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SUNY/PPAA WINTER CONFERENCE

Office for Capital Facilities

February 2019

Updates

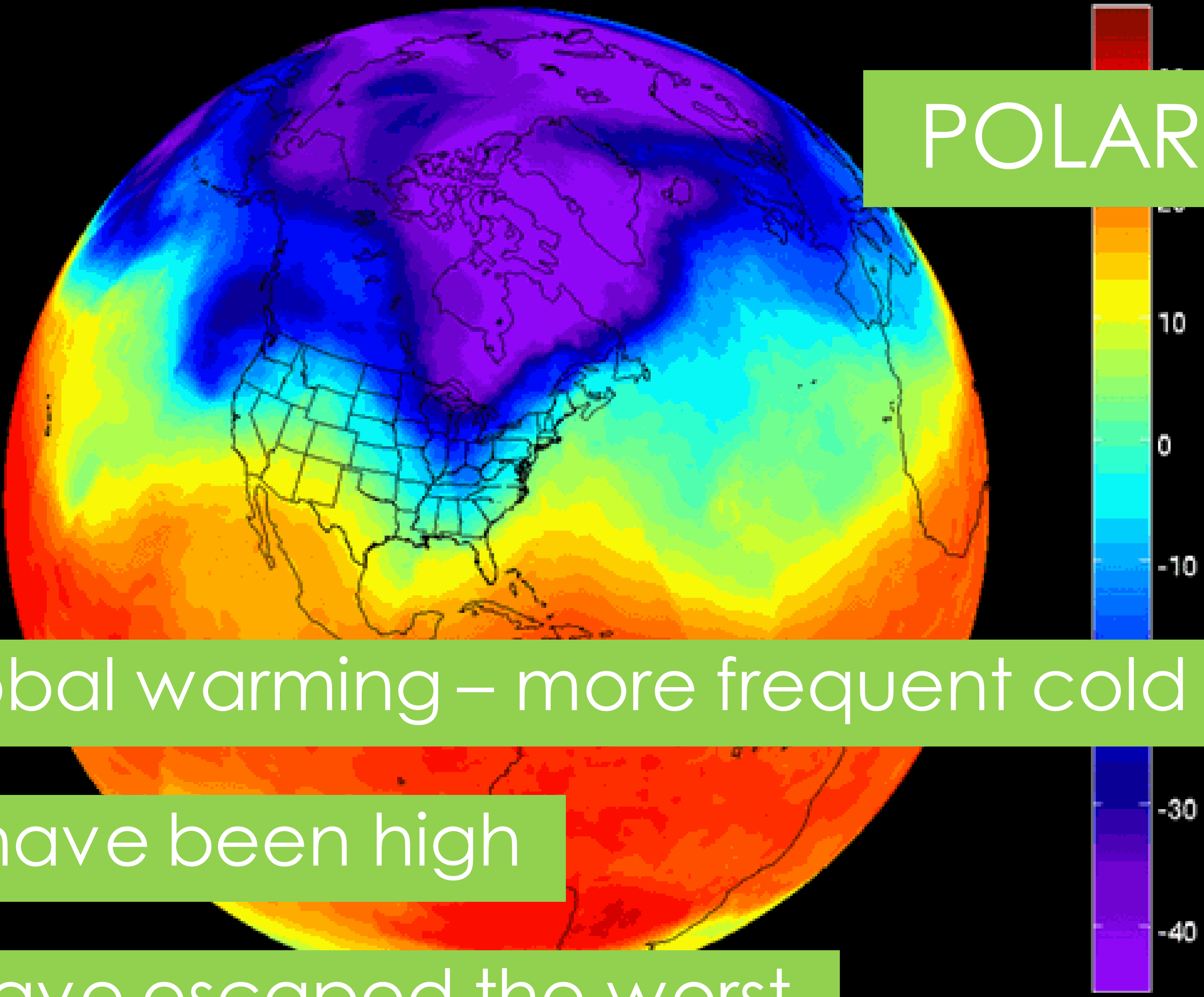
- NY HE LSRE Project
- NFPA
- Red Cross
- Cold Weather
- AiM Updates
- Grant Specialist
- Campus Lets

Private Use

NEW YORK HIGHER ED LARGE SCALE RENEWABLE ENERGY (NY HE LSRE)

- No Longer able to use the name NYCARES
- Consultant selection in process
- Planning a day long workshop with consultant

POLAR VORTEX

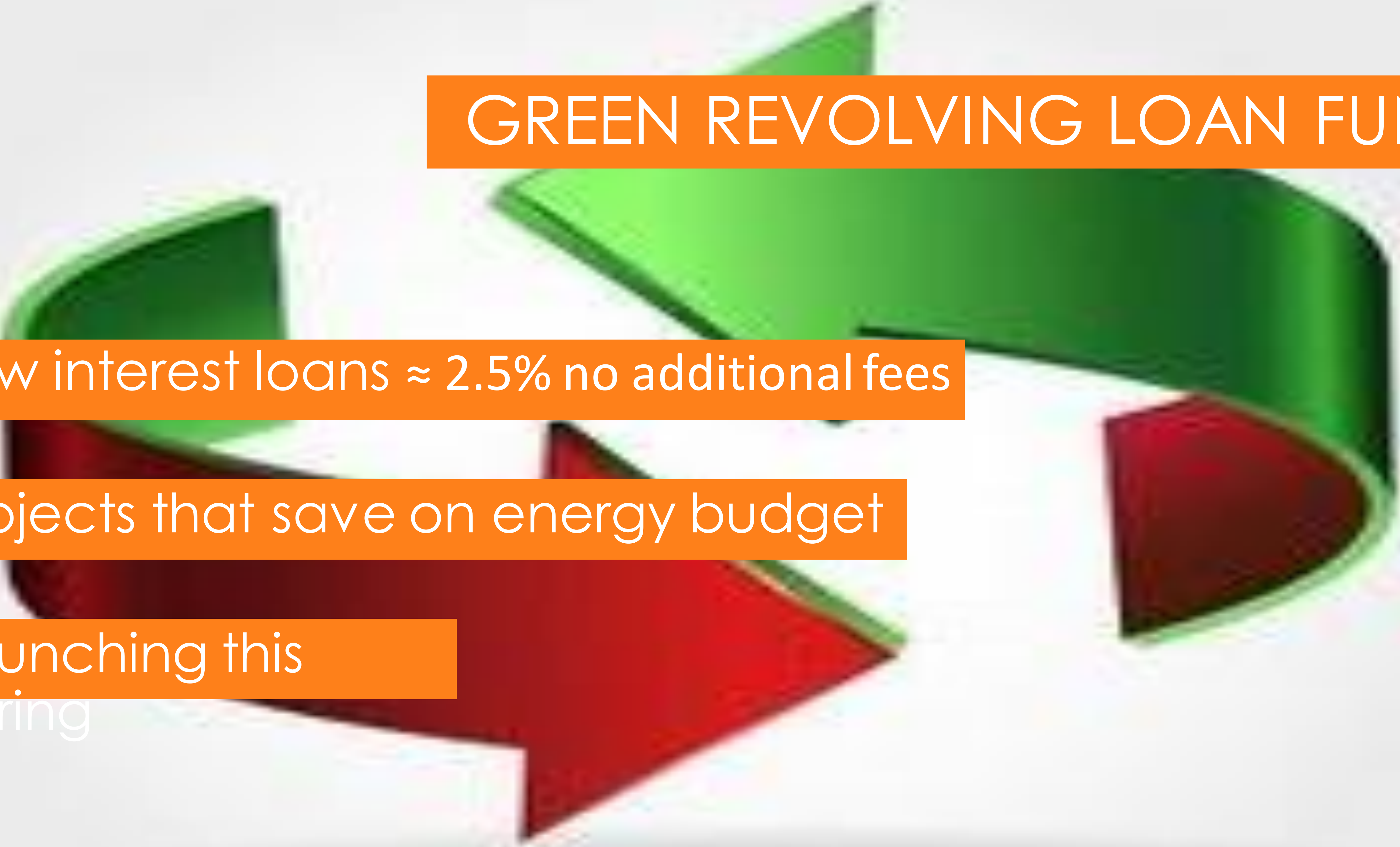


- Paradox of global warming – more frequent cold events
- Energy Prices have been high
- NY Seems to have escaped the worst

GRANT SPECIALIST

- Work with campuses to complete grant paperwork
- Help with Measurement and Verification (M&V)
- Will be paid for by having a small portion of the grant goes to the persons salary

GREEN REVOLVING LOAN FUND



- Low interest loans ≈ 2.5% no additional fees
- Projects that save on energy budget
- Launching this Spring

GREEN REVOLVING LOAN FUND

- Don’t do one without the other – HVAC and Envelope
- First project – Oneonta as part of full rehab
- Looking for follow-on projects just focusing on HVAC and Envelop

CAMPUS LET CONTRACTS UPCOMING INITIATIVES

- **Tools**
    - Construction Agreement Updates
    - NYPA Solar Advisory Contract Template
- **Training**
    - Campus Let Contracts Training @ System Administration – TBD
    - Consultant Selection Webinar – May

CAMPUS LET CONTRACTS UPCOMING INITIATIVES

- Communication, Guidance Documents:
  - Purchase and Install and Services
  - Electric Vehicle Charging Stations
  - Energy Performance Contracting

NFPA New Chargeback

- Chargeback of $20,000 across 64 campuses
- Includes Community Colleges and Statutory Colleges
- Access to all NFPA Codes
- Cost per campus ranges $43 – 1,250, most around $500
- Separate Licenses per campus $4,500

AiMHelp@suny.edu

AiM

- No limit to licenses
- ~~AiM Cad –~~ Being Replaced by Ready Space
- AiM O&M to be supplements by Ready Request
- Three sessions tomorrow to cover AiM Topics
- Increase in annual chargeback

PRIVATE USE REGULATIONS FOR COLLEGES AND UNIVERSITIES

Karren Bee-Donohoe, Associate Vice Chancellor for Capital Facilities

State University of New York System Administration

January 2019

SUNY

TOPICS

- Overview of Bonds
- Risks of non-compliance
- What is Private Use
- Tracking Private Use
- Private Use Limitation – Basics
- Private Use Limitations – Advanced
- How Contracts affect Private Use
- Safe Harbors
- Combining Taxable and Tax Exempt Financing

USING BONDS

- Cash for Capital Projects
  - Acquisition
  - Renovation
  - Planning and Design
  - New Construction
  - Infrastructure
  - Equipment
  - Software

TREATMENT OF INTEREST FOR BONDHOLDER

Federal Income Tax

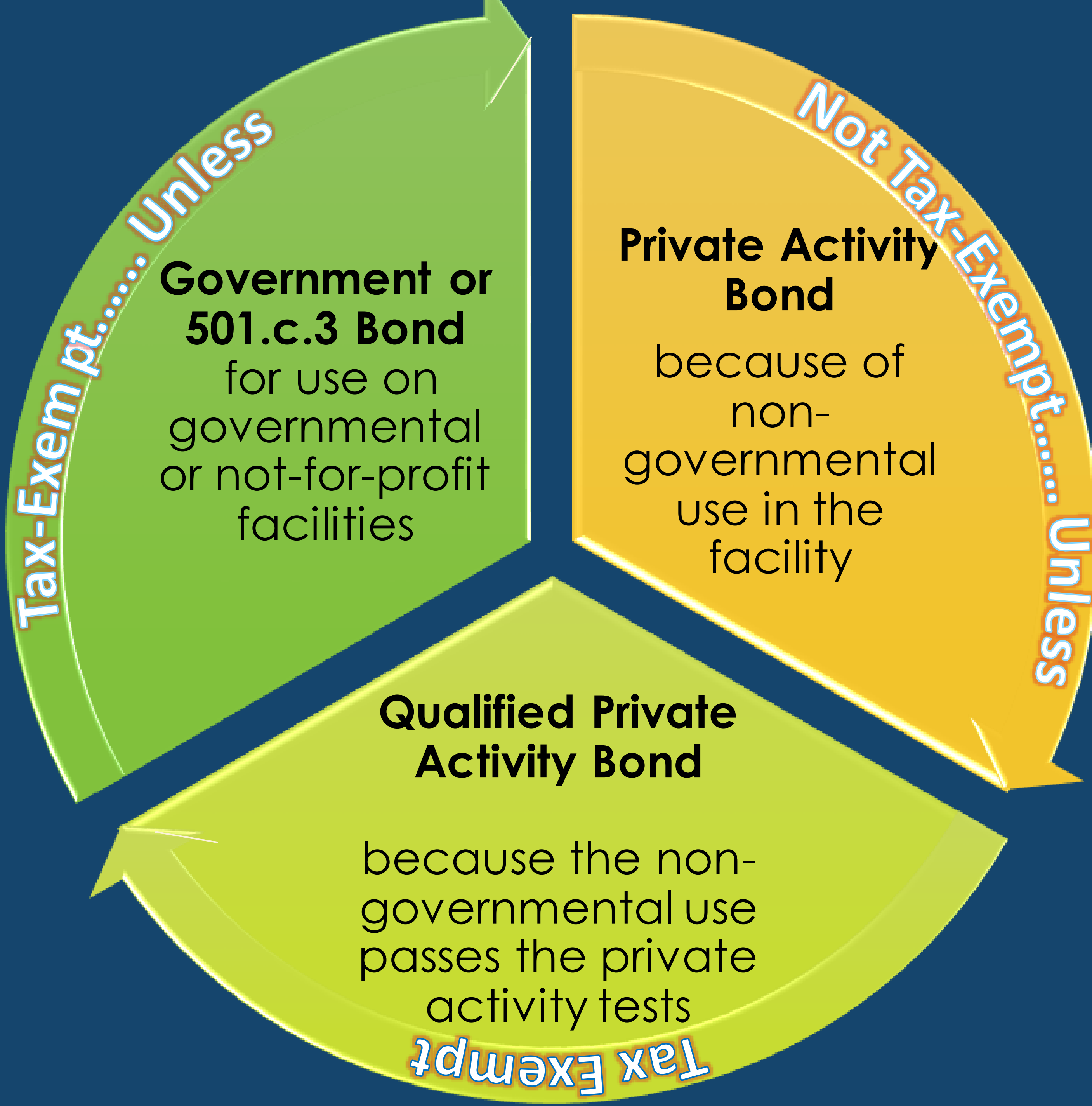
Taxable

YES

Tax-Exempt

NO

Preferred



COMPLICATED RULES

RISKS OF NON-COMPLIANCE

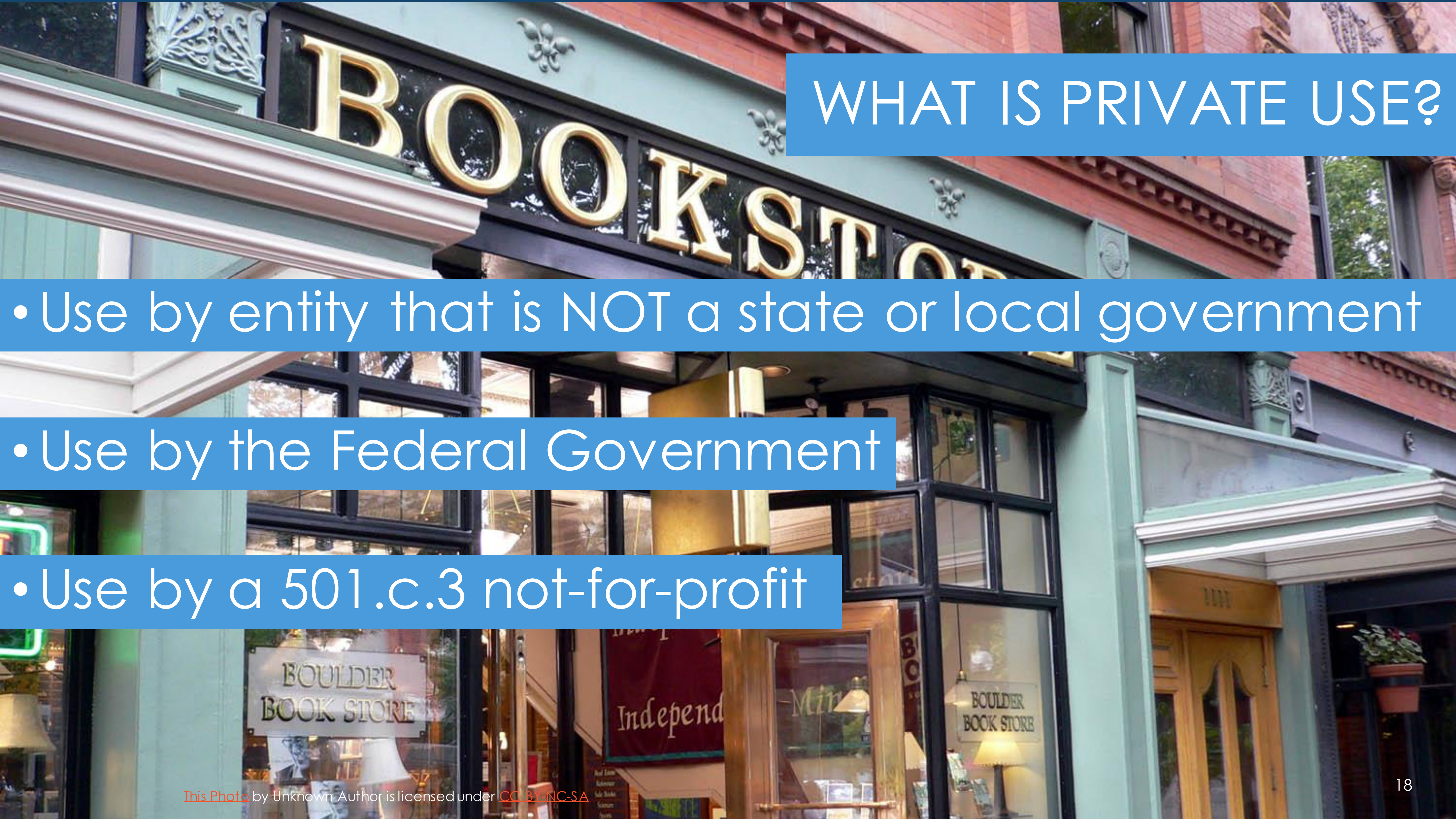
PAY IRS FOR LOST TAX-REVENUES

RESTRICTION ON FUTURE TAX-EXEMPT BONDING

NEGATIVE IMPACT TO CREDIT RATING

WHAT IS PRIVATE USE?

- Use by entity that is NOT a state or local government
- Use by the Federal Government
- Use by a 501.c.3 not-for-profit



EXAMPLES OF PRIVATE USE

Operation by a third party vendor;

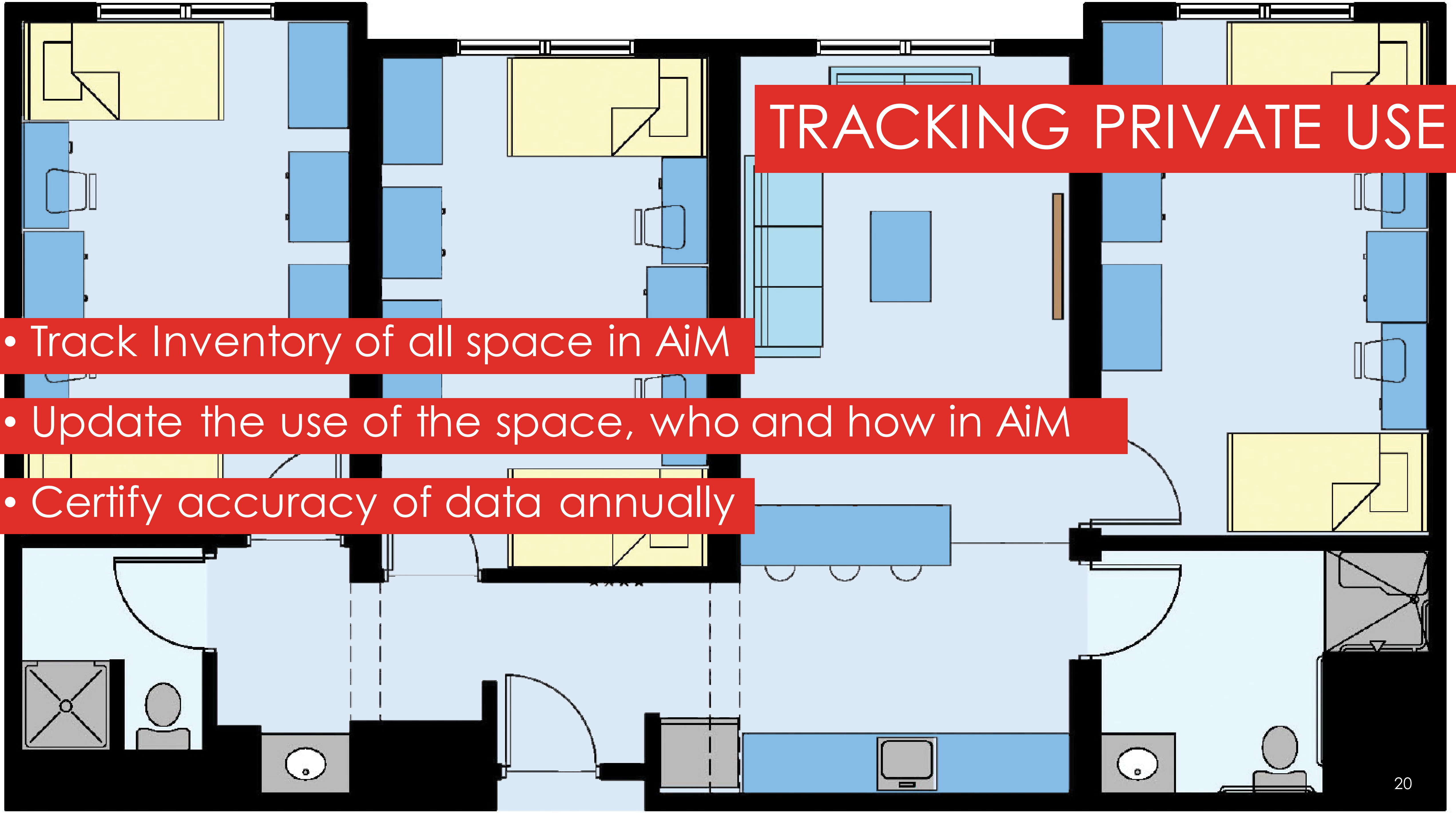
- Dining
- Bookstores
- Banking
- Vending
- Child Care
- Laundry

and

- Federal or corporate sponsored research

TRACKING PRIVATE USE

- Track Inventory of all space in AiM
- Update the use of the space, who and how in AiM
- Certify accuracy of data annually



DIRECT USE

Track and calculate % of direct use

Only Space in full control of the entity counts

INDIRECT USE

Apply % of direct use to Indirect Facilities

Only served buildings % counts

% counts

PRIVATE ACTIVITY LIMITATIONS - BASICS

5% unrelated plus 5% related = Max 10%

$15 M per Bond Issue

IMPACT OF THE $15M RULE

Example $1B Bond sale:

$15M/$1,000M = 0.015 or **<u>1.5%</u>**

SUNY is allotted a portion of the $15M in relation to the SUNY portion of the Sale

PRIVATE USE LIMITATIONS - ADVANCED

Private Use

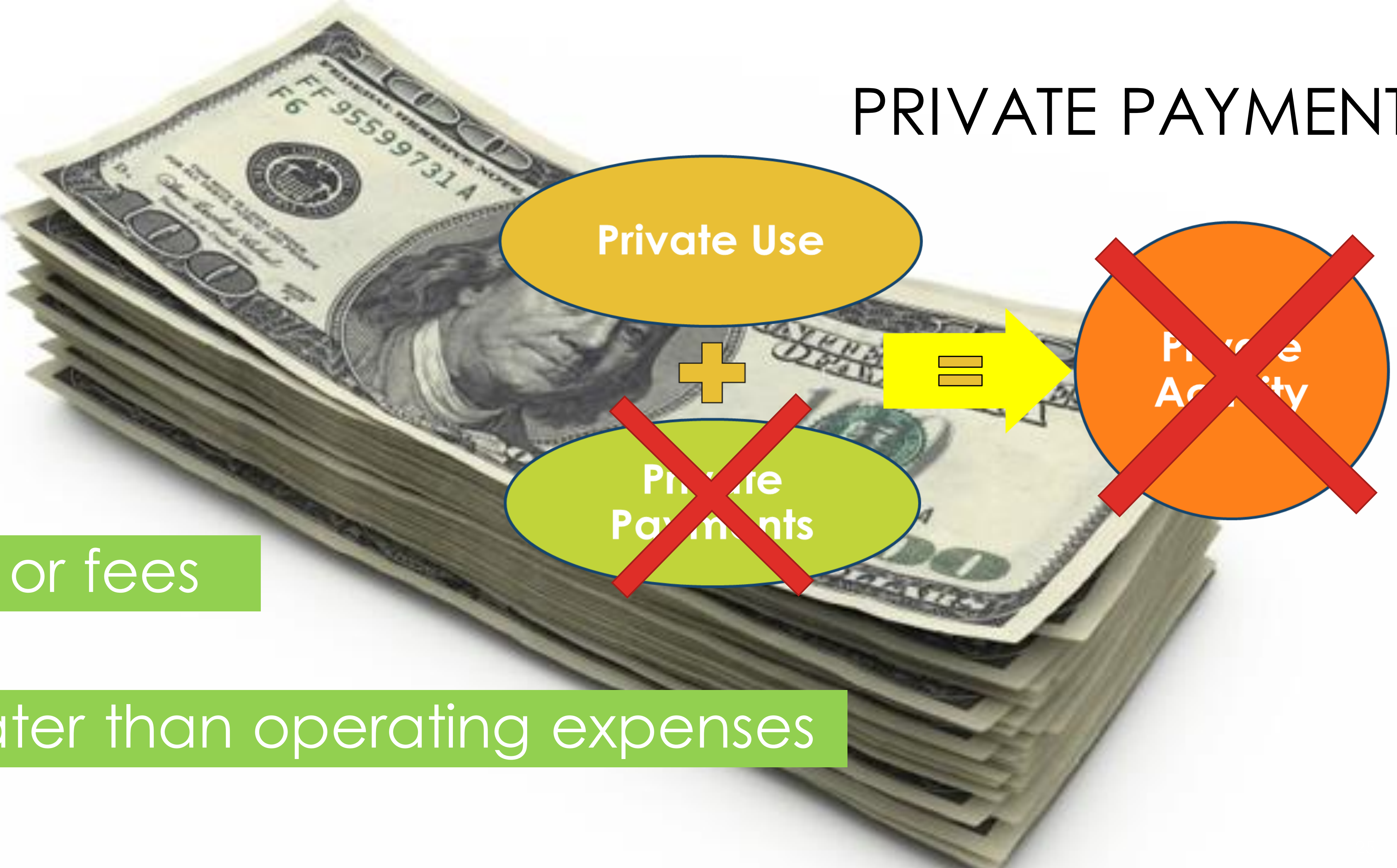
+

Private Payments

=

Private Activity

PRIVATE PAYMENT



Rent or fees

Greater than operating expenses

CONTRACTS THAT MAY LEAD TO PRIVATE PAYMENT

- Permit or Lease Agreements
- Management Contracts
- Research Contracts

Check Safe Harbors

PERMITS

First Come First Serve Permits

Concerts

Sports Camps

Craft Fair

Professional Exams

Public use – OK if < 50 days

Specific Use Permits

Dining

Bookstore

Childcare

Banking

Private use – Check Safe Harbors

LEASES

Ground Lease

Building or Space Lease

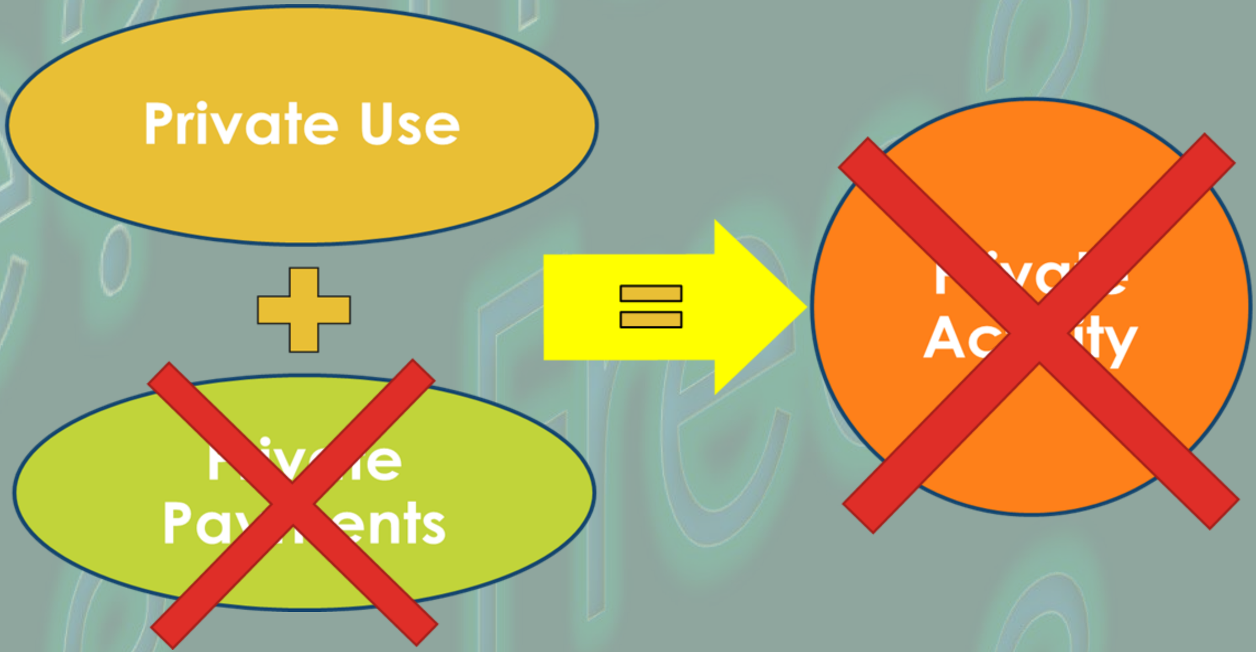
SUNY Cannot Lease Land, space or buildings EXCEPT:

- To the Alumni for student housing
- For energy production or management
- Start UP NY
- Per special legislation

SAFE HARBORS FOR LEASE OR PERMIT AGREEMENTS

- First Come First Use Permits <50 days
- Incidental use less than 2.5% of total space
- No private payment

HOW TO HAVE NO PRIVATE PAYMENT ON A LEASE OR PERMIT?



Zero Compensation leases

MANAGEMENT CONTRACTS

- Contracts for services such as:
- Custodial;
- Copy machine repair;
- Billing;
- Security;
- Energy performance contracting

SAFE HARBORS FOR MANAGEMENT CONTRACTS

Incidental to the University Function, i.e. janitorial

Physician privileges – if available to all qualified MDs

Excess electric generation – only direct expenses + OH

MORE SAFE HARBOR RULES FOR MANAGEMENT CONTRACTS

Profit Share Payments must be reasonable

Payments cannot be based on net profit

Payment may be on % of Gross revenue or % of expenses but not both

RESEARCH AGREEMENTS

Agreement with Corporate or Industry partner

Agreement with Federal Government

SAFE HARBORS FOR SPONSORED RESEARCH CONTRACTS

- Agreement is for basic research
- Licensing terms must be consistent for all
- Timing for pricing of licensing is important
- Many more

COMBINING TAXABLE AND TAX EXEMPT FINANCING

Pre-2016 Taxable use was fixed in place

Post-2016 Taxable use can move as long as % does not increase

ROLE OF THE CONSTRUCTION FUND

Plan ahead for taxable bonds

Provides detailed info to Bond Counsel

Track bonds to specific projects

CONCLUSION

Risk of non compliance is significant

<u>Mitigation</u>

Tracking Private use is necessary

Managing agreements is important