
Friday
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Part XII

Department of Labor

**Implementation of Federal Management
Circular 74-4; Allowability of Costs
Incurred by State and Local
Governments in Administering Federal
Financial Assistance Programs**

DEPARTMENT OF LABOR

41 CFR Part 29-15

Implementation of Federal Management Circular 74-4; Allowability of Costs Incurred by State and Local Governments in Administering Federal Financial Assistance Programs

AGENCY: Department of Labor.

ACTION: Proposed rule.

SUMMARY: The proposed regulation implements a Federal Management Circular which governs the allowability of costs incurred by State and local governments in administering Federal financial assistance programs.

The principal impact of this regulation, at least initially, will be on employment security programs. The proposed regulation partially supplants employment security administration requirements, issued in the form of fiscal standards, which appear in Part IV of the Employment Security Manual, a publication of the Employment and Training Administration of the U.S. Department of Labor. Portions of Part IV of the Employment Security Manual related to fiscal standards will be revised.

EFFECTIVE DATE: Comments are invited from other Federal agencies, the various States, and the public. They must be received on or before January 19, 1981.

ADDRESS: Comments should be sent to the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attention: Theodore Goldberg, Director, Office of Grants and Procurement Policy.

FOR FURTHER INFORMATION CONTACT: Theodore Goldberg, Director, Office of Grants and Procurement Policy, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-9174.

SUPPLEMENTARY INFORMATION:

Background

Under section 302(a)(8) of the Social Security Act and section 5(b) of the Wagner-Peyser Act, payment is authorized to the States of such amounts as the Secretary of Labor finds necessary for the proper and efficient administration of the State's unemployment compensation laws and their public employment offices, respectively. Over the years, a body of "fiscal standards" has been developed to indicate what types of expenditures are considered necessary for proper and efficient administration. These

standards appear in Part IV of the Employment Security Manual, a publication of the Employment and Training Administration issued to State employment security agencies to direct and assist them in administering their unemployment compensation laws and public employment offices.

The Department of Labor is in the process of discontinuing the use of manuals for communicating financial assistance program requirements to recipients and replacing them with regulations. DOL administrative requirements for financial assistance programs, which appear at 41 CFR 29-70, will become effective for employment security programs on the effective date of this Part 29-15. Part 29-70 is primarily concerned with the procedural aspects of administering financial assistance programs and includes requirements for cash management, bonding and insurance, program income, financial management and performance monitoring, financial and statistical reporting, property management, and procurement.

Government-wide cost principles have been issued by the Office of Management and Budget for grants and contracts with State and local governments as Federal Management Circular (FMC) 74-4. FMC 74-4 is codified as Subpart 1-15.7 of 41 CFR 1-15 and is incorporated by reference into 41 CFR 29-70.103, which establishes cost principles for grants and agreements with the Department of Labor. In general, these principles parallel the cost provisions of the fiscal standards. It is now proposed to restructure the system of administrative guidance provided State employment security agencies by (a) replacing manuals with regulations as the means of promulgating requirements and (b) aligning employment security allowable cost requirements with the structure of the Government-wide cost principles of Federal Management Circular (FMC) 74-4. Effective with the final issuance of these regulations any conflicting provisions of the Employment Security Manual or other issuances are rescinded.

Although this part deals primarily with the allowable costs of employment security programs, some sections apply to all DOL financial assistance programs. The following comparisons between the provisions of FMC 74-4 and those of this Part 29-15 are divided into two groups. DOL regulations included in the first group apply to all DOL financial assistance programs. DOL regulations in the second group apply only to employment security programs.

1. Comparison of FMC 74-4 and Proposed Sections of Part 29-15 Which Are Applicable to All DOL Financial Assistance Programs. Substantive differences between the provisions of FMC 74-4 and the proposed regulations together with the reasons for these differences are as follows:

§ 29-15.707 The requirements of FMC 74-4 which apply to costs incurred by agencies other than the grantee are clarified by indicating (a) that "agency" refers to another unit within the same government as the grantee, (b) that charges under other than cost-type arrangements with other governments are allowable if the related services are obtained in conformity with the procurement requirements of 41 CFR 29-70.216, and (c) that the use of "standard indirect rates" is limited to situations in which services are provided on a sporadic rather than a continuing basis.

2. Comparison of FMC 74-4 and Proposed Sections of Part 29-15 Which Are Only Applicable to Employment Security Programs. Substantive differences between the provisions of FMC 74-4 and the proposed regulations (designated by a "c" after the section number) together with the reasons for these differences are as follows:

§ 29-15.702c-3 Adds the requirement that costs incurred by SESAs be determined in accordance with the "State Accounting Manual" (ETA Handbook No. 362) in order to assure comparability in reported costs.

§ 29-15.703c-3 Specifies that payments received from Comprehensive Employment and Training Act (CETA) prime sponsors for services within the scope of employment security programs, such as counseling and placement, shall be treated as applicable credits pursuant to § 1-15.703-3(b).

§ 29-15.711c-2 Provides additional detail on allowable SESA advertising costs.

§ 29-15.711c-3 Provides additional detail on allowable SESA advisory council costs. Includes rules for States which compensate members of an employment security advisory council but not members of other advisory councils.

§ 29-15.711c-10 Adds requirements for documenting payrolls and allocating costs based on time distribution methodology in accordance with the "State Accounting Manual" (ETA Handbook No. 362) in order to assure comparability of reported costs.

§ 29-15.711c-12 Provides additional detail on allowability of costs of disbursing unemployment benefits.

§ 29-15.711c-13 Adds requirements for employee fringe benefit plans, including retirement pension plans,

which are only open to SESA employees. The regulation in effect limits membership in SESA retirement plans to those who were members by a certain date (after the effective date of the regulation). The provisions of the plans are generally patterned after the benefits provided under the U.S. Civil Service retirement system including cost of living provisions. These approved provisions in use on the effective date of these regulations will continue. The regulation also in effect limits the period during which other fringe benefits such as life, health, and disability insurance may be provided under plans open only to SESA employees. The purpose of the regulation is to achieve comparability between SESA employees' compensation and the compensation of others similarly employed by the State (in accordance with FMC 74-4) without reducing retirement benefits for current SESA employees.

§ 29-15.711c-14 Adds additional detail on the allowable cost of employee award programs. Limits are placed on cash awards made to SESA employees where no general State award system is in operation.

§ 29-15.711c-15 Clarifies the type of expenses which are allowable under FMC 74-4. Adds special provisions continuing the current allowability of certain legal costs incurred by unemployment compensation claimants who appeal decisions relating to their claims for benefits.

§ 29-15.711c-19 Provides additional detail on the types of membership costs which are allowable. Also, costs of attending meetings and conferences which are not allowed under the grantee's regular practice but are nevertheless SESA-related are made allowable when approved by ETA and State authority. The purpose of the regulation is to strike a balance between State prerogatives and the proper functioning of the Federal-State employment security system.

§ 29-15.711c-26 Clarifies circumstances requiring prior approval of out-of-service training by limiting the requirement of training involving absence from work for extended periods.

§ 29-15.711c-52 Adds requirements governing the use of penalty mail (Employment Security Mail) in lieu of grant funds for communications and transportation costs under § 1-15.711-9 and § 1-15.711-27 respectively. SESAs are given the choice of continuing their present usage of penalty mail or receiving grant funds instead. SESAs which use penalty mail may not use it for any matter which does not relate exclusively to activities under the

Wagner-Peyser Act or Titles III and IX of the Social Security Act. Penalty mail also may not be used for "express mail" services. FMC 74-4 provisions govern SESAs which opt to discontinue their use of the penalty mail privilege.

§ 29-15.712c-2 Clarifies requirements for the acquisition, use, and disposition of property under rental-purchase and lease with option to purchase arrangements by specifying the applicability of requirements governing capital expenditures in general.

§ 29-15.712c-3 Clarifies requirements for allowable capital expenditure costs by: (a) explicitly linking equipment, which is discussed in FMC 74-4, with non-expendable personal property, which is discussed in 41 CFR 29-70.215; (b) specifying that DOL has an equity in property acquired under DOL-approved rental-purchase or lease with an option-to-purchase arrangements even where some of the payments are made after DOL financial assistance ceases; (c) by specifying that DOL has an equity in property acquired for activities other than employment security programs using purchase option credits or other purchase discounts included in a lease of the property to the extent that employment security funds were used to make lease payments; and (d) by specifying that payments under lease with option-to-purchase arrangements do not give rise to an equity until the option is exercised. The regulation also makes interest included in approved rental-purchase and similar arrangements an allowable cost if it can be demonstrated that the total cost would be less than any lease alternative. The purpose of this variance from FMC 74-4 is to continue to encourage SESAs to obtain the use of property by the least expensive means possible. The regulation also specifies that prior approval is only required for capital expenditures which exceed the SESA's approved non-personal services budget.

§ 29-15.712c-7 Provides additional detail on DOL prior approval requirements for professional services obtained by SESAs. The requirements have the dual aims of preserving the integrity of Federal grantee merit system requirements and of avoiding costly duplication of services available from other sources.

3. *Comparison of Fiscal Standards and Proposed Part 29-15.* Portions of the DOL Fiscal Standards (Section 0001-2999, Part IV, Employment Security Manual) which deal with allowable costs are not covered by either the proposed regulation or the related sections of Subpart 1-15.7. Identification

of this material and the reasons for its removal are as follows:

0001—Material on scope, particularly as regards State practice, adequately covered by FMC 74-4 standards.

0680-0684—Material on non-Federal contributions deleted as unnecessary and inconsistent with current Federal funding procedures.

0712—Costing of State disability insurance programs administered jointly with unemployment compensation programs on an incremental or added cost basis is no longer permitted because it conflicts with FMC 74-4 standards.

1010-1020—Much of the material on allowable legal expense has been replaced by the related FMC 74-4 standard which is less detailed but adequate.

1030-1043—Much of the material on insurance and bonding costs has been replaced by the related FMC 74-4 standard which is less detailed but adequate. The self-insurance requirement for equipment losses has been eliminated as contrary to current DOL funding procedures.

1050-1068—Much of the material on employee fringe benefits costs, including group life, health, accident, and retirement plans, Old Age and Survivors Insurance (OASI), workers' compensation, unemployment compensation and severance pay has been replaced by the related FMC 74-4 standard which is less detailed but adequate. In addition, the regulation includes substantial improvements in the benefits provided under the six SESAs' independent retirement plans which were approved after the publication of this section of the fiscal standards.

1080-1084—Material on the allowability and allocability of costs incurred by other units of State government has been replaced by the related FMC 74-4 standard.

1090-1092—The numerous, detailed, documentary requirements for obtaining approval of professional services costs have been replaced by a general requirement to furnish sufficient information to support a finding that the procurement is consistent with State practice and Federal grantee merit system standards.

1100—Material on audit costs has been deleted because it conflicts with the FMC 74-4 standards.

1210—Prohibition on contracting out ministerial functions of a State agency deleted since this is not properly a cost question.

1220—Material on meal costs at official duty station replaced by the FMC 74-4 standard on allowable

meetings costs which is less detailed but adequate.

2000-2099—Material on premises costs has been replaced by the related FMC 74-4 standard. Major changes are: SESAs can buy office buildings outright if they obtain approval and funds from ETA; rental cost of space in privately owned buildings no longer requires ETA prior approval; States will no longer be required to provide rent-free space to SESAs required to vacate space acquired with grant funds; operation and maintenance costs no longer require ETA approval; prior approval will be required for rearrangements and alterations.

4. *Other Fiscal Standards Changed by Part 29-15.* As indicated earlier, 41 CFR 29-70 will begin to be applied to employment security programs on the effective date of this Part 29-15, replacing procedural administrative requirements in section 0001-2999, Part IV, Employment Security Manual. Two other changes to DOL fiscal and administrative requirements for SESAs will also go into effect at that time. Costs of presenting State views on Federal legislation to members of Congress will become unallowable as contrary to general Federal cost policy on lobbying costs. Allowable Reed Act amortization costs, i.e., the use of granted funds to repay State Reed funds used for administrative expenditures, will be liberalized. At present, such costs are only allowable where the Reed Act funds have been used to purchase or construct office buildings. This has been changed to also include major renovations of office buildings and purchases of automatic data processing installations having a net acquisition cost exceeding \$250,000. These changes are consistent with current marketplace realities and long-standing DOL policy favoring the use of Reed Act funds for only those administrative expenditures for which granted funds were not available.

Accordingly, it is proposed to amend Title 41 of the Cost of Federal Regulations by adding the following Part 29-15:

PART 29-15—COST PRINCIPLES AND PROCEDURES FOR DOL GRANTS AND CONTRACTS

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- 29-15.000 Scope of part.
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- 29-15.711c-50 Committees on employment of the handicapped.
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- 29-15.712c Costs allowable with approval of grantor agency—Employment Security Programs.
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- 29-15.712c-7 Professional services.
- 29-15.712c-50 Reed Act amortization costs.
- 29-15.713c Unallowable costs—Employment Security Programs.
- 29-15.713c-50 Acquisitions at judicial sales.
- 29-15.713c-51 Legislative activity.

§ 29-15.000 Scope of part.

§ 29-15.000-50 Purpose and scope.

This part contains cost principles and procedures for the negotiation and administration of contracts, grants and other agreements with the Department of Labor (DOL). Costs incurred under awards of financial assistance by DOL will be determined in accordance with the applicable subpart of the Federal Procurement Regulations' Contract Cost Principles and Procedures (referred to in this part as CCPP) at 41 CFR Part 1-15 and Department of Labor Cost Principles and Procedures (referred to in this part as DOLCPP) as set forth in this part. The DOLCPP supplements (and contains some deviations from) the CCPP and should be read in conjunction with the parallel provisions of the CCPP.

§ 29-15.000-51 Authority.

The DOLCPP are authorized under 5 U.S.C. 301, Section 205(c) of the Federal Property and Administrative Services

Act of 1949 (40 U.S.C. 486(c)), and the following statutes which authorize the award of financial assistance by the Department of Labor:

(a) The Wagner-Peyser Act, as amended, (29 U.S.C., 41 et seq.)

(b) Titles III and IX, Social Security Act, as amended, (42 U.S.C. 501 et seq., 1101 et seq.)

(c) The Comprehensive Employment and Training Act, as amended, (29 U.S.C. 801 et seq.)

(d) The Employment Opportunities for Handicapped Individuals Act (29 U.S.C. 795)

(e) The Federal Mine Safety and Health Act, as amended, (30 U.S.C. 801 et seq.)

(f) The Occupational Safety and Health Act, as amended, (29 U.S.C. 651 et seq.)

(g) Title V, Older Americans Act of 1965, as amended, (42 U.S.C. 3011 et seq.)

§ 29-15.000-52 Applicability of CCPP.

The provisions of 41 CFR 1-15 shall be applicable except where this Part 29-15 contains a differing provision dealing with the same subject matter.

§ 29-15.000-53 Arrangement of regulations.

Consistent with the numbering system used in Part 29-70 of this title which pertains to administrative requirements for DOL financial assistance programs, a letter added after a section number indicates a different requirement applicable to particular programs or classes of financial assistance recipients. A section with an "a" at the end of the section number contains special requirements applicable to non-profit organizations. A section with a "b" at the end of the section number contains special requirements applicable to Comprehensive Employment and Training Act (CETA) activities. A section with a "c" at the end of the section number contains special requirements applicable to employment security programs authorized under the Wagner-Peyser Act, as amended, and Titles 3 and 9 of the Social Security Act, as amended. Thus, § 29-70.202 contains generally applicable bonding and insurance requirements. Special bonding and insurance requirements appear at § 29-70.202a for non-profit organizations, at § 29-70.202b for CETA activities, and at § 29-70.202c for employment security activities.

Subpart 29-15.7 Grants and other agreements with State and local governments

§ 29-15.702 Definitions.

§ 29-15.702-50 Grant agreement.

"Grant agreement" means an instrument executed by DOL and a grantee setting out the terms and conditions applicable to grants (transfers of money or aid-in-kind) from DOL.

§ 29-15.702-51 State employment security agency (SESA).

"State employment security agency" or "SESA" means that unit of State government authorized to receive grants from DOL under Section 5b of the Wagner-Peyser Act, as amended, and Section 302 of the Social Security Act, as amended.

§ 29-15.703c Basic guidelines—Employment Security Programs.

§ 29-15.703c-3 Applicable credits.

Payments from Comprehensive Employment and Training Act (CETA) prime sponsors for services within the scope of employment security programs, such as counseling and placement of individuals referred to SESA offices, shall be treated as applicable credits pursuant to § 1-15.703-3(b) of this title.

§ 29-15.707 Cost incurred by agencies other than the grantee.

§ 29-15.707-1 General.

"Agency" means another organizational unit of the same State or local government as the grantee agency. However, the principles of this § 29-15.707 shall also be applicable to cost-type agreements between a grantee and a unit of another jurisdiction (also see § 29-15.707-50).

§ 29-15.707-2 Alternative methods of determining indirect cost.

(a) Standard indirect rate. An amount equal to 10 percent of direct labor cost in providing the service performed by another agency (excluding overtime, shift, or holiday premiums, and fringe benefits) may be allowed in lieu of actual allowable indirect cost for the service when the service is provided on a sporadic basis.

§ 29-15.707-50 Charges for services under other than cost-type arrangements.

Charges for services provided under other than cost-type arrangements are allowable if in accordance with the procurement requirements of § 29-70.216 of this title.

§ 29-15.711c Allowable costs—Employment Security Programs.

§ 29-15.711c-2 Advertising

Costs of promotional and information activities describing services offered by employment security agencies, job openings, labor market information, and similar items are allowable.

§ 29-15.711c-3 Advisory councils.

Costs incurred in connection with the functioning of employment security advisory councils are allowable under the following conditions:

(a) Compensation may be paid to members of an advisory council under the same conditions and at the same rate(s) prescribed by State law for similar bodies of the State; or

If State law prescribes an amount or rate of compensation for employment security councils but not for similar bodies in the State, the amount or rate so prescribed, up to \$100 per day, is allowable for periods of actual attendance at formal meetings of the council or of its committees.

(b) Travel and subsistence expenses of advisory council members may be paid only in connection with their attendance at formal meetings of the council or of its committees and only at the rates applicable to employees of the SESA; and

(c) Costs of other advisory councils and their committees are allowable only if approved in advance by the Regional Administrator (RA). These costs will be subject to the standards set forth in paragraphs (a) and (b) of this section.

§ 29-15.711c-10 Compensation for personal services.

(a) General. In order for compensation costs of employment security programs to be allowable, SEA's must comply with the Federal merit system standards found at Subpart F, Part 900 of Title 5 of the Code of Federal Regulations.

(b) Payroll and distribution of time. Amounts charged to employment security programs for personal services regardless of whether treated as direct or indirect costs, shall be based on payrolls documented and approved in accordance with generally accepted practice of the SESA and the "SESA Accounting System Accounting Manual." ETA Handbook No. 362.

§ 29-15.711c-12 Disbursing Service.

The cost of disbursing employment security administration funds and unemployment compensation benefit funds is allowable.

§ 29-15.711c-13 Employee fringe benefits.

(a) Fringe benefits costs identified under paragraph (b) of § 1-15.711-13 of

this title are allowable to the extent that total compensation for employees meets the standards set forth at § 1-15.711-10 or specifically authorized in this section.

(b)(1) Costs of employer's contributions or expenses incurred under a retirement plan open only to SESA employees are allowable, subject to paragraph (b)(3) of this section, on behalf of individuals employed by affected SESAs before the effective date of this part. Such costs are allowable for the duration of SESA employment of such individuals.

(2) If State legislative action is required in order for SESA employees hired after the effective date of this part to be covered by retirement plans which also cover similarly employed State employees, the RA will grant a time extension to cover this interim period. During this extension, such SESA employees will be enrolled in the plan open to SESA employees only. No such extension may continue beyond the 60th day following the completion of the next full session of the State legislature which begins after the effective date of this part.

(3) Costs of employer contributions or expenses incurred on behalf of SESA employees under retirement plan are allowable under the following conditions:

(i) The plan is authorized by State law and approved in advance by the Regional Administrator.

(ii) The plan is insured by a private insurance carrier which is licensed by the State to operate this type of plan;

(iii) any dividends or similar credits due to participation in a plan are credited against the next premium falling due under the contract;

(c) Where fringe benefits other than retirement are provided under plans open to SESA employees only, costs of employer contributions or expenses incurred under such plans are allowable under the following conditions:

(1) State legislative action is required in order for SESA employees to be covered by plans which also cover similarly employed State employees. In such instances, the RA will grant a time extension for this purpose. No such extension may continue beyond the 60th day following the completion of the next full session of the State legislature which begins after the effective date of this part.

(2) After the extension indicated in paragraph (c)(1) of this section expires (or, if no extension is granted, after 60 days from the effective date of this part), fringe benefits other than retirement under plans open to SESA employees only shall not be allowable for any SESA employees.

(d) Requests for time extensions under paragraphs (b) and (c) of this section shall include a State Attorney General's opinion that legislative action is required in order to cover SESA employees in plans which also cover similarly employed State employees. Such requests shall be filed with the RA no later than 30 days after the effective date of this part. The RA will notify SESAs of the decision on the request within 45 days after the effective date of this part.

§ 29-15.711c-14 Employee morale, health, and welfare costs.

Costs of employee award programs, whether for pins, certificates, and similar items or for cash amounts are allowable in accordance with generally applicable practices of the State. If no generally applicable State award system exists, the cost of cash awards under a suggestion system is allowable if the system has been approved by the RA and awards are paid from savings resulting from the suggestions.

§ 29-15.711c-16 Legal expenses.

The following are allowable costs of employment security programs when necessary and reasonable:

(a) All costs associated with civil or criminal proceedings involving the SESA or, subject to paragraph (d) of this section, its employees, provided that such costs are in accordance with the Federal cost principles at 41 CFR Part 1-15, Subpart 1-15.7.

(b) Awards, judgments, settlements, court costs or other legally enforceable dispositions of legal proceedings involving the SESA or, subject to (d), its employees, provided that such costs are in accordance with the Federal cost principles at 41 CFR Part 1-15, Subpart 1-15.7.

(c) Court costs as fixed by a court and reasonable counsel fees incurred by unemployment compensation claimants and paid by the State pursuant to State law, in connection with appeals to the courts in each of the following situations:

(1) Any appeal as a result of which the claimant is awarded benefits;

(2) Any appeal from an administrative or judicial decision favorable in whole or in part to the claimant;

(3) Any appeal by a claimant from a decision which reverses a prior decision in the claimant's favor;

(4) Any appeal by a claimant from a decision denying or reducing benefits awarded under a prior administrative or judicial decision;

(5) Any other appeal by a claimant where the court finds that a reasonable basis exists for the appeal.

(d) Costs under (a) and (b) on behalf of the SESA's employees are only allowable if it can be reasonably claimed that the employees were acting in the course of their official duties.

§ 29-15.711c-19 Memberships, subscriptions, and professional activities.

(a) Memberships. Memberships which benefit employment security programs include agency memberships in community organizations for the advancement of health, welfare, commerce, or economic development, and in the Interstate Conference of Employment Security Agencies. Also included are allocable membership costs of State central service organizations which provide support services to SESAs such as those of State merit systems.

(b) Meetings and conferences. If attendance at a particular meeting is not consistent with the grantee's regular practices, followed for other activities but is nonetheless SESA-related, the costs are allowable when approved in advance by the RA and by the State authority responsible for such determinations.

§ 29-15.711c-26 Training and education.

Out-of-service training involving absence from work for extended periods of time is allowable only when specifically authorized by the RA.

§ 29-15.711c-50 Committees on employment of the handicapped.

Costs of activities undertaken in conjunction with committees on employment of the handicapped are allowable to the extent they are authorized under the Wagner-Peyser Act, as amended, and allocable to employment security programs in accordance with principles stated in this part.

§ 29-15.711c-51 Employee moving expense.

Costs incurred in moving employees from one official duty station to another are allowable in accordance with applicable State procedures provided that costs of moving employees for their own convenience or for disciplinary reasons are not allowable.

§ 29-15.711c-52 Postage.

(a) Postage charges are allowable communications costs or transportation costs provided in § 1-15.711-9 and § 1-15.711-27 respectively. Except as provided in paragraph (b) of this section, however, ETA will not provide funds to a SESA for postage costs incurred in employment security programs so long as the SESA is entitled to use penalty

mail for its official mail, as authorized under 39 U.S.C. 3202.

(b) The penalty mail privilege for SESAs under 39 U.S.C. 3202 does not extend to "express mail" services offered by the U.S. Postal Service or to mailings which do not relate exclusively to employment security programs, such as general administrative material mailed by a unit of State government responsible for other activities in addition to employment security programs. SESAs may also elect to discontinue the use of penalty mail privilege and receive additional budget authority instead provided that they notify the RA at least six months in advance of the proposed effective date of discontinuance. In any of these situations, postage charges are allowable costs which may be paid from available resources.

(c) SESAs which use the penalty mail privilege are subject to regulations promulgated by the U.S. Postal Service in Title 39 of the Code of Federal Regulations which apply to Employment Security Mail and to Official Mail generally.

§ 29-15.712c Costs allowable with approval of grantor agency—Employment Security Programs.

§ 29-15.712c-3 Building space and related facilities.

When space is acquired under rental-purchase or lease with option arrangements, the requirements in § 29-15.712c-3 are applicable.

§ 29-15.712c-3 Capital expenditures.

(a) The cost of buildings and other facilities, equipment (non-expendable personal property as defined in § 29-70.102(a) of this title), other capital assets, and renovations or repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the RA or when the source of funds used is the agency's approved annual budget for non-personal services expenditures. When assets are traded on new items, only the net cost of the newly acquired assets is allowable.

(b) When assets acquired with Federal grant funds are (1) sold, (2) no longer available for use in a federally sponsored program, or (3) used for purposes not authorized by the grantor agency, DOL's equity in the asset will be refunded in the same proportion as DOL's participation in its costs. The terms of the refund will be negotiated by the RA and the SESA. A refundable Federal equity is considered to exist in assets acquired under DOL-approved rental-purchase and lease with an option-to-purchase arrangements in

which some of the payments are made after Federal assistance ceases. A refundable Federal equity is also considered to exist in property purchased for activities other than employment security programs using purchase-option credits or similar purchase discounts included in a lease of the property, to the extent that granted funds were used for rental payments under the lease. No Federal equity is considered to exist in assets being acquired under lease with an option-to-purchase arrangements until the option is exercised.

(c) Procurements subject to the requirements of this § 29-15.712c-3 include those accomplished by outright purchase, rental-purchase or lease with an option-to-purchase agreement, or other method of purchase.

(d) Notwithstanding § 1-15.713-7 of this title, interest expense included as a stated or unstated cost element in approved rental-purchase or similar arrangements for acquiring capital assets is an allowable cost, provided that the total cost, including interest expense, does not exceed the lowest total cost which would be incurred to lease or otherwise obtain the use of comparable capital assets under competitive conditions.

§ 29-15.712c-7 Professional services.

The cost of professional services rendered by individuals or organizations not a part of the SESA is allowable, provided that such services are not available from DOL and prior approval is obtained from the RA. RA's authorization will be based upon a determination in each case, supported by appropriate findings, that the proposed acquisition of services is not contrary to State requirements and Federal grantee merit system standards set forth in Subpart F of Part 900 of Title 5, Code of Federal Regulations, and is consistent with the purpose of such requirements and standards.

§ 29-15.712c-50 Reed Act amortization costs.

Payments made into a State's account in the Unemployment Trust Fund for the purpose of reducing charges against Reed Act funds (Section 903(c), Social Security Act, as amended) are allowable costs, provided that:

(a) the charges against Reed Act funds were for amounts appropriated, obligated, and expended for the acquisition of automatic data processing installations having an allowable net acquisition cost exceeding \$250,000, or for the acquisition or major renovation of office buildings.

(b) the payments are pursuant to an amortization schedule approved by the RA for applying employment security administration funds in reduction of charges against Reed Act funds, and

(c) With respect to each acquisition or improvement of property pursuant to paragraph (a) of this section, the payments are accounted for in the State's records as credits against equivalent amounts of Reed Act funds used for administrative expenditures.

**§ 29-15.713c Unallowable costs—
Employment Security Programs.**

§ 29-15.713c-50 Acquisitions at judicial sales.

Costs of acquiring property at judicial sales to secure the payment of uncollected unemployment insurance taxes are unallowable.

§ 29-15.713c-51 Legislative activity.

Costs of presenting State views on Federal legislation to members of Congress are unallowable

(5 U.S.C. 301; 29 U.S.C. 801 et seq.; 29 U.S.C. 795; 30 U.S.C. 801 et seq.; 29 U.S.C. 651 et seq.; 42 U.S.C. 3011 et seq.; 42 U.S.C. 501 et seq., 1101 et seq., 1321 et seq.; 29 U.S.C. 49 et seq., Federal Management Circular 74-4, 41 U.S.C. 252 et seq.)

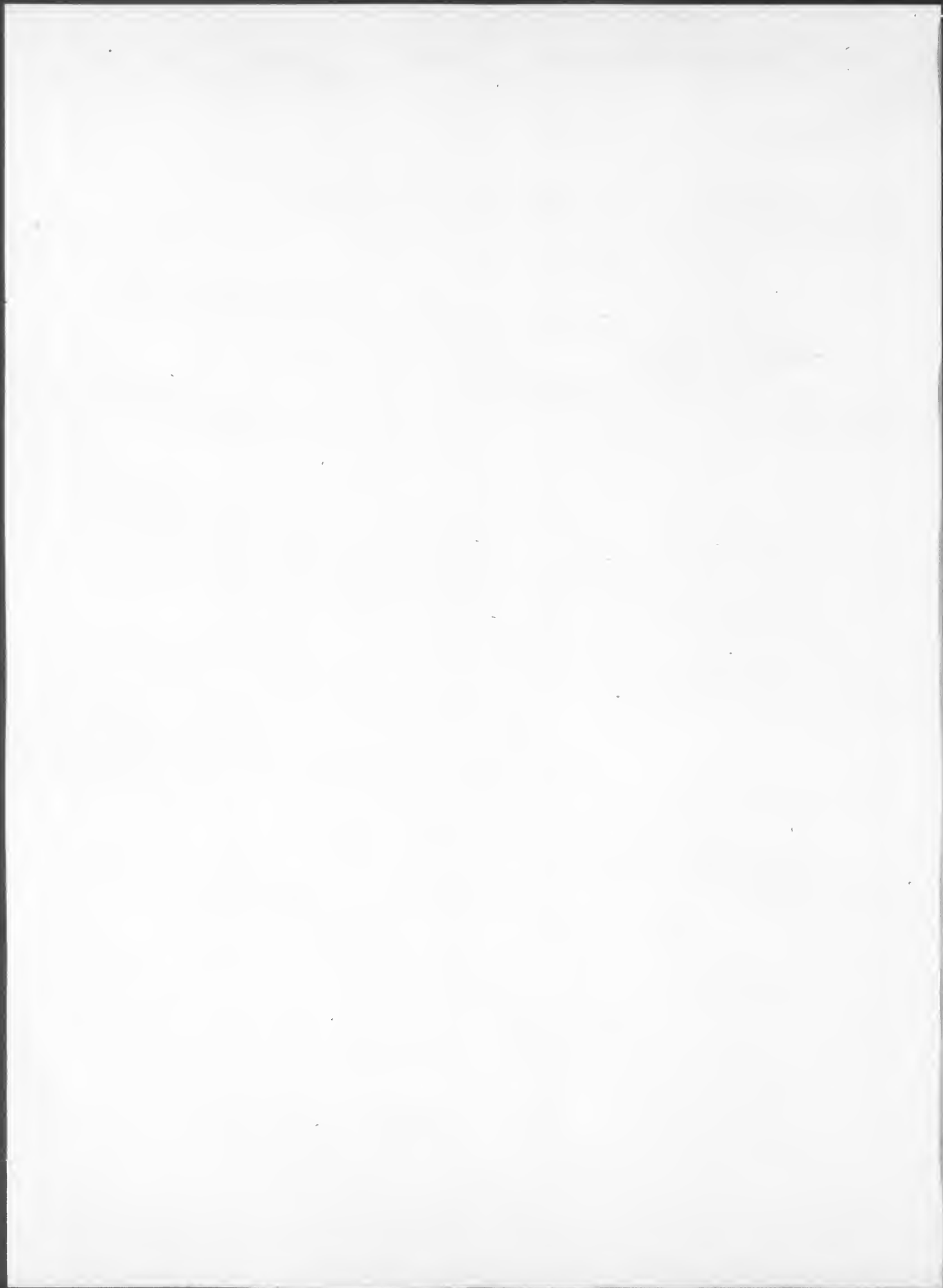
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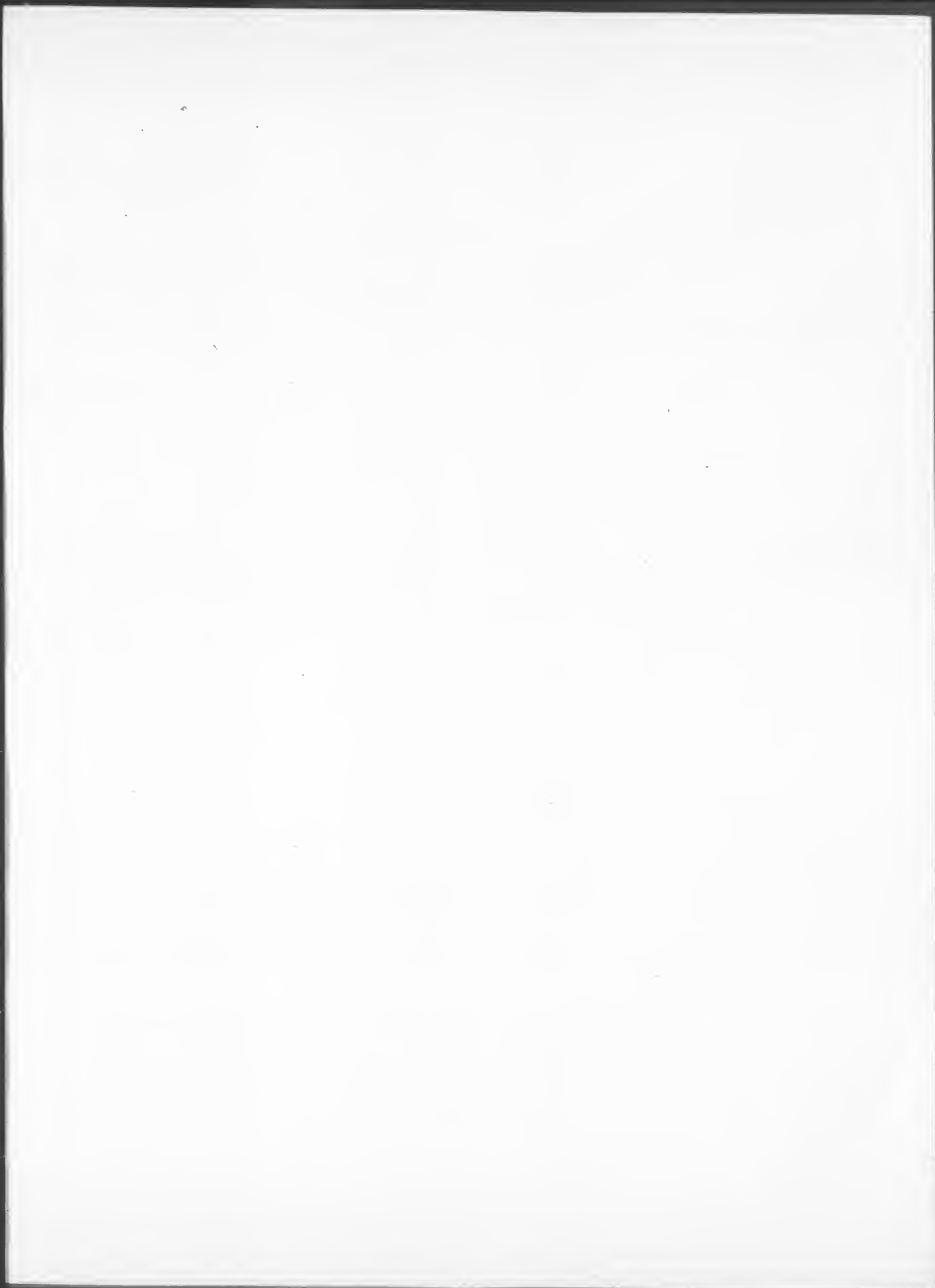
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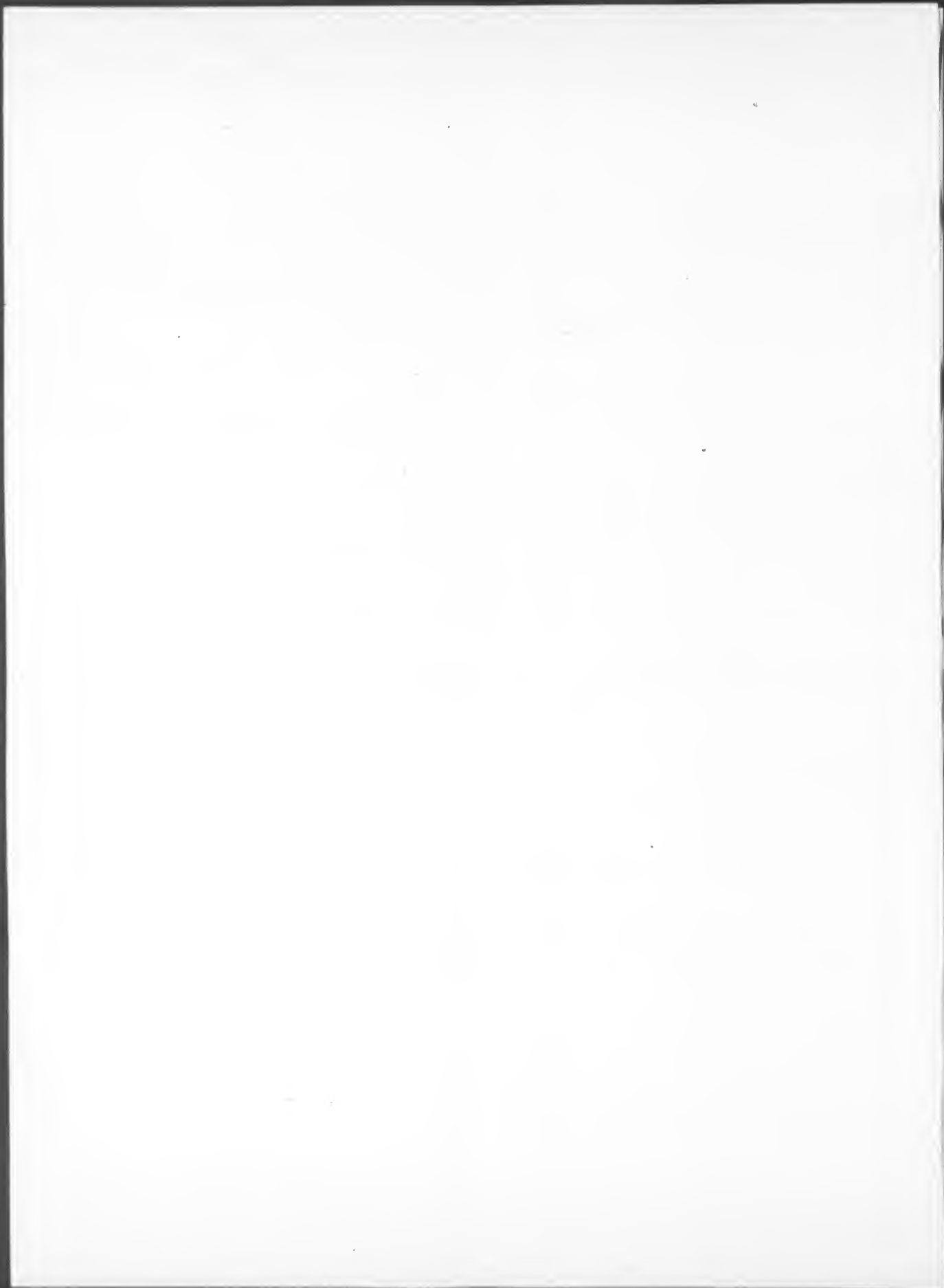
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