

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICAL ACCESS UGANDA LIMITED
GENERALLY MANAGED THE
PRESIDENT'S EMERGENCY PLAN FOR
AIDS RELIEF FUNDS IN ACCORDANCE
WITH AWARD REQUIREMENTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
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**Gloria L. Jarmon
Deputy Inspector General
for Audit Services**

**June 2016
A-04-15-04040**

Office of Inspector General

<http://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

Medical Access Uganda Limited generally managed President's Emergency Plan for AIDS Relief funds in accordance with award requirements.

WHY WE DID THIS REVIEW

The President's Emergency Plan for AIDS Relief (PEPFAR) was authorized to receive \$48 billion in funding for the 5-year period beginning October 1, 2008, to assist foreign countries in combating HIV/AIDS, tuberculosis, and malaria. Additional funds were authorized to be appropriated through 2018.

The act that implemented PEPFAR requires the Department of Health and Human Services (HHS), Office of Inspector General (OIG), among others, to provide oversight of PEPFAR. To meet this requirement, HHS OIG has conducted a series of audits of organizations receiving PEPFAR funds from HHS, Centers for Disease Control and Prevention (CDC). We selected Medical Access Uganda Limited (Medical Access) for review.

The objective of our audit was to determine whether Medical Access managed PEPFAR funds in accordance with the award requirements.

BACKGROUND

Through a 5-year cooperative agreement (grant number 5U2GGH000114), CDC awarded PEPFAR funds totaling \$105,091,504 to Medical Access for the budget period September 30, 2011, through September 29, 2014. The amount expended during that period was \$103,787,363.

Medical Access started in 1998 as a pilot project of the Joint United Nations Program on HIV/AIDS in collaboration with the Government of Uganda, CDC, and participating pharmaceutical companies. Medical Access was one of the first organizations to bring antiretrovirals into Africa during the peak of the HIV/AIDS epidemic. It describes itself as evolving from a fully funded project to a self-sustaining, innovative, one-stop shop for health care supply-chain management.

WHAT WE FOUND

Medical Access managed PEPFAR funds in accordance with award requirements except that it used these funds to pay \$751,399 in value-added tax (VAT) that the Ugandan Government has not reimbursed. This payment of VAT and lack of reimbursement occurred because of a disagreement over the interpretation of a provision of a bilateral agreement in effect between the United States and the Government of Uganda. CDC believed that grantees were exempt from the payment of VAT and that the exemption would occur through reimbursement. However, the Government of Uganda recognized only State Department purchases as exempt or reimbursable of VAT under the bilateral agreement.

WHAT WE RECOMMEND

We recommend that Medical Access work with CDC to obtain \$751,399 in VAT reimbursement from the Ugandan Government.

MEDICAL ACCESS UGANDA LIMITED COMMENTS

In comments on our draft report, Medical Access officials concurred with our recommendation and described the corrective actions they had taken or planned to take to address it.

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INTRODUCTION

WHY WE DID THIS REVIEW

The U.S. Congress authorized the President's Emergency Plan for AIDS Relief (PEPFAR) to receive \$48 billion in funding for the 5-year period beginning October 1, 2008, to assist foreign countries in combating HIV/AIDS, tuberculosis, and malaria.¹ Congress authorized additional funds to be appropriated through 2018.²

The Act requires the Department of Health and Human Services (HHS), Office of Inspector General (OIG), among others, to provide oversight of the programs implemented under the Act, including PEPFAR. To meet this requirement, HHS OIG has conducted a series of audits of organizations receiving PEPFAR funds from HHS, Centers for Disease Control and Prevention (CDC).³ We selected Medical Access Uganda Limited (Medical Access) for review because it was one of the largest recipients of PEPFAR funds in Uganda.

OBJECTIVE

Our objective was to determine whether Medical Access managed PEPFAR funds in accordance with the award requirements.

BACKGROUND

Centers for Disease Control and Prevention

As the U.S. science-based public health and disease prevention agency, CDC plays an essential role in implementing PEPFAR. CDC uses its technical expertise in public health science and longstanding relationships with ministries of health across the globe to work side by side with countries to build strong national programs and sustainable public health systems that can respond effectively to the global HIV/AIDS epidemic and to other diseases that threaten the health and prosperity of the global community.

Funded through PEPFAR, CDC's highly trained scientists work together with ministries of health and other partners in 60 countries to combat HIV/AIDS globally. Furthermore, CDC provides critical technical assistance to 18 additional countries.

¹ The Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (P.L. No. 110-293) (the Act).

² The PEPFAR Stewardship and Oversight Act of 2013 (P.L. No. 113-56).

³ Appendix A contains a list of related OIG reports.

For fiscal year 2014, CDC obligated⁴ PEPFAR funds totaling \$1.3 billion. CDC awarded these PEPFAR funds through cooperative agreements, which it uses in lieu of grants when it anticipates the Federal Government’s substantial involvement with recipients in accomplishing the objectives of the agreements.⁵ In response to a Funding Opportunity Announcement (FOA),⁶ CDC awarded Medical Access grant number 5U2GGH000114 through a cooperative agreement for the project period September 30, 2011, through September 29, 2016.

Application of Federal Regulations

The grant administration rules in 45 CFR part 92 apply to State, local, and tribal governments. The grant administration rules in 45 CFR part 74 apply to nonprofit organizations, hospitals, institutions of higher education, and commercial organizations.⁷ The HHS Grants Policy Statement (GPS), which provides general terms and conditions and HHS policies for grantees and others interested in the administration of HHS grants, specifies that foreign grantees must comply with the requirements of 45 CFR parts 74 or 92,⁸ as applicable to the type of foreign organization (GPS, section II-113).

Medical Access Uganda Limited

Medical Access started in 1998 as a pilot project of the Joint United Nations Program on HIV/AIDS in collaboration with the Government of Uganda, CDC, and participating pharmaceutical companies. Medical Access was one of the first organizations to bring antiretrovirals into Africa during the peak of the HIV/AIDS epidemic. It describes itself as evolving from a fully funded project to a self-sustaining, innovative, one-stop shop for healthcare supply-chain management.

Medical Access specializes in the provision of supply-chain-management services for pharmaceutical products and health commodities, including essential drugs, antiretrovirals, drugs for opportunistic infections, laboratory equipment, reagents and supplies, rapid test kits, safe male circumcision kits, and consumables and other supplies.

⁴ “Obligated” funds are amounts for which the recipient has made binding commitments for orders placed for property and services, contracts and subawards, and similar transactions during a funding period that will require payment during the same or a future period, per HHS’s *Grants Policy Directives* 1.02.

⁵ The regulations that apply to Federal grants also apply to cooperative agreements.

⁶ FOA number CDC-RFA-PS10-10239 was entitled “Scaling up comprehensive HIV/AIDS services including Provider Initiated Testing and Counseling (PITC), TB/HIV, OVC, Care, and, ART for adults (including pregnant women) and children through public university teaching hospitals regional referral hospitals, and public and private-not-for-profit health facilities in the Republic of Uganda, under the President’s Emergency Plan for AIDS Relief, (PEPFAR).”

⁷ The grants administration rules at 45 CFR parts 74 and 92 were superseded by 45 CFR part 75, which applies to grant awards issued on or after December 26, 2014.

⁸ On December 31, 2015, the Department released the Grants Policy Administration Manual (GPAM), which supersedes both GPDs and AAGAMs. The GPAM was not in effect during our audit period.

HOW WE CONDUCTED THIS REVIEW

Our audit covered the budget periods from September 30, 2011, through September 29, 2014. These budget periods were for years 1 through 3 of a 5-year cooperative agreement. During the budget period under review, CDC awarded Medical Access \$105,091,504, of which Medical Access expended \$103,787,363. From these PEPFAR funds, we selected a statistical sample of 52 transactions, totaling \$10,614,645.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B contains the details of our scope and methodology, Appendix C contains our sample design and methodology, and Appendix D contains Federal requirements.

FINDINGS

Medical Access managed PEPFAR funds in accordance with award requirements except that it used these funds to pay \$751,399 in value-added tax (VAT) that the Ugandan Government has not reimbursed. This payment of VAT and lack of reimbursement occurred because of a disagreement over the interpretation of a provision of a bilateral agreement in effect between the United States and the Government of Uganda. CDC believed that grantees were exempt from the payment of VAT and that the exemption would occur through reimbursement. However, the Government of Uganda recognized only State Department purchases as exempt or reimbursable of VAT under the bilateral agreement.

Medical Access Used PEPFAR Funds To Pay Value-Added Tax

“Customs and import duties. These costs, which include consular fees, customs surtax, value-added taxes, and other related charges, are unallowable under foreign grants and domestic grants with foreign components” (GPS, section II-114). HHS granted CDC a deviation from internal grants policies for the period of September 30, 2012, through December 25, 2014. Under the deviation, VAT was permitted as an allowable expense for certain CDC grantees operating in countries where no applicable tax exemption existed through a bilateral or other agreement.⁹

Uganda Bilateral Agreement 1971 states, “No tax (whether in the nature of an income, profits, business tax or otherwise), duty or fee of whatsoever nature shall be imposed upon any contractor financed by the Government of the United States of America hereunder.”

⁹ The new grants rule addressed VAT allowability at 45 CFR 75.470, which provides that foreign taxes that a non-Federal entity is legally required to pay in country are an allowable expense under Federal awards made on or after that date.

Medical Access's *Project Finance Manual* and its *Guidelines for Reporting of Foreign Taxes* included instructions for paying VAT and reporting quarterly to CDC the amount of VAT paid. Medical Access used PEPFAR funds to pay VAT to the Ugandan Government on taxable items and reported quarterly to CDC the amount of VAT that it paid. CDC then filed a request with the U.S. Embassy VAT office for reimbursement of the VAT already paid. The U.S. Embassy VAT office reported the amount of VAT paid to the State Department, which then filed a claim for reimbursement with the Ugandan Revenue Authority. As of April 2016, CDC had not received any reimbursement of VAT on behalf of Medical Access.

Uganda Did Not Reimburse Value-Added Tax to CDC on Behalf of Medical Access

This payment of VAT and the lack of reimbursement occurred because of a disagreement over the interpretation of a provision of a bilateral agreement between the United States and the Government of Uganda. CDC believed that grantees were exempt from the payment of VAT and that the exemption would occur through reimbursement. Unfortunately, the Government of Uganda recognized only State Department purchases and CDC direct procurement through the State Department as exempt or reimbursable of VAT under the bilateral agreement.

RECOMMENDATION

We recommend that Medical Access work with CDC to obtain \$751,399 in VAT reimbursement from the Ugandan Government.

MEDICAL ACCESS UGANDA LIMITED COMMENTS

In comments on our draft report, Medical Access officials concurred with our recommendation and described the corrective actions they had taken or planned to take to address it.

Medical Access's comments are included in their entirety as Appendix E.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

AUDITS OF THE PRESIDENT’S EMERGENCY PLAN FOR AIDS RELIEF FUNDS

Report Title	Report Number	Date Issued
<i>The Centers for Disease Control and Prevention Did Not Award President’s Emergency Plan for AIDS Relief Funds for 2013 in Compliance With Applicable HHS Policies</i>	<u>A-04-14-04021</u>	05/2016
<i>The Ethiopian Public Health Institute Did Not Always Manage the President’s Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	<u>A-04-13-04017</u>	1/2015
<i>The Ethiopian Public Health Association Generally Managed the President’s Emergency Plan for AIDS Relief Funds but Did Not Always Meet Program Goals in Accordance With Award Requirements</i>	<u>A-04-13-04016</u>	10/2014
<i>The Centers for Disease Control and Prevention Generally Achieved Its Main Goals Related to Certain HIV/AIDS Prevention, Treatment, and Care Activities Under the Partnership Framework in Ethiopia</i>	<u>A-04-13-04011</u>	10/2014
<i>The Federal Democratic Republic of Ethiopia, Ministry of Health, Did Not Always Manage President’s Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	<u>A-04-13-04015</u>	9/2014
<i>The Republic of Zambia, Ministry of Health, Did Not Always Manage the President’s Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	<u>A-04-13-04004</u>	6/2014
<i>The University of Zambia School of Medicine Did Not Always Manage President’s Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	<u>A-04-13-04010</u>	4/2014
<i>The University Teaching Hospital (in Zambia) Generally Managed the President’s Emergency Plan for AIDS Relief Funds and Met Program Goals in Accordance With Award Requirements</i>	<u>A-04-13-04005</u>	3/2014
<i>Aurum Institute for Health Research Did Not Always Manage President’s Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	<u>A-05-12-00021</u>	8/2013

Report Title	Report Number	Date Issued
<i>The South African National Department of Health Did Not Always Manage President's Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	A-05-12-00022	8/2013
<i>National Health Laboratory Service Did Not Always Manage the President's Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	A-05-12-00024	8/2013
<i>The Southern African Catholic Bishops' Conference AIDS Office Generally Managed President's Emergency Plan for AIDS Relief Funds and Met Program Goals in Accordance With Award Requirements</i>	A-05-12-00023	7/2013
<i>The Vietnam Administration for HIV/AIDS Control Did Not Always Manage the President's Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	A-06-11-00057	6/2013
<i>The Centers for Disease Control and Prevention's Vietnam Office Generally Monitored Recipients' Use of the President's Emergency Plan for AIDS Relief Funds</i>	A-04-12-04023	4/2013
<i>Potentia Namibia Recruitment Consultancy Generally Managed the President's Emergency Plan for AIDS Relief Funds and Met Program Goals in Accordance with Award Requirements</i>	A-06-11-00056	4/2013
<i>The Centers for Disease Control and Prevention's South Africa Office Did Not Always Properly Monitor Recipients' Use of the President's Emergency Plan for AIDS Relief Funds</i>	A-04-12-04022	2/2013
<i>The Republic of Namibia Ministry of Health and Social Services Did Not Always Manage the President's Emergency Plan for AIDS Relief Funds or Meet Program Goals in Accordance With Award Requirements</i>	A-04-12-04019	1/2013
<i>The Centers for Disease Control and Prevention's Namibia Office Did Not Always Properly Monitor Recipients' Use of the President's Emergency Plan for AIDS Relief Funds</i>	A-04-12-04020	11/2012
<i>Review of the Centers for Disease Control and Prevention's Oversight of the President's Emergency Plan for AIDS Relief Funds for Fiscal Years 2007 Through 2009</i>	A-04-10-04006	6/2011

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered \$103,787,363 in PEPFAR funds expended by Medical Access for budget period September 30, 2011, through September 29, 2014 (budget years 2011 through 2013). We selected for review a stratified statistical sample of 52 items with PEPFAR expenditures totaling \$10,614,645.

We limited our review of internal controls to those related to our objective. We conducted fieldwork at the Medical Access office in Kampala, Uganda, in August 2015.

METHODOLOGY

To accomplish our objective, we:

- reviewed relevant Federal laws and regulations, HHS guidance, the Uganda Bilateral Agreement of 1971, the FOA, the Notice of Award, and Medical Access's policies and procedures;
- interviewed and conducted meetings with CDC Uganda officials to determine the extent of the technical assistance they provided to Medical Access;
- interviewed and conducted meetings with Medical Access officials to determine their policies, processes, and procedures related to financial accounting and reporting;
- reconciled Medical Access's Federal Financial Report to its accounting records;
- selected a stratified statistical sample of 52 financial transactions totaling \$10,614,645 from the general ledger transactions that Medical Access expended for budget years 2011 through 2013 (Appendix C);
- identified VAT that Medical Access paid with PEPFAR funds; and
- discussed the results of the review with Medical Access officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C: SAMPLE DESIGN AND METHODOLOGY

POPULATION

The population consisted of transactions for PEPFAR funds expended by Medical Access for budget period September 30, 2011, through September 29, 2014 (budget years 2011 through 2013), in 4,794 transactions totaling \$103,787,363.

SAMPLING FRAME

Medical Access provided Excel spreadsheets containing general ledger transactions that it expended in budget years 2011 through 2013. From this list, we eliminated transactions for less than \$25,000. The resulting Excel spreadsheets contained 664 transactions totaling \$94,548,095.

SAMPLING UNIT

The sample unit was a single, unique transaction identified by the posting date, document number, transaction number, and account code.

SAMPLE DESIGN

We used a stratified design. The sampling frame was divided into five strata based on expense category types as follows:

Table 1: Sample Design

Stratum	Expense Category Types	Number of Transactions	Dollar Value
1	Salaries, fringe benefits, travel, consultants, and contractual expenditures	58	\$3,398,967
2	Antiretroviral and opportunistic infectious drugs	362	61,839,524
3	Lab tests, lab equipment, freight & insurance, and customs clearance expenditures	178	19,500,660
4	All other expenditures	59	3,180,295
Certainty	Highest dollar transactions	7	6,628,649
Total		664	\$94,548,095

SAMPLE SIZE

We selected 52 sample items as follows:

Table 2: Sample Size

Stratum	Sample Size
Stratum 1	10
Stratum 2	10
Stratum 3	15
Stratum 4	10
Stratum 5	7
Total	52

SOURCE OF RANDOM NUMBERS

The Region IV Statistical Specialist generated random numbers using the OIG/OAS RAT-STATS 2010 Version 4, Random Number Generator.

METHOD FOR SELECTING SAMPLE ITEMS

We consecutively numbered the line items in the sampling frame. The Region IV Statistical Specialist generated the random numbers for strata 1, 2, 3, and 4. We selected the corresponding frame items. We selected all seven items in stratum 5.

ESTIMATION METHODOLOGY

We used the OIG/OAS RAT-STATS variable appraisal program to estimate the amount of any unallowable costs.

SAMPLE RESULTS

Because we were able to identify support for all of the items within the sample, we did not estimate or report an error amount for the frame.

APPENDIX D: FEDERAL REQUIREMENTS

45 CFR 74 and 92

The grant administration rules in 45 CFR part 74 apply to nonprofit organizations, hospitals, institutions of higher education, and commercial organizations. The grant administration rules in 45 CFR part 92 apply to State, local, and tribal governments.

Bilateral Agreement 1971

Uganda (E&T 1971), ARTICLE 5

In order to assure the maximum benefits to the people of Uganda from the assistance to be furnished hereunder:

(a) Any supplies, materials, equipment or funds introduced into or acquired in Uganda by the Government of the United States of America, or any contractor financed by that Government, for purposes of any program or project conducted hereunder shall, while such supplies, materials, equipment or funds are used in connection with such a program or project, be exempt from any taxes on ownership or use of property, and any other taxes, investment or deposit requirements and currency controls in Uganda, and the import, export, purchase, use or disposition of any such supplies, materials, equipment or funds in connection with such a program or project shall be exempt from any tariffs, customs duties, import and export taxes, taxes on purchase or disposition of property, and any other taxes or similar charges in Uganda. No tax (whether in the nature of an income, profits, business tax or otherwise), duty or fee of whatsoever nature shall be imposed upon any contractor financed by the Government of the United States of America hereunder.

HHS Grants Policy Statement, Section II-113

GPS, which provides general terms and conditions and HHS policies for grantees and others interested in the administration of HHS grants, specifies that foreign grantees must comply with the requirements of 45 CFR parts 74 or 92, as applicable to the type of foreign organization.

HHS Grants Policy Statement, Section II-114

“Customs and import duties. These costs, which include consular fees, customs surtax, value-added taxes, and other related charges, are unallowable under foreign grants and domestic grants with foreign components.”

APPENDIX E: MEDICAL ACCESS UGANDA LIMITED COMMENTS



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April 19, 2016

Ms. Gloria L. Jarmon
Deputy Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Washington, DC 20201

Dear Gloria,

Reference: Draft OIG Audit Report Number: A-04-15-04040

Co-operative Agreement Number: 5U2GGH000114

Funding Opportunity Announcement Number: GH11-1113

Project Title: Procurement and Logistics Management Of Health-Related Commodities For HHS/CDC-Funded HIV/Aids Programs In The Republic Of Uganda Under The President's Emergency Plan For Aids Relief (PEPFAR)

Budget Period Audited: September 30, 2011 to September 29, 2014.

This letter serves as a response to your letter dated April 28, 2016 regarding the draft report entitled "*Medical Access Uganda Limited Generally Managed the Presidential Emergency Plan for AIDS Relief Funds in Accordance With Award Requirements (A-04-15-04040)*".

As Management of Medical Access Uganda Limited, we welcome the report. We trust the audit will enable us strengthen our operations.

We concur with the finding and recommendation as stated in the report and below is our response and corrective action.

OIG Recommendation: Medical Access Uganda Limited works with CDC to obtain \$751,399 in VAT reimbursement from the Ugandan Government.

Medical Access Uganda Limited (MAUL) Response: MAUL agrees that VAT was paid from grant funds in accordance with Section 4 of the Uganda VAT Act 1996 Cap 349¹ which requires the payment of VAT on any services or goods purchased. In addition based on 2 CFR Part 230 Appendix B Selected Items of Cost, Taxes², payment of VAT being a mandatory national tax requirement, was paid.

On a quarterly basis, Medical Access Uganda Limited submits to the Centres for Diseases Control and Prevention (CDC) Country Office a VAT report. The VAT report is accompanied with original copies of invoices paid for activities and expenditures carried out to fulfill the terms of the cooperative agreement for submission to Uganda Revenue Authority (Ugandan Government) for reimbursement.

The Centers for Disease Control (CDC) Country Office will work with the Ugandan Government to request reimbursement for VAT paid for the activities and expenditures which were carried out by MAUL to fulfill the terms of the cooperative agreement.

Medical Access Uganda Limited will work with CDC Country Office management to provide all necessary information and support to ensure \$751,399 in VAT reimbursement is obtained from the Ugandan Government.

Please do not hesitate to contact us should you require any other information.

Yours sincerely,



Sowedi Muyingo
Executive Director

¹ **Section 4, Uganda VAT Act, Charge of Tax**

A tax, to be known as a value added tax, shall be charged in accordance with this Act on—

- (a) every taxable supply in Uganda made by a taxable person;
- (b) every import of goods other than an exempt import; and
- (c) the supply of any imported services by any person.

² **Appendix B to 2 CFR Part 230, Selected Items of Cost.**

47. Taxes. a. In general, taxes which the organization is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Federal Government and in the latter case when the awarding agency makes available the necessary exemption certificates, special assessments on land which represent capital improvements, and Federal income taxes.