

**ADOPTED REGULATION OF THE
COMMITTEE ON LOCAL GOVERNMENT FINANCE**

LCB File No. R007-12

Effective December 20, 2012

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-12, NRS 354.107, 354.594 and 354.613; §13, NRS 354.107, 354.594, 354.59891 and 354.613.

A REGULATION relating to local government financial administration; prescribing standards for the allocation of certain expenses of a local government to an enterprise fund; and providing other matters properly relating thereto.

Section 1. Chapter 354 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicable credits” means those receipts or other credits which apply to offset or reduce any items of expense that are allocable to an enterprise fund, such as, without limitation, the return of a product.*

Sec. 4. *“Central service cost allocation plan” means the documentation of a local government that identifies, accumulates, allocates or develops billing rates for the allocation of the cost of services and property provided by the local government on a centralized basis to its departments, agencies and enterprise funds.*

Sec. 5. *“Cost” means the amount of cost as determined on a cash basis, an accrual basis or any other basis in accordance with generally accepted accounting principles.*

Sec. 6. *“Direct cost” means a cost incurred by a department, an agency or an enterprise fund of a local government for services or property specifically associated with and used by that department, agency or enterprise fund, such as the rental charged to a specific department, agency or enterprise fund for its particular use of a building.*

Sec. 7. *“Indirect costs” means costs incurred for a common or joint purpose that benefits more than one cost objective, such as, without limitation, general overhead costs that are not directly linked to a specific program.*

Sec. 8. *“Payments in lieu of taxes” means payments that:*

- 1. Are made to a local government to help offset losses in property taxes;*
- 2. Can be independently determined and verified; and*
- 3. Relate to specific property taxes.*

Sec. 9. *“Reasonable cost” means a cost which, in its nature and amount, does not exceed the cost that would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.*

Sec. 10. *Sections 11 and 12 of this regulation do not apply to a local government:*

- 1. That does not have any enterprise funds; or*
- 2. To which subsection 1 of NRS 354.613 does not apply.*

Sec. 11. *Except as otherwise limited by the provisions of this section and section 12 of this regulation, the central service cost allocation plan of a local government:*

- 1. May include costs for services and property that are payable from the general fund or any internal service funds or other funds of the local government.*

2. Must be limited to indirect costs for services and property provided by the local government on a centralized basis, which may include, without limitation, general administrative costs, planning costs, budgeting costs, payroll costs, legal costs, legislative costs, and costs for general ledger accounting, internal audits, the administration of accounts payable, human resources, general services, emergency services, public relations, public works, property management, building and grounds maintenance, procurement and contracts, grants management, risk management, a motor pool, road maintenance, water and sewer service, telecommunications, automatic data processing services, printing, maintaining a library, records maintenance, storage and warehousing, and animal control.

3. Must not include any transfers of franchise fees, payments in lieu of taxes made for the use of any rights-of-way, payments for debt service or any direct costs which are billable directly to a specific department, agency or enterprise fund of the local government.

4. Must be based upon either audited historical data or budget data. The determination of which data to use must anticipate any expected program changes for the coming year that would not be reflected in historical data.

5. Must allocate costs in a manner that:

(a) Provides for an equitable distribution of general, overhead, administrative and similar costs of the local government; and

(b) Allocates to an enterprise fund only costs for services and property that are assignable or chargeable to the cost objective of the enterprise fund.

6. Must include a description of the methodology used to determine the allocation of costs and a schedule of the current billing rates for those costs.

7. Must be updated annually before:

(a) The date on which the local government submits its tentative budget to the Department;

or

(b) If the local government is exempt from the requirement to submit a tentative budget to the Department, the date on which the local government submits its final budget to the Department.

8. Must include an attestation, signed by the chief financial officer of the local government or his or her designee, that the central service cost allocation plan complies with the provisions of sections 2 to 12, inclusive, of this regulation.

Sec. 12. 1. The costs which may be allocated to an enterprise fund of a local government pursuant to paragraph (c) of subsection 1 of NRS 354.613 must be reasonable costs and include only the amounts remaining after the deduction of any applicable credits.

The costs must also be:

(a) Necessary and reasonable for the proper and efficient administration and performance of the enterprise fund;

(b) Consistent with policies, regulations and procedures that apply uniformly to the enterprise fund and other activities of the local government;

(c) Determined in accordance with generally accepted accounting principles; and

(d) Documented adequately for independent verification.

2. In determining whether a cost is a reasonable cost for the purposes of subsection 1, consideration must be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the enterprise fund;

(b) Whether the cost is consistent with sound business practices, the indicia of an arm's length transaction, and the requirements and restraints imposed by state laws and regulations;

(c) The market prices for comparable services or property;

(d) Whether the persons incurring the cost acted with prudence under the circumstances considering their responsibilities to each pertinent governmental unit and its employees, and to the general public; and

(e) Any significant deviations from the established practices of the local government that may have unjustifiably increased the cost.

Sec. 13. NAC 354.855 is hereby amended to read as follows:

354.855 1. In accordance with paragraph ~~[(d)]~~ (e) of subsection 4 of NRS 354.59891 ~~[(e)]~~ *and except as otherwise limited by sections 2 to 12, inclusive, of this regulation*, the following direct and indirect costs of a program for the issuance of building permits are permissible expenditures from the enterprise fund created exclusively for building permit fees:

(a) Issuance of building permits;

(b) Review of the plans for development of the site, including, without limitation, grading of the property;

(c) Review of the plans for conformance with zoning ordinances and regulations;

(d) Review of the plans for and inspection of:

(1) A building or structure, including, without limitation, the mechanical, electrical and plumbing systems and the structural components of the building or structure;

(2) A permanent ride or structure that carries passengers over a fixed or restricted route primarily for the amusement of passengers;

(3) A system designed primarily for the transportation of passengers over a restricted course, including, without limitation, a monorail;

(4) The installation of manufactured homes and manufactured buildings; and

(5) Outdoor advertising signs, displays and devices;

(e) Administration of and support activities for the program; and

(f) Inspection of a building or structure after a disaster.

2. A local government that has created an enterprise fund for building permit fees:

(a) Shall not collect as a portion of a building permit fee a fee for any inspection activities that are provided by another local governmental entity for which an inspection fee has been collected.

(b) May collect fees and taxes for other governmental entities at the time a building permit is issued. The local government shall remit any fees and taxes collected for another local governmental entity to that entity at least once each month on a date agreed to by the local government and the entity, and unless otherwise authorized by statute or local ordinance, may not retain any part of the fees or taxes as a collection or administrative fee.

3. As used in this section:

(a) “Building permit” has the meaning ascribed to it in paragraph (b) of subsection 1 of NRS 354.59891.

(b) “Building permit fee” has the meaning ascribed to it in paragraph (d) of subsection 1 of NRS 354.59891.

(c) “Inspection” means an examination of a building or structure, or the components of a building or structure, to determine compliance with local building and fire codes and regulations.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

LCB FILE R007-12

**Prescribing Standards for the Allocation of Certain Expenses
of a Local Government to an Enterprise Fund**

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) 354 adopted by the Committee of Local Government Finance.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Department of Taxation, as staff to the Committee on Local Government Finance, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
11-29-11	Workshop	12-14-11	251	21
4-10-12	Hearing	5-10-12	251	22
4-24-12	Workshop	5-10-12	251	22
9-21-12	Hearing	10-23-12	407	89

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

Many oral and several written comments or documents were received at the workshops and hearings. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Nevada Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Nevada Department of Taxation at ware@tax.state.nv.us.

The Legislative Counsel Bureau (LCB) completed its review and revisions on April 10, 2012. The Committee on Local Government Finance adopted the regulation with amendments at the hearing held on October 23, 2012.

2. The number persons who:

(a) Attended and testified at each workshop:

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
12-14-11	88	8
5-10-12	29	7

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Commission/ Public Attended</u>	<u>Public Testified</u>
5-10-12	10 / 29	1
10-23-12	9 / 27	4

(c) **Submitted to the agency written comments:**

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
12-14-11 Workshop	3
5-10-12 Workshop	None Received
5-10-12 Hearing	None Received
10-23-12 Hearing	None Received

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected and interested local governments, businesses and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct email to county officials and other interested parties lists maintained by the Department. Approximately 22% of the approximately 407 direct notices were sent to individuals or associations representing business.

Members of the Committee on Local Government Finance, local government officials, and members of the general public commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing of the Committee on Local Government Finance.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Nevada Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Nevada Department of Taxation at ware@tax.state.nv.us.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted with changes reflecting the verbal and written comments submitted to, or received by, the Nevada Department of Taxation primarily from local governments during the workshops and hearings listed above. The Committee on Local Government Finance adopted the permanent regulation as revised in workshops and hearings; and believed no changes other than those made were necessary.

5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

The regulation establishes standards for the allocation of certain expenses of a local government to an enterprise fund and describes the information to be included in the central service cost allocation plan of a local government. The allocation plan must be limited to indirect costs for services and property provided by the local government on a localized basis. The regulations provide examples of the types of indirect costs that may be included and the types of costs that must not be included. The regulation provides the cost allocation plan must include the criteria and methods by which costs are allocated and provides the criteria for determining which costs may be allocated to an enterprise fund.

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public. The regulation provides guidelines for determining how to construct a cost allocation plan for local governments with central services as they relate to enterprise funds; and does not directly affect businesses.

The long-term effect is to provide a consistent process used by local governments to construct cost allocation plans as they relate to enterprise funds. The immediate effect is to provide guidance with regard to the criteria for developing a cost allocation plan.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The Department does not anticipate any cost to the agency for enforcement.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The Committee on Local Government Finance is not aware of any provision in this regulation which is also governed by federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not provide for a new fee, and does not increase an existing fee.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restricted the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Committee on Local Government Finance determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination the Committee considered the fact that the proposed amendment only applies to activity by local and state government officials and imposes no direct requirements on any private businesses.