BRIEF

Policy Summary

Berkeley Lab, as part of the University of California, is accountable to the U.S. Department of Energy (DOE) for the appropriate expenditure of DOE funds. It is the policy of Berkeley Lab not to incur unallowable costs for work performed under DOE Contract No. DE-AC02-05CH11231 (Contract 31).

Who Should Read This Policy

All Berkeley Lab employees

To Read the Full Policy, Go To:

The POLICY tab on this wiki page

Contact Information

Financial Policy and Assurance Manager, Office of the Chief Financial Officer

D. Policy Statement

D1. General

D2. Reasonableness

D3. Allocability

D4. Allowability Determinations and Supporting Documentation

D5. Examples of Unallowable Costs (per FAR 31.205 and DEAR 970.3102-05)

POLICY

A. Purpose

This policy provides general guidelines for Lawrence Berkeley National Laboratory (Berkeley Lab) for determining allowable costs, in compliance with U.S. Department of Energy (DOE) Contract No. DE-AC02-05CH11231 (Contract 31), the Federal Acquisition Regulation (FAR), and the Department of Energy Acquisition Regulation (DEAR). This policy is not intended to amend or replace any federal, state, or regulatory requirements. For more specific details, refer to Contract 31, FAR, and DEAR.

B. Persons Affected
All Laboratory employees

C. Exceptions

None

D. Policy Statement

D.1 General

Allowable costs are costs and expenses actually incurred in the performance of work in accordance with the terms of Contract 31, including work funded by DOE, by other sponsors under Strategic Partnership Projects, or any other authorized work under Contract 31 agreements, that are considered necessary or incident thereto, and are determined to be allowable as defined in FAR subpart 31.201-2, Determining Allowability (FAR 31.201-2), as supplemented by specific clauses in Contract 31, and DEAR subpart 970.31, Contract Cost Principles and Procedures.

Individuals with authority to incur specific Berkeley Lab costs are responsible to ensure the costs are allowable under Contract 31 and Berkeley Lab policies, and that supporting documentation is adequate.

Principal investigators and project managers and others with signature authority have a responsibility to ensure, in consultation with the division's or area's Office of the Chief Financial Officer (OCFO) resource management staff, that costs charged to their projects are allowable.

Division and area leaders and managers have a responsibility to provide reasonable assurance that the costs incurred in their division/area comply with the allowability considerations contained in this policy.

A cost is allowable only when it complies with all of the following requirements:

- Reasonableness.
- Allocability.
- Applicable Cost Accounting Standards (CAS); otherwise, generally accepted accounting principles (GAAP) and practices appropriate to the circumstances.
- The terms and conditions of Contract 31.
- Any rules or limitations described in FAR subpart 31.201-2 as supplemented by DEAR subpart 970.31 and/or specific clauses in Contract 31.

D.2 Reasonableness

A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person while conducting normal Berkeley Lab business. The determination of reasonableness depends upon a variety of considerations and circumstances, including the following:

1. The type of cost is generally recognized as ordinary and necessary to conduct Laboratory business or contract performance.
2. The cost is in compliance with generally accepted sound business practices, arm's-length bargaining, and federal and state laws and regulations.
3. The cost supports the Laboratory's responsibilities to the government, other sponsors, the University of California (UC), employees, and the public at large.
4. The cost does not significantly deviate from established practices.

D.3 Allocability

A cost is allocable if it is assigned or charged to one or more cost objectives (projects) on the basis of benefits received (or other equitable relationship) and charged or allocated consistently and in compliance with applicable CAS and the Laboratory's CAS Disclosure Statement. Therefore, a cost is allocable if it:

1. Is incurred specifically for the project.
2. Benefits both the project and other work, and can be distributed in reasonable proportion to the benefits received.
3. Is necessary to the overall operation of Laboratory business.

D.4 Allowability Determinations and Supporting Documentation

1. Determining Allowability
   a. If it is unclear whether a cost is allowable, the individual should coordinate with the Financial Policy and Assurance Office, which
will provide determinations based upon the appropriate directive or regulation, and/or in consultation with the appropriate authorit

b. When costs are identified as questionable but considered necessary, one option available to the Laboratory is to request the Office of the Chief Financial Officer (OCFO) to coordinate with the UC Office of National Laboratories (UCNL) to seek DOE Contracting Officer approval of the specific item or category of costs. Such requests should be made in advance of any commitments being made to utilize Contract 31 funds. Supporting Documentation

2. Supporting Documentation: Each division and area is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, to demonstrate that costs claimed have been incurred per Contract 31 requirements. DOE may disallow all or part of a claimed cost that is inadequately supported.

D.5 Examples of Unallowable Costs (per FAR 31.205 and DEAR 970.3102-05)

The following are examples of unallowable costs that often arise at Berkeley Lab. The list below does not include all potential unallowable costs. If the reader's particular cost issue is not in the sample listing below, the reader should consult with the Financial Policy and Assurance Office and/or review the specific FAR and DEAR references.

1. Public Relations and Advertising Costs (FAR 31.205-1): Examples of unallowable public relations and advertising costs include the following:
   a. Costs of sponsoring meetings, conventions, symposia, seminars, and other special events when the principal purpose of the event is other than dissemination of technical information or stimulation of production.
   b. Costs of ceremonies, such as celebrations, including ribbon cuttings, and new product announcements.
   c. Costs of promotional material, motion pictures, videotapes, brochures, handouts, magazines, and other media designed to call favorable attention to the Laboratory and its activities.
   d. Costs of souvenirs, models, imprinted clothing, buttons, and other mementos provided to customers or the public.
   e. Costs of memberships in civic and community organizations.
   f. Costs of memorabilia (e.g., models, gifts, and souvenirs).
   g. Costs of alcoholic beverages, entertainment, and physical facilities that are primarily used for entertainment.

2. Bad Debts (FAR 31.205-3): Bad debts, including actual or estimated losses arising from uncollectible accounts receivable due from customers and other claims, and any directly associated costs (such as collection and legal costs) are unallowable.

3. Contributions or Donations (FAR 31.205-8): Contributions or donations, including cash, property, and services, regardless of the recipient, are unallowable, with the exception of the costs of participation in community service activities (e.g., blood bank drives, charity drives, savings bond drives, disaster assistance, etc.), as provided in FAR 31.205-1(e)(3).

4. Employee Morale (FAR 31.205-13) and Contract 31, Section J, Appendix A, Section IX:
   a. Costs of gifts are unallowable. (Gifts do not include awards for performance made in accordance with FAR 31.205-6(f), or awards made in recognition of employee achievements in accordance with an established Laboratory plan or policy.)
   b. Costs of recreation are unallowable, except for the costs of employees' participation in Laboratory-sponsored sports teams or employee organizations designed to improve loyalty, teamwork, or physical fitness. However, Contract 31 does place an annual monetary limit on all employee morale-enhancing activities. Such expenditures must be pre-approved by the Employee Activities Association Coordinator.

5. Entertainment Costs (FAR 31.205-14):
   a. Costs of amusement, diversions, social activities, and any directly associated costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.
   b. Costs of membership in social, dining, or country clubs or other organizations having the same purposes are also unallowable, regardless of whether the cost is reported as taxable income to the employees.

   a. Costs of fines and penalties resulting from violations of, or failure of the Laboratory to comply with, federal, state, local, or foreign laws and regulations, are unallowable, except when incurred as a result of compliance with specific terms and conditions of the contract or written instructions from the contracting officer (U.S. Department of Energy [DOE]).
   b. Costs incurred in connection with, or related to, the mischarging of costs are unallowable when the costs are caused by, or result from, alteration or destruction of records, or other false or improper charging or recording of costs. Such costs include those incurred to measure (or otherwise determine) the magnitude of the improper charging, and costs incurred to remedy or correct the mischarging, such as costs to rescreen and reconstruct records.

7. Independent Research and Development and Bid and Proposal Costs (FAR 31.205-18 and DEAR 970.3102-05-18): Independent research and development and bid and proposal costs are unallowable. However, DOE-approved Laboratory Directed Research and Development costs and those costs incurred in support of DOE's various reimbursable (strategic partnership project) programs are allowable.

8. Insurance (FAR 31.205-19 and DEAR 970.5228-1): Insurance costs are restricted by the terms of Contract 31. Employees should consult with the Office of the Chief Financial Officer (OCFO) and Lab Counsel before incurring insurance related expenses.

9. Lobbying and Political Activity Costs (FAR 31.205-22 and DEAR 970.3102-05-22): Costs associated with the following activities are unallowable:
   a. Attempts to influence the outcomes of any federal, state, or local election, referendum, initiative, or similar procedure through in-kind or cash contributions, endorsements, publicity, or similar activities.
   b. Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections.
   c. Any attempt to influence:
      i. The introduction of federal, state, or local legislation, or
      ii. The enactment or modification of any pending federal, state, or local legislation through communication with any member or employee of Congress or the state Legislature (including efforts to influence state or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto
enrolled legislation.

10. **Plant Reconversion Costs (FAR 31.205-31):** Reconversion costs are **unallowable** except for the cost of removing government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be **allowed** to the extent agreed upon before costs are incurred.

11. **Professional and Consultant Service Costs (FAR 31.205-33):** Costs of professional and consultant services performed under any of the following circumstances are **unallowable**:
   a. Services to improperly obtain, distribute, or use information or data protected by law or regulation.
   b. Services that are intended to improperly influence the contents of solicitations, the evaluation of proposals or quotations, or the selection of sources for contract award, whether the award is by the government or by a prime contractor or subcontractor.
   c. Any other services obtained, performed, or otherwise resulting in violation of any statute or regulation prohibiting improper business practices or conflicts of interest.
   d. Services performed that are not consistent with the purpose and scope of the services contracted for or otherwise agreed to.

See the Consultants to Berkeley Lab Policy for additional guidance.

12. **Recruitment Costs (FAR 31.205-34 and Contract 31, Section J, Appendix A, Section X):** Help-wanted advertising costs are **unallowable** if the advertising:
   a. Does not describe specific positions or classes of positions.
   b. Includes material that is not relevant for recruitment purposes, such as extensive illustrations or descriptions of the Laboratory's products or capabilities.
   c. The Laboratory may incur costs for the recruitment of personnel, as follows:
      i. Costs of advertising and agency and consultant fees shall not exceed $1 million annually without prior Contracting Officer (DOE) approval.
      ii. Travel and subsistence for interviewee, interviewer, and recruiting contact paid in accordance with Contract 31, Section J, Appendix A. As approved by the Laboratory Director, expenses for round-trip travel and subsistence for the interviewee's spouse may be reimbursed. Meal expense for interviewer's spouse may be reimbursed.
      iii. New or prospective employees who have been offered and have accepted a position, and who are required to take a preplacement physical examination, shall be reimbursed for costs of the physical examination.
      iv. Costs associated with pre-employment screening shall be allowable.

13. **Relocation Costs (FAR 31.205-35):** The following types of costs are **unallowable**:
   a. Loss on the sale of a home.
   b. Costs **incident to** acquiring a home in the new location as follows:
      i. Real estate brokers' fees and commissions.
      ii. Costs of litigation.
      iii. Real and personal property insurance against damage or loss of property.
      iv. Mortgage life insurance.
         1. Owner's title policy insurance when such insurance was not previously carried by the employee on the old residence. However, the cost of a mortgage title policy is allowable.
         2. Property taxes and operating or maintenance costs.
   c. Continuing mortgage principal payments on a residence being sold.
   d. Costs **incident to** furnishing equity or nonequity loans to employees or making arrangements with lenders for employees to obtain lower-than-market rate mortgage loans.
      i. If relocation costs for an employee have been allowed and the employee resigns within 12 months for reasons within the employee's control, the Laboratory will refund or credit the relocation costs to the government.

See the Relocation Assistance Policy in the Requirements and Policies Manual (RPM) for more information on relocation costs.

14. **Taxes (FAR 31.205-41):** The following types of costs are **unallowable**:
   a. Federal income taxes.
   b. Taxes in connection with financing, refinancing, refunding operations, or reorganizations.
   c. Taxes from which exemptions are available directly, or available based on an exemption afforded the government, except when the contracting officer determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the government.
   d. When partial exemption from a tax is attributable, taxes charged in excess of that amount resulting from application of the preferential treatment are unallowable.
   e. Special assessments on land that represent capital improvements.
   f. Taxes (including excises) on real or personal property, or on the value, use, possession, or sale thereof, which is not used in connection with government work.
   g. Any excise tax in Subtitle D, Chapter 43 of the Internal Revenue Code of 1986, as amended (which includes excise taxes imposed in connection with qualified pension plans, welfare plans, deferred compensation plans, or other similar types of plans).

15. **Trade, Business, Technical, and Professional Activity Costs (FAR 31.205-43):** The following types of costs are allowable:
   a. Memberships in trade, business, technical, and professional organizations.
   b. Subscriptions to trade, business, professional, or other technical periodicals.
   c. Costs associated with the preparation, presentation, or publication of the Laboratory's products or capabilities.
   d. Costs associated with pre-employment screening shall be allowable.

16. **Research and Development Costs (FAR 31.205-48):** When research and development costs are incurred in excess of either the
amount sponsored by the grant for research and development effort or the ceiling required in the performance of a contract, the excess is unallowable under any other government contract or grant.


E. Roles and Responsibilities

<table>
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<th>Role</th>
<th>Responsibility</th>
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| Berkeley Lab employees | • Adhere to Berkeley Lab’s published policies to avoid incurring unallowable costs.  
• Maintain adequate supporting documentation to support allowability of costs. |
| Principal investigators and project managers and others with signature authority | • Ensure that costs are allowable before approving purchases or transferring costs (labor and non-labor) or approving cost transfers.  
• Coordinate with the Financial Policy and Assurance Office if there is uncertainty about the allowability of a cost.  
• Maintain adequate supporting documentation to support allowability of costs. |
| Laboratory leaders and managers | • Provide reasonable assurance that the costs incurred in their division/area comply with the allowability considerations contained in this policy. |
| Office of the Chief Financial Officer (OCFO) Field Finance Resource Analysts | • Ensure that costs are allowable before approving purchases or transferring costs (labor and non-labor) or approving cost transfers.  
• Coordinate with the Financial Policy and Assurance Office if there is uncertainty about the allowability of a cost.  
• Maintain adequate supporting documentation to support allowability of costs. |
| OCFO Financial Policy and Assurance Office | • Provides consultation and direction regarding questions about cost allowability issues. |
| Controller’s Office | • Coordinates with the UC Office of the National Laboratories (UCNL) regarding costs that may require approval of the U.S. Department of Energy (DOE) Office of Science Berkeley Site Office (BSO).  
• Coordinates with the UCNL to ensure proper reimbursement to the government for any unallowable expenses charged to Contract 31. |
| Chief Financial Officer | • Develops, implements and enforces policies and procedures to ensure effective financial administration of the Laboratory. |
| UCNL | • Coordinates with the BSO to obtain advanced approvals of costs that may appear questionable, but are necessary to the overall efficient operation of Berkeley Lab.  
• Reimburses the government from the performance management fee for any unallowable expenses charged to Contract 31. |
| BSO Contracting Officer | • Has final decision-making authority on allowability of a cost. |

F. Definitions/Acronyms

<table>
<thead>
<tr>
<th>Term</th>
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<tr>
<td>Allocable cost</td>
<td>A cost that is assignable or chargeable to one or more cost objectives on the basis of relative benefits received or another equitable relationship.</td>
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<tr>
<td>Allocate</td>
<td>To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reallocation of a share from an indirect cost pool.</td>
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<tr>
<td>Allowable cost</td>
<td>A cost that is (1) reasonable, (2) allocable, and (3) that complies with the Federal Acquisition Regulation (FAR) Cost Accounting Standards, and the terms of Contract 31.</td>
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<td>Arm's-length bargaining</td>
<td>A process in which the parties involved are dealing from equal bargaining positions, neither party is subject to the other’s control or dominant influence, and the transaction is treated with fairness, integrity, and legality.</td>
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<tr>
<td>CAS</td>
<td>The Cost Accounting Standards are federal regulations, codified at 48 CFR 9900, that provide rules for estimating, accumulating, and reporting costs under government contracts.</td>
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Cost objective
A function, organizational subdivision, program, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, projects, etc.

DEAR
The Department of Energy Acquisition Regulation, a document that establishes uniform acquisition policies that implement and supplement FAR. It is not, by itself, a complete document and must be used in conjunction with FAR and the U.S. Department of Energy (DOE) Contract No. DE-AC02-05CH11231 (Contract 31).

Expressly unallowable cost
A particular item or type of cost that, under the express provisions of an applicable law, regulation, or contract, is specifically named and stated to be unallowable.

FAR
The Federal Acquisition Regulation is the primary regulation for use by all federal executive agencies in their acquisition of supplies and services with appropriated funds.

Final cost objective
A cost objective to which is allocated both direct and indirect costs and which is one of the final accumulation points.

G. Recordkeeping Requirements
None

H. Implementing Documents

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<td>Request for Issuance of Check (RFIC)</td>
<td>Policy</td>
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I. Contact Information
Financial Policy and Assurance Manager, OCFO

J. Revision History

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<th>Revision</th>
<th>By whom</th>
<th>Revision Description</th>
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<td>3/20/2012</td>
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<td>M. Mock</td>
<td>Reformat for wiki</td>
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Document Information

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Source Requirements Documents

- Federal Acquisition Regulation, Part 31, Contract Cost Principles and Procedures, Subpart 31.2, Contracts with Commercial Organizations, FAR 31.201-2, *Determining Allowability*
- Federal Acquisition Regulation, Part 31, Contract Cost Principles and Procedures, Subpart 31.2, Contracts with Commercial Organizations, FAR 31.205, *Selected Costs*
- Department of Energy Acquisition Regulation, Part 970, DOE Management and Operating Contacts, Subpart DEAR 970.31, *Contract Cost Principles and Procedures*
- U.S. Department of Energy (DOE) Contract No. DE-AC02-05CH11231, Section J, Appendix A, Section IX, *Employee Programs*
- U.S. Department of Energy (DOE) Contract No. DE-AC02-05CH11231, Section J, Appendix A, Section X, *Costs of Recruiting Personnel*

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