time spent on that activity is *de minimis*.

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non-salary expenses, nor is there any basis to require that non-salary charges be specifically budgeted for.

As noted previously, Circular A-21 addresses salary expenses in Section F.6.b(2) and non-salary expenses in Section F.6.b(3). The "major project" language appears only in Section F.6.b(2); it is not present in F.6.b(3). The only guidance covering non-salary expenses in F.6.b(3) is that they are "normally" treated as indirect costs. And, the only reason such costs are "normally" treated as indirect is that they are generally the kinds of costs "that are incurred for common or joint objectives" and therefore cannot be "identified readily and specifically with a particular sponsored project." OMB Circular A-21 at sec. E.1. Thus, the only test that costs such as office supplies, postage, local telephone, and memberships must pass is that the University must be able to "readily and specifically" identify them "with a particular sponsored project." Further, Circular A-21 makes it quite clear 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 from F&A costs of sponsored agreements." OMB Circular A-21 at sec. D.2.

As reflected in the detailed analyses accompanying these comments, the University has established that 14 of the eighteen costs questioned on the basis that they were the type of cost generally treated as an F&A expense are in fact readily identifiable with the specific sponsored project to which they were charged.

For example, the auditors questioned a cost of \$11.88 for pipette tips. At the time of this purchase, the Principal Investigator had only a single NIH R01 grant. There were no other sponsored or non-sponsored projects active in his lab. Yet, the auditors questioned this cost on the basis that pipettes are general use supplies. Circular A-21, however, does not deem laboratory supplies to be F&A costs. On the contrary, Circular A-21 specifically characterizes "the costs of materials consumed or expended in the performance of the work" (e.g., lab supplies) as "[t]ypical costs charged directly to a sponsored agreement" *Id.* at sec. D.2. In sum, pipettes are not the type of cost normally treated as an indirect cost, and even if they were, the University has specifically identified them with the grant to which they were charged.

Another example is the University's purchase of a freezer for \$7,326.09. The NIH grant to which the freezer was charged was discussed previously and involved EPR spectroscopy experiments. In August 2009, the Principal Investigator replaced her existing lab freezer, which had been purchased in 1975. She charged the new freezer to her NIH grant because that project was (and continues to be) the only research occurring in her lab. No other investigators or projects made or make use of the freezer. In fact, all five shelves of the freezer were then (and are still today) stocked solely with samples for the NIH grant. Thus, although it may be the case that lab freezers are usually general use equipment that is not the case here.

The University does acknowledge that the auditors identified some charges that cannot readily be identified with a specific project. Some of those costs are associated with lab supplies. Although the University strongly disagrees with the auditors that lab supplies are the kind of charge that should usually be treated as F&A costs, it does agree that lab supplies benefitting multiple projects should

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be allocated to sponsored projects on a reasonable basis.⁷ And, it notes that most of the Principal Investigators whose lab supply charges were questioned by the auditors did establish reasonable allocation methodologies. In any case, the University is currently working on establishing guidance that will assist Principal Investigators with determining reasonable methods to allocate lab supplies to sponsored projects. The University also concurs with the auditors' decision to question a printer toner charge to a grant titled "Reducing Cardiovascular Disease Risk in Midlife and Older African Americans." The University has determined that the toner, although largely supporting the project to which it was charged, was not used exclusively on the NIH R01.

c. Compliance with the consistency principle

The final point that the University would like to make on the issue of administrative and clerical costs is that it has handled such costs appropriately from the perspective of complying with the A-21 consistency principle. OMB Circular A-21 states (at sec. D.2) that universities must be consistent in their direct charging practices. In practice, this means that if administrative and clerical costs specifically identifiable with research are charged to sponsored research projects such costs specifically identifiable with other functions (such as instruction) must in like circumstances be directly charged to those functions. NIH has promulgated some guidance on this issue, as well:

[C]are must be exercised to assure that costs incurred for the same purpose in like circumstances are consistently treated as direct costs for all activities. This should be accomplished through a "Direct Charge Equivalent" or other mechanism that assigns the costs directly to the appropriate activities.

NIH GUIDE, Volume 23, Number 34, September 23, 1994.

When calculating its indirect cost rate, the University is cognizant of its obligation to comply with the A-21 consistency principle. Just as it does with research, the University has the practice of assigning the salaries of administrative and clerical personnel who perform services benefitting instruction directly to that function. Non-salary administrative and clerical expenses are assigned to the instruction function by means of a "Direct Charge Equivalent" (DCE), based on the percentage of administrative and clerical salary charges in each department.

2. Salary costs questioned on the basis that documentation provided did not support the amount of effort charged to the award

Of the 26 salary transactions questioned in the Draft Audit Report on the basis that the documentation the University provided did not support the amount of effort charged to the award, the University disagrees with 25. Although we are not going to address each of those 25 transactions in these comments, the \$1,536 charge associated with a laboratory researcher whose duties included caring for a zebrafish colony is illustrative of the reasons for the University's disagreement with the

⁷ Circular A-21 provides that "if a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost should be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding subsection b, the costs may be allocated or transferred to benefited projects on any reasonable basis" The University will be prepared to discuss its allocation methodologies during the audit resolution process.

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auditors. The Draft Audit Report explains that this charge was questioned because 60% of the employee's duties involved "managing a zebrafish facility and other nonresearch-related duties [sic]."

The auditors' position is based on a misperception of the employee's duties and the laboratory in which she works. First, there is no activity, and never has been any activity, in the laboratory other than the single NIH grant that uses the zebrafish colony. Second, the zebrafish colony is used only to support the NIH grant; it has no other uses. Third, maintaining a zebrafish colony is a complicated and expensive endeavor. For example, the individual charged with caring for a zebrafish colony must work closely with specialized vendors and colleagues at other universities and research institutes to ensure that the fish food is appropriate to the colony, and consistent with how other scientists conducting similar experiments at other universities are feeding their zebrafish (in order to maintain the consistent integrity of zebrafish experiments). In sum, the 60% of this employee's salary that was questioned is all allocable to the NIH grant to which it was charged. That time was spent raising and maintaining fish lines, feeding fish, checking water chemistry, identifying transgenic zebrafish through gene expression, freezing fish sperm, and maintaining the level of knowledge necessary to ensure the long term viability of the colony.

3. Costs questioned on the basis they lacked sufficient documentation

The auditors questioned seven salary transactions and 24 non-salary transactions on the basis that they lacked sufficient documentation. The University disagrees with the auditors' position on five of seven of the salary transactions and 23 of the non-salary transactions.

With respect to salary costs, the Draft Audit Report highlights a Technology Specialist who was charged to an award titled "Genome Plasticity During ES Cell Differentiation" but for whom the University could not provide an effort report. As explained in Attachment A to these comments, the auditors did not recognize that the salary costs associated with the Technology Specialist were not charged to the above-referenced grant; they were cost shared. Accompanying this submission are the relevant effort reports and other documentation showing that the salary charges were paid by the University. The other questioned salary charges are also documented in Attachment A.

On the non-salary side, the auditors have taken the position that the University was not able to sufficiently document five transactions for student tuition remission. The students in these samples were afforded tuition remission in accordance with a consistently applied FSU policy that offers all eligible graduate students tuition remission regardless of whether they work on sponsored or non-sponsored activity. Relevant appointment forms, effort reports, and tuition waiver documentation are provided for each transaction and sufficiently document the transaction.

The auditors also have taken the position that the University was not able to sufficiently document two transactions for tuition charged to NRSA individual fellowship awards (NIH training grants). NRSA trainees do not receive "salary" from training grants but are eligible to receive a stipend; therefore, trainees are not subject to an effort reporting requirement. The University has nonetheless supplied copies of the trainees' training plan, as well as the trainees' progress reports. The progress reports demonstrate that the trainees pursued their proposed training plan, which included research, coursework, and other activity.

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4. Costs questioned on the basis they were unreasonable

The Draft Audit Report questioned ten transactions on the basis that they were unreasonable. Circular A-21 defines a reasonable transaction as follows:

A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefore, reflect 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: (a) 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; (b) 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; (c) 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, (d) 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.

OMB Circular A-21 at sec. C.3. The University submits that of the ten questioned transactions, seven were reasonable. The University concurs with the Draft Audit Report's findings on two of the remaining transactions and agrees in part with the third.

For example, the auditors questioned a \$43,740 charge for a "low flow" liquid chromatograph that feeds samples into a mass spectrometer. This piece of equipment was not contemplated at the beginning of the project. As the project progressed, however, it became apparent that a low flow chromatograph, which was not already available at the University, was needed. To the extent the auditors are questioning this cost on the basis that it was not approved by NIH, the University respectfully submits that NIH prior approval was not required in this case. Pursuant to the NIH Grants Policy Statement (§ 8.1.2.5)⁸, a purchase of equipment over \$25,000 is not subject to NIH prior approval where it does not represent a "change in scope." A purchase of equipment over \$25,000 is one example of a *potential* change in scope; however, "[t]he grantee must make the initial determination" about whether a change in scope has occurred. A change in scope is defined as "a change in the direction, aims, objectives, purposes, or type of research training, identified in the approved project." (§ 8.1.2.5). Here, no change in scope occurred by virtue of the liquid chromatograph. Quite the contrary: the liquid chromatograph was used to test one method of achieving the aims of the project, which was to develop best techniques regarding protein complexes. In fact, the NIH Grants Policy Statement makes clear that the Principal Investigator may control the methodology and approach used to achieve a project's goals and objectives (§ 8.1.2.5).

The Draft Audit Report also questioned a \$3,968 charge for five laptop computers on the basis that they were purchased for contingency purposes. The auditors' supposition regarding the basis for

⁸ We reference here the 2011 NIH Grants Policy Statement and note that, with respect to a change in scope, the policy does not materially differ from the 2003 NIH Grants Policy Statement which is applicable to the cost in question.

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purchasing these computers is incorrect. The grant to which the computers were charged was studying whether consumers can be influenced to buy health care products on the basis of value rather than cost. The Principal Investigator endeavored to recruit 20 professionals who were charged with purchasing health benefits/insurance for companies in a number of different geographic locations. The additional laptops were used to accommodate additional recruits in a specific geographic area and were used solely to collect study data.

5. Other questioned costs

There are fourteen transactions that focus on service center charges and charges that the auditors have tentatively concluded are inconsistent with NIH guidelines on charging graduate student compensation to sponsored projects. The University submits that all of these costs should be accepted.

With respect to the service center costs, they largely involve the University's animal facility. The University acknowledges that when viewed in a vacuum, it might appear that there were some issues with the way it calculated some animal care and use rates. However, the University so heavily subsidizes that facility that it knows that the rates it charges are well below cost and are therefore not inconsistent with Circular A-21. To demonstrate that fact, the University has gone back and completed a detailed cost-based analysis of its animal care and use costs for FY2009 and FY2010. As discussed in more detail in Attachment A, the University's Federal grants were actually undercharged because of the high level at which the University subsidized the facility. Because the Federal projects were actually undercharged, the University submits these costs should be accepted.

The University also disagrees with the costs that the auditors questioned on the basis that they are inconsistent with NIH's graduate student compensation guidelines. The individual involved in these transactions was not serving on the grants to which he was charged as a graduate student; thus, the University was not bound by the NIH graduate student compensation guidelines. The employee at issue was a speech language pathologist with over 12 years of clinical experience in both diagnostics and early intervention. He was, therefore, an ideal person to support certain sponsored projects requiring that expertise, and he did not do so in his capacity as an FSU graduate student. We also note that his rate of pay was well below the market rate for speech language pathologists with 12 years of experience in the Tallahassee area. These costs should therefore be accepted.

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

The University has provided the auditors with extensive documentation and justification supporting most of the tentatively questioned costs. To facilitate the auditors' review of these voluminous materials, accompanying these comments as Attachment B is a table that sets forth, on a charge-by-charge basis, each of the questioned salary and non-salary transactions, whether the University agrees with the auditors' conclusion as set forth in the Draft Audit Report, and a brief explanation for the University's position. As reflected in Attachment B, the University respectfully submits that (a) \$91,973 of the questioned salary costs should be accepted, (b) \$309,503 of the questioned non-salary costs should be accepted, and (c) that the Final Audit Report should reflect these adjustments.

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The University also submits that any repayment should be limited to the value of any unallowable costs agreed to through the audit resolution process. The auditors' statistical methodology is described in the Draft Audit Report at a high level. When the University requested additional information, the auditors invited a written request. The University submitted such a request and the auditors responded with a brief letter saying only that they had followed their standard procedures. Thus, the University has not been afforded any meaningful opportunity to assess the auditors' statistical methodology.

Although prejudiced in that regard, the University can raise some general observations. First, as explained previously, the auditors stated that they selected their sample from cost categories that are usually treated as administrative or clerical expenses. What they included in their sample was very different – very few of the transactions were administrative or clerical expenses. DHHS cannot begin with the premise that it is conducting an audit of administrative and clerical costs, select a sample on that basis, mid-stream course correct to cover other topics, and then assert that it has a statistically meaningful sample that essentially covers multiple aspects of sponsored projects administration. Second, the sample itself does not appear to be reasonably representative. One department is associated with approximately 37% of all questioned costs even though it contributed only 13% of the University's DHHS expenditures over the FY2009-2010 period. Similarly, one grant appears seven times in the questioned salary charges and another six, and often the same employee is questioned multiple times. Likewise, 23 of the 71 questioned salary charges are from one department and 18 of the 63 questioned non-salary charges are from another department. And, only 15 departments are represented in the sampled transactions even though 46 departments expended DHHS funds in FY2009 and 42 in FY2010. Third, because the vast majority of the tentatively questioned costs are allowable, there is no principled basis upon which the auditors can deem the University's internal controls weak. It is therefore unreasonable to infer that there are systemic deficiencies that would lead to widespread mischarging.

B. The auditors' position on the University's internal controls

Page 8 of the Draft Audit Report includes a section titled "Inadequate Controls," 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 largely left it to the discretion of its individual colleges, departments, and principal investigators to interpret the procedures correctly and to comply with Federal regulations, and the University's Division of Sponsored Research did not review transactions to ensure that the colleges, departments, and principal investigators proposed transactions that 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 strongly disagrees with the auditors' position. Although they have questioned charges for a variety of reasons, the auditors' position on the University's internal controls appears to be limited to charging administrative-type expenses directly to Federal awards. The University will

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respond accordingly. First, of the 35 salary transactions the auditors' questioned on the basis that they were improperly charged administrative or clerical costs, 33 of those in fact related to individuals performing technical work. And, of the two that did involve administrative or clerical personnel, the University submits that both of those transactions are allowable. Second, in the area of non-salary administrative-type costs, the auditors applied an erroneous standard of review and furthermore 14 of the 18 costs questioned on the basis that they were administrative were not. In sum, the fundamental premise that there are significant unallowable administrative charges is incorrect; thus, any inference drawn from that premise is itself flawed.

Even if there were more than a *de minimis* amount of unallowable costs, the University believes that it has robust and well-developed policies, procedures, and processes governing charging administrative expenses to Federal awards.

The University does not leave to the discretion of its colleges, departments, and Principal Investigators the interpretation or implementation of its policies and procedures. For example, one element of complying with the guidance in Circular A-21 on charging administrative/clerical costs directly to Federal awards is to understand the Cost Accounting Standards as they apply to colleges and universities. To facilitate the understanding of its personnel in that area, the University prepared and disseminated a Cost Accounting Standards Disclosure Statement briefing. Among the topics covered by this briefing is the principle of consistency in estimating, accumulating, and reporting costs.

The University also has published a policy directly addressing the issue of charging administrative-type expenses to Federal awards. This policy titled "Policy on Direct and Indirect Costs of Sponsored Agreements" provides detailed guidance to Principal Investigators, administrators, and other personnel who may be involved in decisions related to charging administrative expenses directly to Federal awards. This is a highly detailed document, which provides background on the aforementioned Cost Accounting Standards; definitions of key terms from Circular A-21, including direct and indirect costs; discusses what are "normally" considered F&A expenses and what are not; and also provides examples to facilitate its implementation by the University's research community.

In addition to promulgating a policy, the University has also developed a form titled "Exemption to Direct Charge Costs Normally Treated as Indirect Costs." This internal control is referred to in University parlance as a "CAS Exemption Form" and is used by the University to monitor and regulate the charging of administrative-type expenses directly to Federal Awards. As you will see in the University's detailed responses to the questioned costs, the University used this form in each instance when it charged administrative and clerical salaries directly to a Federal award. The University submits that its use of this form reflects strong, not weak, internal controls and oversight of colleges, departments, and Principal Investigators.

Not only has the University established policies, procedures, and processes, it also takes steps to inform and educate its research community on the existence of that guidance and how it may be effectively implemented. For example, the University's "Compliance and Research Administration Training and Education" (CReATE) initiative is an intensive overview of the proper administration of grants and contracts. Didactic lectures explain in detail requirements governing grant and contract proposal preparation, submission, and post-award management. Direct charging administrative expenses is one of the topics covered in this program, which is made available to Departmental

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Administrators and faculty. Likewise, the University offers monthly "Lunch & Learn" seminars covering a variety of research administration areas. The periodically offered "Advanced Financial Management Module" specifically covers direct charging administrative expenses to Federal awards.

In the area of monitoring, the University's Sponsored Research Accounting Services ("SRAS") provides centralized review of both salary and non-salary charges. SRAS reviews all purchase requisitions for charges greater than \$1,000, all journal entries, and all personnel appointments. Its review of personnel appointments is important in the area of administrative expenses because one of the items the SRAS staff are trained to look for, and request if it is not present, is the aforementioned CAS Exemption Form. Although SRAS has what the University submits is a robust monitoring program, this is an area where the University has recently made some improvements. Toward the end of calendar year 2011, SRAS rolled out a new monitoring initiative under which its staff sample non-salary transactions of less than \$1,000 in high risk categories such as P-card purchases and travel.

Overall, the University strongly disagrees with the auditors' contention that it does not educate its research community on how to comply with its policies and procedures, or that it does not monitor compliance. The University does both.

Although the Draft Audit Report critiques internal controls only in the area of charging administrative expenses, the University notes that it has equally strong controls in the others of research administration. The University has a full suite of policies and procedures covering all financial, administrative, and scientific aspects of research compliance. The previously mentioned training and education initiatives apply with equal force to these areas. Likewise, SRAS monitoring is effective to test compliance in all aspects of charging costs to Federal awards, not just administrative-type costs.

For all of the foregoing reasons, the University respectfully submits that it has strong policies and procedures, educates its research community on them, and monitors compliance. Further, its internal controls are reflective of what is actually a very low incidence of unallowable costs being charged to Federal awards.

C. Enhancements to the University's internal controls

For the reasons already expressed, the University does not believe that there are significant deficiencies in its system of internal controls. That said, the University is fully committed to serving as an effective steward of the Federal funds it receives and is constantly striving to enhance its research administration policies, procedures, and processes.

Throughout these comments, the University has identified some areas where it is considering ways to enhance its policies and procedures based on the Draft Audit Report's findings. These include enhancements to its existing guidance addressing the allocation of costs across multiple sponsored projects and documenting service center rates. The University also believes that there are certain improvements it should make to its sponsored research training and education initiatives. The previously mentioned CReATE program is sound but there are ways in which it and other training modules could be improved through the inclusion of more examples and fact-patterns addressing cost allocation and allowability.

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In addition, as noted above SRAS has recently implementing a risk-based program to sample charges smaller than \$1,000. Based on some of the feedback received during the audit process, the University believes it should re-visit how that program is currently structured and consider whether adjustments to its current risk-based approach are warranted. Similarly, SRAS currently has approximately 200 internal operating procedures that it uses to train its staff. The University intends to review those addressing areas covered by the Draft Audit Report and assess whether additional training and education is warranted for the SRAS staff who are charged with carrying out the central monitoring of charges posted to sponsored projects.

D. Conclusion

The University believes that 66 of the 71 questioned salary charges and 55 of the 63 questioned non-salary charges are allowable, either in whole or in part. Documentation supporting the University's position on each of those charges is set forth in Attachment A and its accompanying materials. The University is prepared to refund any charges for which it concurs with the findings in the Draft Audit Report, but does not agree that extrapolation is appropriate in these circumstances.

In the area of internal controls, the University has provided a detailed discussion of its policies, procedures, and processes applicable to charging administrative costs directly to Federal awards, and has explained that it has a full suite of materials governing the financial, administrative, and scientific oversight of Federally-sponsored awards. These comments also identify some areas where the University plans to improve its internal controls. The University respectfully requests that the final audit reflect this information and the University's commitment to administering Federal awards in a manner fully compliant with OMB Circular A-21.