

## **Fixed Fee Award Article Attachment – Guidelines Regarding Inappropriate Fee Expenditures**

### Expenses Directly Related to the Construction and Operation of Major Multi-User Research Facilities

The use of fees under major facility construction and operations awards is to be transparent and explicable. To ensure transparency and accountability in the funding of necessary and appropriate expenses directly related to the construction and operation of major multi-user research facilities, except for exceptions set forth herein, recipients are to address such expenses in the award budget as reimbursable costs under the award, and such expenses should not be addressed through fee. Classifications of such expenses as reimbursable costs subjects these expenses to pre-negotiation review as part of NSF's standardized cost analysis guidance and periodic incurred cost audits in accordance with NSF policies and procedures. This approach ensures transparency and accountability. It also helps to prevent situations where a recipient's own investments in facilities or equipment become integral to the facility and impinge on NSF's ability to make decisions concerning subsequent competition requirements.

Certain situations may occur where a recipient independently and voluntarily determines to absorb certain otherwise reimbursable costs under an award through use of fee dollars. NSF does not encourage organizations to use their own funds (whether as a result of fee or otherwise) for such purposes. However, to the extent that an organization independently determines to use fee to support expenses that would typically be covered as a direct or indirect cost, the recipient must first contact the G/AO and provide the rationale for the use of the organization's funds for such purposes. NSF will determine whether it is appropriate to allow the recipient to use its own funds or to develop alternate methodologies for addressing such expenses. If approved, consideration may be given to authorize the funds to be transferred into available funds for the reimbursement of costs under the award, which will ensure that such costs are subject to applicable Uniform Guidance provisions and other NSF terms and conditions.

### **Inappropriate Fee Expenditures**

NSF encourages recipients to use the utmost discretion and appropriate consideration in the use of fee, and to consider that previous audits and reviews of NSF fees have publicly disclosed actual uses of fee, in contrast with practices under awards made through use of contract instruments. Further, NSF's mission of supporting fundamental research strives to maximize award dollars used to support program requirements.

The following types of expenses have been determined by NSF to be inappropriate uses for fees received under NSF major facility construction and operations awards:

- alcoholic beverages,
- lobbying as set forth at 2 CFR § 200.450 and FAR 31.205-22, as appropriate to the recipient type,
- meals for non-business purposes,

- entertainment for non-business purposes,
- non-business travel.

This list may be updated if the Director determines any other purpose as inappropriate.

NSF will conduct reviews of recipient use of fee on a periodic basis, and if determined appropriate on an ad hoc basis, to assess the extent to which the recipient is adhering to NSF's guidelines on use of fees. As set forth in NSF policy, failure of the recipient to reasonably adhere to NSF guidelines for inappropriate use of fee may result in reduction of the agreed fee amount under the award.