

AccountAble™

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FCRA 2010 places a limit of 50% on administrative expenses. This means that only up to 50% of foreign contribution can be used for administrative expenses.¹ If you are likely to use more than 50% on administration, you should get prior-approval from the Government.²

However, till now, there has been no mechanism to monitor spending on administrative expenses. This has changed now. The new form FC-4 (annual return) requires disclosure of foreign contribution spent on administrative expenses. If this is not done properly, an NGO may be penalized for wrong disclosure.

This issue of AccountAble discusses the problems surrounding accounting and reporting of administrative expenses.

Administrative Expenses

Administrative expenses have a special meaning under FCRA. These are defined in the rules.³

Rule 5	Interpretation
(i) salaries, wages, travel expenses or any remuneration realised by the Members of the Executive Committee or Governing Council of the person	Remuneration and Travel to Office Bearers
(i) all expenses towards hiring of personnel for management of the activities of the person and salaries, wages or any kind of remuneration paid, including cost of travel, to such personnel	• Remuneration and travel to Staff • Recruitment of Staff (see <i>Managerial Staff or All Staff?</i> on page 2)
(vii) legal and professional charges	Fees to consultants, professionals, auditors, lawyers, etc.
(vi) cost of writing and filing reports	

¹ This issue was debated at great length by the Parliamentary Committee which reviewed draft of the FCRA Bill. Some luminaries such as Dr. Bimal Jalan stated that 'in respect of service organizations, most of the expenditure could be in the form of salaries allowances for field-work, and it is not possible to differentiate between administrative expenses and other expenses, like salaries'. Others, such as some political parties felt that the limit should be brought down to 25%. Ultimately, Committee recommended that it be kept at 50%. (Parliamentary Report, 2008)

² Proviso to Sec. 8(1)(b) of FCRA 2010

³ Rule 5 of FCR Rules 2011:

5. Administrative expenses. –

The following shall constitute administrative expenses:-

- (i) salaries, wages, travel expenses or any remuneration realised by the Members of the Executive Committee or Governing Council of the person;
- (ii) all expenses towards hiring of personnel for management of the activities of the person and salaries, wages or any kind of remuneration paid, including cost of travel, to such personnel;
- (iii) all expenses related to consumables like electricity and water charges, telephone charges, postal charges, repairs to premise(s) from where the organisation or Association is functioning, stationery and printing charges, transport and travel charges by the Members of the Executive Committee or Governing Council and expenditure on office equipment;
- (iv) cost of accounting for and administering funds;
- (v) expenses towards running and maintenance of vehicles;
- (vi) cost of writing and filing reports;
- (vii) legal and professional charges; and
- (viii) rent of premises, repairs to premises and expenses on other utilities;

Provided that the expenditure incurred on salaries or remuneration of personnel engaged in training or for collection or analysis of field data of an association primarily engaged in research or training shall not be counted towards administrative expenses:

Provided further that the expenses incurred directly in furtherance of the stated objectives of the welfare oriented organisation shall be excluded from the administrative expenses such as salaries to doctors of hospital, salaries to teachers of school etc.

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Rule 5	Interpretation
(iv) cost of accounting for and administering funds	Salaries of Accountant, Cashier etc.
(v) expenses towards running and maintenance of vehicles	Vehicle fuel, repairs and maintenance
(viii) rent of premises, repairs to premises and expenses on other utilities	Rent and Repairs
(iii) all expenses related to consumables like electricity and water charges, telephone charges, postal charges, repairs to premise(s) from where the organisation or Association is functioning, stationery and printing charges, transport and travel charges by the Members of the Executive Committee or Governing Council and expenditure on office equipment;	Maintenance of office equipment, utilities and overheads

Exceptions

Some expenses have been specifically excluded:⁴

Exception	Applies to
(i) salaries or remuneration of trainers ⁵	NGO primarily engaged in research and training
(ii) salaries or remuneration of surveyors and analysts ⁶	
Direct expenses in providing services, such as: (i) salaries of doctors in a hospital (ii) salaries of teachers in a school	Welfare oriented organisations

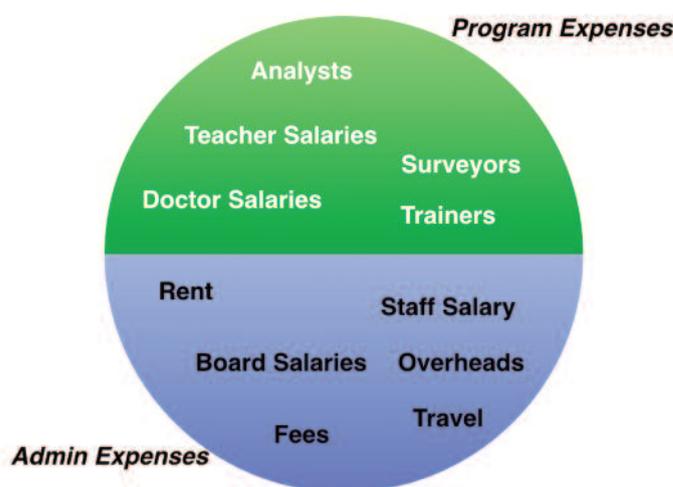
In addition to the above, following expenses are apparently not included in administrative expenses:⁷

- Fund-raising expenses

- Purchase of fixed assets, vehicles, building, etc.⁸
- Medicines, books, other items for distribution among communities
- Advertisement and publicity expenses
- Interest paid to bank, bank charges, hospitality expenses, etc.⁹

Managerial Staff or All Staff?

Rule 5 talks about 'personnel for management of activities' of the organisation. Some interpret this as 'managerial staff'. Others take a more cautious view, and include all staff of the organisation.



The terms 'managerial staff' or 'management staff' are hierarchical. These refer to managers or supervisors who manage and guide other staff. However, the definition does not use this term. Instead it talks about people who

⁴ This has been done in recognition of higher administrative expenses of 'associations engaged in educational and research activities'. (para 76.2 of Parliamentary Report, 2008)

⁵ Persons engaged in training

⁶ Persons engaged in collection or analysis of field data

⁷ As defined in rule 5. The rule uses the word 'constitute'. Therefore, the definition of administrative expenses should be treated as exhaustive, not inclusive.

⁸ Purchase of fixed assets is reported as a separate item in new FC-4.

⁹ 'Q.23 Whether expenses like 'interest paid to bank', 'bank charges', 'hospitality' etc. can be included in 'administrative expenses'?

Ans. No. The definition of as 'administrative expenses', as given in Rule 5 of FCRR, 2011 is explicit in this regard.'

Source: *Frequently Asked Questions (FAQs) on FCRA*; http://mha.nic.in/pdfs/Foreign-Foreign-FCRA_FAQs.pdf; Last accessed 30-Sep-12

are *managing the activities* of the organization. This could include all staff, whether at management level or field level. Secondly, if the phrase did not cover all staff, there would be no need to exclude teachers, doctors, surveyors, etc. from the definition.¹⁰ Discussions in the Parliamentary Committee and MHA submissions also support the view that all staff are included in the definition.

In practice, Department has already started using this method of computing administrative expenses. It computed administrative expenses at 81-89% for Greenpeace India. Similarly, administrative expenses have been pegged at 55-64% for Sabrang Trust. You can get this kind of percentages only if salaries of all staff are included in the calculation.

Therefore, it would be safer to treat all staff / Board salaries as administrative expenses. However, if you are a welfare oriented organization or are engaged in research or training, then salary to some staff would be excluded from administrative expenses.

Other Doubts

How do you treat grants to other organisations, when made by an Indian NGO with FCRA registration? If the NGO is a grant-making agency, the grants should be treated as program expenditure. If the NGO is an implementing organisation, then it would be safer to exclude the pass-through grants from total foreign contribution received.

Then does this limit apply to organisations under prior-permission as well¹¹ or only to organisations with FCRA registration? Section 8 explicitly covers prior-permission cases as well. Therefore, it is better to seek specific approval of FCRA Department for higher administrative expenditure.

Budgeting

NGOs involved in advocacy and rights-based work often spend large amounts on staff. These NGOs are most likely to be affected by this restriction. They should review their foreign contribution budgets carefully. If



the budget for 'administrative expenses' (per rule 5) crosses 50%, they could:

1. Check whether their work falls in the exempt category of an 'association primarily engaged in research or training'. If so, salaries of trainers and field surveyors, analysts would not be treated as administrative expenses.
2. Discuss restructuring of the activities and project budgets with their donors.
3. Apply to FCRA for approval of higher administrative expenses.¹²

¹⁰ Provisos to rule 5

¹¹ Grant budgets of prior-permission organisations are approved in advance by FCRA Department.

¹² Proviso to sec. 8(b) of FCRA 2010. Proper justification is required.

Tracking

How do you keep track of administrative expenses? The rule 5 classification doesn't match normal requirements of accounting or donor reporting. There are two options to track these:

1. Use a cost centre to track FCRA Admin Expenses. You can tag various expenses with this cost centre, without disturbing your chart of accounts. This works if you are not already using cost centres for donor reporting.
2. Prepare a grouping of FCRA Admin Expenses, using audited figures of expenses. This grouping can be included in the audited FCRA financial statements as a note.

Monitoring

The 50% limit on administrative expenses is linked to total foreign contribution received during the year. This means the limit applies to total foreign contribution – it need not be followed for each project separately.

Is the limit of 50% linked to total spending or total receipts in a financial year?¹³ The section says that more than 50% of foreign contribution received in a year *shall not be defrayed* towards administrative expenses. Therefore, the limit should be calculated against utilization, not receipts.

Reporting

Amount spent on administrative expenses should be reported as just one figure in form FC-4. This became applicable on 14-Dec-15. All FCRA annual returns¹⁴ filed online after this date must disclose administrative expenses.

Implications

What if you are not able to keep the expenses within 50%?¹⁵ All such NGOs are likely to receive a show-cause notice from FY 15-16. This may lead to penalty, suspension or cancellation of FCRA.¹⁶

¹³ 8. Restriction to utilise foreign contribution for administrative purpose.

(1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution ...
(b) shall not defray as far as possible such sum, not exceeding fifty per cent of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding fifty per cent of such contribution may be defrayed with prior approval of the Central Government...

¹⁴ Including pending returns for FY 14-15

¹⁵ Or the increased limit

¹⁶ There is no separate penalty for this violation. Therefore, the catch-all penalty under Sec. 37 of FCRA 2010 becomes applicable. This section allows fine or imprisonment upto one year. However, the Department is unlikely to impose strict penalties for ordinary cases.

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