



OFFICE OF
CHIEF COUNSEL

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
ASSOCIATE CHIEF COUNSEL GENERAL LEGAL SERVICES
950 L'ENFANT PLAZA, S.W., 2ND FLOOR
WASHINGTON, D.C. 20024-2123
Telephone: (202) 283-7900
Facsimile: (202) 283-7979**

CASE:GLS:147408-02
CC:GLS:PCTL:Dingold

MEMORANDUM FOR SUSAN E. GILBERT
CHIEF, GRANT ADMINISTRATION
WAGE & INVESTMENT,
STAKEHOLDER PARTNERSHIPS, EDUCATION &
COMMUNICATION (W&I:SPEC)

FROM: Donald M. Suica
Chief, Public Contracts and Technology Law Branch (GLS)
Internal Revenue Service

SUBJECT: Facilities and Administration (Indirect Costs), Allowable
Expenses, Matching Costs, and Low-Income Tax Clinics [SPEC]

This is in reply to your request for guidance on this subject.

"Facilities and Administration," or "F&A," is the term used in OMB Circulars A-122 and A-21, setting out accounting cost principles for non-profit organizations and educational institutions. The term covers costs that are incurred for common or joint objectives within an organization or institution and that cannot be readily identified with a particular final cost objective. Such costs are "allowable expenses" in federal grants in general, meaning that federal grantees – including recipients of Low-Income Tax Clinic (LITC) grants – can include them in their reports of expenditures. Such costs cannot, however, be counted for purposes of the matching funds requirement. The prohibition on their being used for purposes of the matching funds requirement is a result of the following provisions of I.R.C. § 7526:

PMTA: 00579

A low-income taxpayer clinic must provide matching funds or a dollar-for-dollar basis for all grants provided under this section. Matching funds may include –

(A) the salary (including fringe benefits) of individuals performing services for the clinic; and

(B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.

IRC § 7526(c)(5).

Thus, while it is appropriate for a clinic to spend LITC grant funds to cover F&A costs that a non-profit organization or an educational institution may assess, the expense may not be waived or deferred and listed as a matching funds equivalent.

We understand this is a recurring issue. We attach copies of a PowerPoint presentation that we prepared on this topic for the American University/American Bar Association LITC Workshop in May, 2001. It includes more background on the OMB Circulars and a more detailed explanation of the distinction between “allowable expenses” and “matching funds.”

If you or others have any questions in general about this opinion, you should contact Dave Ingold on my staff, in the Public Contracts and Technology Law Branch of General Legal Services, by telephoning 202 283-7952.

cc: Nachman CC:P&A(APJP)
Wielobob CC:W&I