SECTION V

Typical Questions and Answers (Q&As)

1. How do we get a copy of the Indirect Cost Guide?

"A Guide to Indirect Cost Rate Determination" is available in the DOL website: http://www.dol.gov/oasam/boc/dcd/

2. Who needs an indirect cost rate?

Any organization being awarded cost reimbursable grants and contracts, also having more than one source of funding (including direct Federal funding), needs an indirect cost rate.

3. Why do I need an indirect cost rate?

Your organization needs an indirect cost rate for: management information, to be in compliance with Federal regulations, 2 CFR Part 200, Subpart E & Appendix IV, or the FAR (whichever applies), close-out purposes, and for audit documentation.

4. Where can I find information on the applicable cost principles?

Available website links for the cost principles are available in the DCD's website: http://www.dol.gov/oasam/boc/dcd/extrelatedlinks.htm

5. What is an indirect cost rate?

An indirect cost rate is a percentage (indirect cost pool/direct cost base) used to distribute indirect costs to all cost centers benefiting from those costs.

6. Which agency should approve my indirect cost rate(s) and issue a Negotiation Agreement?

Your cognizant agency is responsible for negotiating your indirect cost rate and issuing the appropriate Negotiation Agreement. Unless specifically assigned by OMB, the Federal agency with the preponderance of direct funding is normally your cognizant agency.

7. What documentation is required as part of the provisional (based on budgetary costs) or final (based on incurred costs) indirect cost rate proposal?

Please refer to our website's "checklist". Also available in Section II (Page II-4) of our indirect cost guide.

8. How many days do we have to submit a provisional (based on budgetary information) indirect cost rate proposal - 1st time?

All organizations must submit their initial indirect cost rate proposal to their cognizant agency within 90 days of receiving a cost reimbursable grant/contract award. For example, 2 CFR, Part 200, Appendix IV, C.2.b., states:

> "b. Except as otherwise provided in §200.414 Indirect (F&A) costs paragraph (e) of this Part, a nonprofit organization which has not previously established an indirect cost rate

with a Federal agency must submit its initial indirect cost proposal immediately after the organization is advised that a Federal award will be made and, in no event, later than three months after the effective date of the Federal award."

9. How many days do we have to submit a final (based on incurred costs) indirect cost rate proposal?

All organizations must submit their final indirect cost rate proposals within 180 days of the end of your organization's fiscal year. For example: For example, 2 CFR, Part 200, Appendix IV, C.2.c., states:

> "c. Unless approved by the cognizant agency for indirect costs in accordance with §200.414 Indirect (F&A) costs paragraph (f) of this Part, organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency for indirect costs within six months after the close of each fiscal year."

10. For how long do we need to submit annual indirect cost rate proposals based on incurred costs?

For the life of the cost reimbursable contract/grant period. For example: You receive a three-year grant award (July 1, 2012 through July 1, 2015). Your fiscal year ends on December 31st.

Based on the above example, your organization would need to submit final incurred cost proposals for the organizations' fiscal year ending (FYE):

12/31/2012, 12/31/2013, 12/31/2014, and 12/31/2015.

11. How many days does it takes my Federal cognizant agency to process my indirect cost rate proposal?

The DOL's Division of Cost Determination (DCD) typically issues indirect cost rate agreements within 120 days of proposal receipt pending no unforeseen negotiation issues.

12. What is the correct DOL address for submission of an indirect cost proposal?

Most of the proposals received are handled out of Division of Cost Determination's National Office in Washington D.C.. Refer to our directory listing of this guide for more information.

13. What can the submitting organizations do to help the Federal Cognizant Agency facilitate their review of an indirect cost rate proposal?

To avoid delays, organizations should submit complete proposals. If proposals are based on actual costs, they must reconcile to financial statements. If there are any questions concerning any aspect of the proposal, contact DCD to resolve the issue prior to formal submission. Also, if during a prior negotiation you agreed to take corrective action(s) on any issues, you must disclose the status of your action(s). Finally, you must inform DCD about all significant organizational or accounting changes and their impact. If these actions are taken, it could save time in getting the proposal negotiated.

14. When a grantee/contractor is required by DOL to submit a closeout package prior to negotiating a final indirect cost rate, what is the procedure?

The grantee/contractor should prepare the closeout package using the approved provisional indirect cost rate and include a statement indicating that a provisional indirect cost rate was used pending negotiations of a final indirect cost rate. Upon receipt of a final indirect cost rate, the grantee/contractor must notify the applicable Federal funding agency of the final rate issued and request an amended final closeout adjustment. Refer to 2 CFR, Part 200, Subpart D, §200.343 and §200.344 for information on closeout and post-closeout adjustments and continuing responsibilities.

15. What do we do if some grants/contracts do not provide for any indirect costs or provide for indirect cost rates that are lower than those established, provisional or final?

All indirect costs, using the approved rate, must be allocated to all grants/contracts regardless of any restrictions or funding limitations. Any allocable indirect costs that exceed any administrative or statutory restrictions on a specific Federal grant/contract may not be shifted to other Federal grants/contracts, unless specifically authorized by legislation. Non-Federal revenue sources must be used to pay for these unrecovered costs.

2 CFR Part 200, Subpart E, §200.414(c), states, however:

> (c) Federal Agency Acceptance of Negotiated Indirect Cost Rates. (See also §200.306 Cost sharing or matching.)
>
> (1) The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification as described in paragraph (c)(3) of this section.
>
> (2) The Federal awarding agency head or delegate must notify OMB of any approved deviations.
>
> (3) The Federal awarding agency must implement, and make publicly available, the policies, procedures and general decision making criteria that their programs will follow to seek and justify deviations from negotiated rates.
>
> (4) As required under §200.203 Notices of funding opportunities, the Federal awarding agency must include in the notice of funding opportunity the policies relating to indirect cost rate reimbursement, matching, or cost share as approved under paragraph (e)(1) of this section. As appropriate, the Federal agency should incorporate discussion of these policies into Federal awarding agency outreach activities with non-Federal entities prior to the posting of a notice of funding opportunity.

16. Will DOL assist grantees/contractors in obtaining proper approval of the indirect cost rate from other Federal agencies and State and local units of Government?

DOL's Division of Cost Determination will be available to explain to other organizations the methodology used in development of the grantee's/contractor's indirect cost rate. However, the funding of indirect costs is subject to approval of Government authorized representatives and contracting officers of the respective organization. Under most circumstances, other Federal agencies will recognize and pay a grantee/contractor's approved indirect cost expense. The Cognizant Federal Agency cannot, however, require States or units of local Government to recognize an approved indirect cost rate. See also Q&A # 15 above citing information from 2 CFR Part 200, Subpart E, §200.414(c), Federal Agency Acceptance of Negotiated Indirect Cost Rates.

17. Our grant with DOL totals $500,000 and includes a provisional indirect cost rate of 10%. Our actual, final indirect cost rate is 13%. Will DOL provide us with additional grant funds due to our higher indirect cost rate?

DOL could provide your organization with additional grant funds due to a higher final indirect cost rate than the established provisional rate subject to funds available. Also, a grant modification may be allowed to transfer budgeted direct costs to the indirect cost category due to the increased indirect costs. This would be subject to the terms and conditions of the grant agreement, e.g. approval of grant officer, indirect cost ceilings, and administrative cost limitations. Contact your grant officer or grant officer technical representative for additional questions on this topic.

18. In the event that a grantee/contractor does not exceed the total grant/contract but exceeds the ceiling placed on the indirect cost by DOL, can the excess indirect cost be recovered?

No. The ceiling on the indirect cost was included in the agreement to limit the amount of grant/contract funds used for indirect cost purposes by the grantee/contractor. This condition was known by the grantee/contractor before any grant/contract funds were expended.

19. Can our indirect cost rate proposal be based only on Federal funds since it only represents 15% of our total revenue?

No. Your indirect cost rate proposal must be accompanied by a schedule of costs incurred for all projects, Federal and non-Federal, and the amount of the proposed allocation base must tie-in with the applicable direct cost base for all projects.

20. Accrued annual leave cost – Is it allowable under 2 CFR Part 200?

2 CFR Part 200, Subpart E, §200.403 Factors affecting allowability of costs, details that allowable costs must be determined in accordance with Generally Accepted Accounting Principles.

The Financial Accounting Standards Board issued Financial Accounting Standard Number 43 "Accounting for Compensated Absences" to establish uniformity in the accounting for annual leave pay. This standard requires employers to accrue during each accounting period the liability for compensated absences earned by employees during that period provided that all of the following conditions are met:

1. The employer's obligation relating to employees' rights to receive compensation for future absences is attributable to employee's services already rendered;
2. The obligation relates to rights that vest or accumulate;
3. Payment of compensation is probable; and
4. The amount can be reasonably estimated.

The accrual of annual leave does not result in increased costs, but allows recognizing the cost in the proper accounting period to improve actual cost determination. In general, compensated absences are to be accrued in the period in which they are earned rather than when they are paid. In order for accrued leave to be an allowable cost, the personnel policies of the organization must comply with the Financial Standard Number 43.

21. What is the difference between bid and proposal costs and fund raising costs and how does a grantee/contractor treat such costs in its indirect cost proposal?

Bid and proposal costs represent the salaries, consultant fees, printing, postage, travel, etc. associated with an organization's preparation of bids, proposals and applications to perform specific tasks for remuneration under potential Federal and non-Federal grants, contracts or other agreements. An organization should treat bid and proposal expenses as allowable indirect costs subject to any limitations imposed by the Cognizant Federal agency.

Fund raising costs represent the salaries, consultant fees, printing, postage, travel, etc. associated with an organization's requests to private institutions or individuals for donation of funds for non-specific purposes. Fund raising costs are unallowable for Federal reimbursement purposes. However, this activity (cost objective) shall be allocated an appropriate share of indirect costs. Accordingly, fund raising costs are to be included in the distribution base used to compute an organization's indirect cost rate.

22. Can the audit costs under 2 CFR Part 200, Subpart F, be recovered?

Audit costs could be recovered as either direct or indirect costs in accordance with applicable cost principles and the benefits received concept. However, there is no special appropriation for audit costs. To recover audit costs, the organization must build them into the specific grant/contract documents (if direct) or into the overhead proposal (if indirect).

For more information on this topic, see language below from 2 CFR, Part 200, Subpart F:

§200.501 Audit requirements.

(a) Audit required. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

(b) Single audit. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

23. If the grantee's policy is to capitalize equipment under the $5,000 threshold specified in 2 CFR Part 200, §200.439 (Equipment and other capital expenditures), do they need Federal approval prior to directly charging the grant with the cost of equipment?

Not from the Division of Cost Determination since no indirect costs are being charged. Instead, these direct costs would need to be reviewed and approved by the grant/contract officer.

24. A grantee has contracted to update its computer network with its affiliates for a total cost of $50,000. Since each component; i.e., monitor, printer, personal computer, software, modem, etc., costs less than the $5,000 per unit threshold specified in 2 CFR Part 200, §200.439, can this "equipment" be charged to the indirect cost pool?

No. The components of the computer network make it useable for the purpose for which it was acquired and therefore establishes the "system" as a capital expenditure. Accordingly, this equipment can be appropriately charged to Federal grants either as a direct or indirect cost, on the basis of depreciation and the benefits received concept.

25. A non-profit grantee purchased a building in September, 1994 and refinanced its mortgage in September, 1998. Can the grantee now charge Federal programs with the interest incurred on this mortgage?

No. The refinanced interest costs are not allowable because the building was originally purchased on September 1994. Had the building been purchased on or after September 29, 1995, these costs could have been allowed.

26. Can transactions with an affiliate affect allowable costs?

Yes. A problem may arise in transactions between parent organizations and their affiliates when the parent organization has an equity interest in the affiliate. When an equity interest exists, any profits made by the affiliate improve the equity interest of the parent. If an affiliate sells a good or service to the parent and the selling price includes a profit to the affiliate, the parent's equity interest in the affiliate has been increased. If the parent then includes the purchase price as a direct or indirect charge to a Federal award, it has violated the applicable cost principles that charges will be at cost and not include a profit factor.

For example, suppose your organization (the parent) obtains accounting services from an affiliate and the parent organization has an equity interest in the affiliate. The fee that the parent pays to the affiliate must be based on the cost incurred by the affiliate and the fee and should not include a profit to the affiliate.

If the fee does include a profit factor to the affiliate, the allowable part of the fee is limited to that portion which represents the cost to the affiliate exclusive of any profit factor.

This principle works in reverse as well. When an organization provides a good or service to an affiliate, the full cost of providing that good or service must be recovered from the affiliate and an appropriate credit must be applied to the indirect cost pool.

27. What is the period of time that an indirect cost rate agreement covers?

A provisional indirect cost rate is negotiated to cover a one year period. However, because of the time lapse between the submission and approval of a rate, provisional rates are usually established by DOL for a two year period. A final indirect cost rate agreement is negotiated to cover one fiscal year period after which a new final indirect cost rate must be negotiated for the subsequent fiscal year.

2 CFR Part 200 – Indirect cost Q&As taken from the COFAR (Council of Financial Assistance Reform) website - https://cfo.gov/cofar/

8/29/2014

200.110
.110-1 Effective Dates and Indirect Cost Rates
How does the effective date apply to indirect cost rates?

Existing negotiated indirect cost rates will remain in place until they are due to be re-negotiated. The "effective date" of changes to indirect cost rates must be based upon the date that a newly re-negotiated rate goes into effect for a specific non-Federal entity's fiscal year. Therefore, for indirect cost rates and cost allocation plans, Federal awarding and indirect cost rate negotiating agencies will use the Uniform Guidance both in generating proposals for and negotiating a new rate (when the rate is due to be re- negotiated) for non-Federal entity fiscal years starting on or after December 26, 2014.

For example, the Uniform Guidance eliminates the concept of "use allowance" for depreciation. Nevertheless, for non-Federal entities with negotiated rates that are based on "use allowance", they would continue to use their existing rate, based on "use allowance", until the rate is due to be re-negotiated.

.110-2 Effective Dates and Indirect Cost Rate Proposals

When may non-Federal entities begin to submit proposals for indirect cost rates based on the Uniform Guidance?

Non-Federal entities may begin to submit actual cost proposals based on the Uniform Guidance when they are due for fiscal years that begin on or after December 26, 2014. For example, if a non-Federal entity is required to submit a rate proposal based on FY 2014 actual costs to set rates for FY 2016, the rate proposal can be developed using the provisions in the Uniform Guidance.

200.331

.331-1 Pass-through Entities, Indirect Cost Rates, and State Funds

When a pass-through entity uses Federal and non-Federal funds to make a subaward to a nonprofit as a subrecipient, is the requirement in section 200.331(a)(4) for pass-through entities to provide an indirect cost rate applicable for only for the portion of the funds from Federal award that are utilized or the total funds?

Federal Uniform Guidance including section 200.331(a)(4) applies to Federal funds as specified in the terms and conditions of the Federal award.

.331-2 Limits on layers of Subrecipients for Indirect Costs

Is there a limit on the number of layers of subrecipients at which the requirement to pay indirect costs is no longer applicable? For example, a state may pass-through Federal grant funds to a local government. The local government may then pass all or some of the funds through to a local nonprofit, which then also utilizes the services of other nonprofit providers as subrecipients.

No, there is no limit under the Uniform Guidance, but the Federal award may have a limit.

.331-3 Delayed Federal funds and Indirect Cost Rates

When the awarding of Federal funds is held up due to the delayed approval of the Federal budget or other reasons, so states must use state funds in order to provide continued services in the interim, are those dollars considered state or Federal with regard to meeting the OMB requirements? For example, if temporarily using state funds while waiting for Federal funds, is the state required to reimburse subrecipients for their indirect costs as directed in the Uniform Guidance?

Yes, any costs ultimately charged to a Federal award must comply with the terms and conditions of that Federal award, including the Uniform Guidance. Pre-award costs are governed by section 200.458, and the Cash Management Improvement Act and its implementing regulations at 31 CFR Part 205.

.331-4 Indirect Cost Rates and Blended Subawards

States often blend several Federal funding streams to pay for services performed by nonprofit organizations. Each Federal funding stream may have a different set of requirements, particularly as it relates to indirect costs — some with statutory caps on indirect costs and others without a cap and are covered by the new provision in the Uniform Guidance. How should a pass-through entity calculate the indirect cost rate it must reimburse the nonprofit?

Each Federal award is subject to its own terms and conditions, and the funding streams would be tracked accordingly. For payments of indirect cost to the subrecipients, the pass-through entity must follow any statutory caps required by the funding streams. If a non-Federal entity wishes to blend funds from multiple Federal awards and apply only one set of terms and conditions to all the funds, the terms and conditions of that arrangement must be agreed to in advance by all participating Federal awarding agencies.

.331-5 Indirect Cost Rates and Entities Who Do Not Have Indirect Costs

2 CFR 200.210(a)(15), 2 CFR 200.331(a)(1)(xiii) and (a)(4) all make reference to indirect cost rates as a requirement for recipients and subrecipients. Not all entities charge indirect cost rates. Will they now be forced to establish such rates?

No. Non-Federal entities that are able to allocate and charge 100% of their costs directly may continue to do so. Claiming reimbursement for indirect costs is never mandatory; a non-Federal entity may conclude that the amount it would recover thereby would be immaterial and not worth the effort needed to obtain it.

.331-6 Pass-through Entities and Indirect Cost Rate Negotiation

This section states that pass-through entities are expected to honor a subrecipient's negotiated F&A rate agreement, or use a 10% MTDC de minimis rate, or negotiate an F&A rate with the subrecipient. Is it acceptable to require a subrecipient to accept a rate lower than 10% MTDC via negotiation, or in lieu of their negotiated F&A rate? If a subrecipient requests to establish a rate via negotiation, does the pass-through entity have to establish the rate via negotiation?

If the subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used. It also is not permissible for pass-through entities to force or entice a proposed subrecipient without a negotiated rate to accept less than the de minimis rate. The cost principles are designed to provide that the Federal awards pay their fair share of the costs recognized under these principals. (See section 200.100(c).) Pass-through entities may, but are not required, to negotiate a rate with a proposed subrecipient who asks to do so.

.331-7 Indirect Cost Rates and non-Compliance with Guidance

What should I do if my pass-through entity won't honor my entity's federally negotiated indirect cost rate agreement?

You may wish to remind your pass-through entity of their obligation under the uniform guidance in part 200.331. As with any instance where a non-Federal entity does not comply with the guidance, the pass-through entity will be vulnerable to any of the measures available in sections 200.338-200.342, Remedies for Non-Compliance, depending on the Federal awarding agencies oversight of their Federal award. The COFAR is working with a Coalition of non-Federal entities to evaluate the effectiveness of implementation and the overall impact of the guidance. For information about where to direct inquiries about the Uniform Guidance in general, please see part 200.108.

200.414
.414-1 De Minimis Rate and Governments

Is the 10 percent de minimis rate for new organizations which have never negotiated an IDC rate at 200.414 (f) available to governmental organizations or tribal government entities which have never negotiated an IDC rate?

Yes. Provision of the 10 percent de minimis indirect cost rate is conditioned on the non-Federal entity meeting the requirements specified at 200.414 (f). These include limiting availability to organizations that have never received a negotiated indirect cost rate, except for those described in Appendix VII of Part 200, paragraph (D)(1)(b) "governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal…" State and local government departments that have never negotiated indirect cost rates with the Federal government and receive less than $35 million in direct Federal funding per year may use the 10% de minimis indirect cost rate, and must keep the documentation of this decision on file. Federally recognized Indian tribes that have never negotiated an indirect cost rate with the Federal government may also use the 10% and must keep the documentation of this decision on file.

.414-2 Indirect Cost Rate Extensions – "Current" and "one-time"

Section 200.414(g) of the Uniform Guidance states: "Any non-Federal entity that has a federally negotiated indirect cost rate may apply for a one-time extension of a current negotiated indirect cost rates for a period of up to four years." • What is meant by the term "current negotiated indirect cost rates"? • What is meant by the term "one-time"?

A current negotiated indirect cost rate is the negotiated rate *in effect (i.e., not expired)* when the non-Federal entity requests a rate extension. Rate extension requests will only be considered once in a rate negotiation cycle. For example, a non-Federal entity with a current negotiated rate for 7/1/15-6/30/16 requests an extension of that rate for 3 years, until 6/30/19. If approved by the cognizant agency for indirect costs, the non-Federal entity is required to submit a proposal and request a negotiation of an indirect cost rate for the period beginning 7/1/19. Assuming these are predetermined rates effective until 6/30/23, the non-Federal entity could then request an extension of the current negotiated rate at the end of this approved period (6/30/23), prior to the submission of a proposal for negotiated rates in the next period. "Current negotiated rates" include only "predetermined" and "final" rates (not "provisional" or "fixed" rates).

.414-3 Documentation Required for Extension

Section 200.414(g) allows any non-Federal entity that has a federally negotiated indirect cost rate to apply for a one-time extension of its current negotiated indirect cost rates for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. Are there any documentation requirements that must be submitted? Are non-Federal entities eligible for multiple four-year extensions?

See FAQ .414-2. The intent of allowing for indirect cost rate extensions is to minimize the administrative burden for the non-Federal entity. As such, documentation requirements to support a four-year indirect cost rate extension should be kept to a minimum. A non-Federal entity can apply for a one-time extension (up to four years) on its most current negotiated rate. Subsequent one-time extensions (up to four years) are available if a renegotiation is completed between each extension request. Once there is a new negotiated indirect cost rate in effect, a non-Federal entity could request a one-time extension on that rate.

.414-3 Timing of Request for Extension

When should an institution contact the cognizant agency for indirect costs to request extension of their current negotiated rate?

Such requests should be submitted 60 days prior to the due date of the next proposal for indirect costs, but cognizant agencies for indirect costs can accept extension requests submitted later than that on a case by case basis.

.414-4 Extensions and Fixed-Rates with Carry-Forward

How might an organization with negotiated fixed rates with carry-forward effectively use the option for an extension of a current negotiated rate provided by 200.414(g)?

A fixed-rate with carry-forward agreement cannot be extended. If a non-Federal entity with a fixed-rate with carry-forward agreement would like to take advantage of the flexibilities in this provision of the Uniform Guidance, it would need to first negotiate a final or predetermined rate, which could then be extended, subject to the approval of the cognizant agency. The carry-forward for the last fixed year would have to be resolved in accordance with cognizant agency for indirect cost procedures.

.414-5 (Previously Q IV-3) Extensions and Old Rates, Shorter Extensions

Can an entity extend their rate for up to 4 years even if it's a really old rate (say 10 years ago)? Can they only extend for 4 years? What about 3 years or 2 years?

• Uniform Guidance in section 200.414 states that any non-Federal entity with a federally negotiated indirect cost rate may apply for a one-time extension for a period of up to 4 years. The extension is subject to the review and approval of the cognizant agency for indirect costs.
• Requests for extensions may be for periods of less than 4 years. The extension period is subject to the review and approval of the cognizant agency for indirect costs.

200.431
.431-1 Fringe Benefits and Indirect Costs

Will the COFAR consider deleting the requirement in 200.431(b)(3)(i) and 200.431(e)(3) that fringe benefits be charged as indirect costs when the non-Federal entity is using a cash basis of accounting?

Based on the COFAR's recommendation, OMB will issue a technical correction to clarify that the fringe benefit rate process (in addition to the indirect cost process) can also be used for payments of unused leave, worker's compensation, unemployment compensation, severance pay, and similar employee benefits. If a non-Federal entity uses specific identification for fringe benefits, then it can only charge termination leave (or other fringe benefit costs) in the indirect cost rate (if it charges leave on the cash basis), but if it has fringe benefit rates, it could charge termination leave (or other fringe benefit costs) through either its fringe benefit rate or its indirect cost rate. Generally, the preference would be to include the termination leave costs (or other fringe benefit costs) as part of the fringe benefit rate(s) if these costs are already included. If these costs are included in the indirect cost rate for non-Federal entities required to submit long-form proposals, then they would have to go to General Administration (GA) and, in the case of IHEs, would be subject to the 26% administrative cap for IHEs.

200.444
.444-1 Salaries and wages for Tribal Councils

In section 200.444 the guidance now includes language that up to 50% of the salaries and expenses for the tribal council can be included in the indirect cost calculation without documentation. Does this include the Chairman or equivalent?

Yes, provided these expenses are allocable to managing and operating Federal programs.

Appendix V

Appendix V-1 SWCAP For Tribes

Did this appendix replace Appendix C to Part 225 – State/Local-Wide Central Service Cost Allocation Plans (SWCAP)? If so, why did the Appendix's new title include reference to Indian tribes? SWCAPs have historically been applicable to states and U.S. territories, not Indian tribes.

Yes, Appendix V to part 200 does replace Appendix C to Part 225 and provides guidance on the preparation, submission and approval of Statewide Cost Allocation Plans (SWCAP). Indian tribes are not required to prepare and submit tribe-wide cost allocation plans for reimbursement of indirect costs. Based on the COFAR's recommendation, OMB will issue a technical correction to remove Indian tribe in the title of Appendix V.

Section VI
2 CFR Part 200 – Indirect cost Q&As taken from the COFAR (Council of Financial Assistance Reform) website - https://cfo.gov/cofar/

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200.19
.19-1 Cognizant Agency for Indirect Cost
If the Federal awarding agency serving as the cognizant agency for indirect costs for a non-Federal entity (as described in section 200.19 Cognizant agency for indirect costs) does not allow the non-Federal entity to claim indirect costs, is this Cognizant agency still responsible for negotiating indirect cost rates?

Yes. When a Federal awarding agency is the Cognizant agency for indirect costs and does not allow recipients to recover indirect costs on their awards, it is the responsibility of the cognizant agency for indirect costs to negotiate indirect costs rates.

200.68
.68-1 Determination of Modified Total Direct Cost (MTDC) for Subaward(s)
In the definition of Modified Total Direct Cost (MTDC) base, does the "regardless of the period of performance of subawards under the award" mean that if the subaward(s) to the subrecipient is made up of several separately executed funding agreements, in the course of the period of performance does each separate subaward agreement require including up to $25K in the MTDC base for the award segment even if the scope of the subaward(s) remains the same?

Yes. If the subaward needs to be separately negotiated or renegotiated over the period of performance, this would support including an additional $25K in MTDC for each subaward negotiation. The allowance of $25K is for the life of the award, or for each period of performance. Renewals of subawards may be considered, for determining the $25K inclusion in MTDC, if they need to be formally renegotiated within the period of performance of the grant.

200.110
.110-1 Effective Dates and Indirect Cost Rates
How does the effective date apply to indirect cost rates?

Existing negotiated indirect cost rates will remain in place until they are due to be re-negotiated. The “effective date” of changes to indirect cost rates must be based upon the date that a newly re-negotiated rate goes into effect for a specific non-Federal entity’s fiscal year. Therefore, for indirect cost rates and cost allocation plans, Federal awarding and indirect cost rate negotiating agencies will use the Uniform Guidance both in generating proposals for and negotiating a new rate (when the rate is due to be re- negotiated) for non-Federal entity fiscal years starting on or after December 26, 2014.

For example, the Uniform Guidance eliminates the concept of “use allowance” for depreciation. Nevertheless, for non-Federal entities with negotiated rates that are based on “use allowance”, they would continue to use their existing rate, based on “use allowance”, until the rate is due to be re-negotiated.

.110-2 Effective Dates and Indirect Cost Rate Proposals
When may non-Federal entities begin to submit proposals for indirect cost rates based on the Uniform Guidance?

Non-Federal entities may begin to submit actual cost proposals based on the Uniform Guidance when they are due for fiscal years that begin on or after December 26, 2014. For example, if a non-Federal entity is required to submit a rate proposal based on FY 2014 actual costs to set rates for FY 2016, the rate proposal can be developed using the provisions in the Uniform Guidance.

.320-5 Methods of Procurement and Indirect Costs

Does the Uniform Guidance procurement standards apply to procurements made for indirect costs (for example: would a non-Federal entity need to follow them when hiring a plumber to fix a broken pipe in the headquarters building?)

No. The Uniform Guidance procurement standards do not apply to procurements made in indirect cost areas. They apply to procurements for goods and services that are directly charged to a Federal award.

200.331

.331-1 Pass-through Entities, Indirect Cost Rates, and State Funds

When a pass-through entity uses Federal and non-Federal funds to make a subaward to a nonprofit as a subrecipient, is the requirement in section 200.331(a)(4) for pass-through entities to provide an indirect cost rate applicable for only for the portion of the funds from Federal award that are utilized or the total funds?

Federal Uniform Guidance including section 200.331(a)(4) applies to Federal funds as specified in the terms and conditions of the Federal award.

.331-2 Limits on layers of Subrecipients for Indirect Costs

Is there a limit on the number of layers of subrecipients at which the requirement to pay indirect costs is no longer applicable? For example, a state may pass-through Federal grant funds to a local government. The local government may then pass all or some of the funds through to a local nonprofit, which then also utilizes the services of other nonprofit providers as subrecipients.

No, there is no limit under the Uniform Guidance, but the Federal award may have a limit.

.331-3 Delayed Federal funds and Indirect Cost Rates

When the awarding of Federal funds is held up due to the delayed approval of the Federal budget or other reasons, so states must use state funds in order to provide continued services in the interim, are those dollars considered state or Federal with regard to meeting the OMB requirements? For example, if temporarily using state funds while waiting for Federal funds, is the state required to reimburse subrecipients for their indirect costs as directed in the Uniform Guidance?

Yes, any costs ultimately charged to a Federal award must comply with the terms and conditions of that Federal award, including the Uniform Guidance. Pre-award costs are governed by section 200.458, and the Cash Management Improvement Act and its implementing regulations at 31 CFR Part 205.

.331-4 Indirect Cost Rates and Blended Subawards

States often blend several Federal funding streams to pay for services performed by nonprofit organizations. Each Federal funding stream may have a different set of requirements, particularly as it relates to indirect costs — some with statutory caps on indirect costs and others without a cap and are covered by the new provision in the Uniform Guidance. How should a pass-through entity calculate the indirect cost rate it must reimburse the nonprofit?

Each Federal award is subject to its own terms and conditions, and the funding streams would be tracked accordingly. For payments of indirect cost to the subrecipients, the pass-through entity must follow any statutory caps required by the funding streams. If a non-Federal entity wishes to blend funds from multiple Federal awards and apply only one set of terms and conditions to all the funds, the terms and conditions of that arrangement must be agreed to in advance by all participating Federal awarding agencies.

.331-5 Indirect Cost Rates and Entities Who Do Not Have Indirect Costs

2 CFR 200.210(a)(15), 2 CFR 200.331(a)(1)(xiii) and (a)(4) all make reference to indirect cost rates as a requirement for recipients and subrecipients. Not all entities charge indirect cost rates. Will they now be forced to establish such rates?

No. Non-Federal entities that are able to allocate and charge 100% of their costs directly may continue to do so. Claiming reimbursement for indirect costs is never mandatory; a non-Federal entity may conclude that the amount it would recover thereby would be immaterial and not worth the effort needed to obtain it.

.331-6 Pass-through Entities and Indirect Cost Rate Negotiation

This section states that pass-through entities are expected to honor a subrecipient's negotiated F&A rate agreement, or use a 10% MTDC de minimis rate, or negotiate an F&A rate with the subrecipient. Is it acceptable to require a subrecipient to accept a rate lower than 10% MTDC via negotiation, or in lieu of their negotiated F&A rate? If a subrecipient requests to establish a rate via negotiation, does the pass-through entity have to establish the rate via negotiation?

If the subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used. It also is not permissible for pass-through entities to force or entice a proposed subrecipient without a negotiated rate to accept less than the de minimis rate. The cost principles are designed to provide that the Federal awards pay their fair share of the costs recognized under these principles. (See section 200.100(c).) Pass-through entities may, but are not required, to negotiate a rate with a proposed subrecipient who asks to do so.

.331-7 Indirect Cost Rates and non-Compliance with Guidance

What should I do if my pass-through entity won't honor my entity's federally negotiated indirect cost rate agreement?

You may wish to remind your pass-through entity of their obligation under the uniform guidance in part 200.331. As with any instance where a non-Federal entity does not comply with the guidance, the pass-through entity will be vulnerable to any of the measures available in sections 200.338-200.342, Remedies for Non-Compliance, depending on the Federal awarding agencies oversight of their Federal award. The COFAR is working with a Coalition of non-Federal entities to evaluate the effectiveness of implementation and the overall impact of the guidance. For information about where to direct inquiries about the Uniform Guidance in general, please see part 200.108.

200.414

.414-1 De Minimis Rate and Governments

Is the 10 percent de minimis rate for new organizations which have never negotiated an IDC rate at 200.414 (f) available to governmental organizations or tribal government entities which have never negotiated an IDC rate?

Yes. Provision of the 10 percent de minimis indirect cost rate is conditioned on the non-Federal entity meeting the requirements specified at 200.414 (f). These include limiting availability to organizations that have never received a negotiated indirect cost rate, except for those described in Appendix VII of Part 200, paragraph (D)(1)(b) "governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal…" State and local government departments that have never negotiated indirect cost rates with the Federal government and receive less than $35 million in direct Federal funding per year may use the 10% de minimis indirect cost rate, and must keep the documentation of this decision on file. Federally recognized Indian tribes that have never negotiated an indirect cost rate with the Federal government may also use the 10% and must keep the documentation of this decision on file.

.414-2 Indirect Cost Rate Extensions – "Current" and "one-time"

Section 200.414(g) of the Uniform Guidance states: "Any non-Federal entity that has a federally negotiated indirect cost rate may apply for a one-time extension of a current negotiated indirect cost rates for a period of up to four years." • What is meant by the term "current negotiated indirect cost rates"? • What is meant by the term "one-time"?

A current negotiated indirect cost rate is the negotiated rate *in effect (i.e., not expired)* when the non-Federal entity requests a rate extension. Rate extension requests will only be considered once in a rate negotiation cycle.

For example, a non-Federal entity with a current negotiated rate for 7/1/15-6/30/16 requests an extension of that rate for 3 years, until 6/30/19. If approved by the cognizant agency for indirect costs, the non-Federal entity is required to submit a proposal and request a negotiation of an indirect cost rate for the period beginning 7/1/19. Assuming these are predetermined rates effective until 6/30/23, the non-Federal entity could then request an extension of the current negotiated rate at the end of this approved period (6/30/23), prior to the submission of a proposal for negotiated rates in the next period. "Current negotiated rates" include only "predetermined" and "final" rates (not "provisional" or "fixed" rates).

.414-3 Documentation Required for Extension

Section 200.414(g) allows any non-Federal entity that has a federally negotiated indirect cost rate to apply for a one-time extension of its current negotiated indirect cost rates for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. Are there any documentation requirements that must be submitted? Are non-Federal entities eligible for multiple four-year extensions?

See FAQ .414-2. The intent of allowing for indirect cost rate extensions is to minimize the administrative burden for the non-Federal entity. As such, documentation requirements to support a four-year indirect cost rate extension should be kept to a minimum. A non-Federal entity can apply for a one-time extension (up to four years) on its most current negotiated rate. Subsequent one-time extensions (up to four years) are available if a renegotiation is completed between each extension request. Once there is a new negotiated indirect cost rate in effect, a non-Federal entity could request a one-time extension on that rate.

.414-4 Timing of Request for Extension

When should an institution contact the cognizant agency for indirect costs to request extension of their current negotiated rate?

Such requests should be submitted 60 days prior to the due date of the next proposal for indirect costs, but cognizant agencies for indirect costs can accept extension requests submitted later than that on a case by case basis.

.414-5 Extensions and Fixed-Rates with Carry-Forward

How might an organization with negotiated fixed rates with carry-forward effectively use the option for an extension of a current negotiated rate provided by 200.414(g)?

A fixed-rate with carry-forward agreement cannot be extended. If a non-Federal entity with a fixed-rate with carry-forward agreement would like to take advantage of the flexibilities in this provision of the Uniform Guidance, it would need to first negotiate a final or predetermined rate, which could then be extended, subject to the approval of the cognizant agency. The carry-forward for the last fixed year would have to be resolved in accordance with cognizant agency for indirect cost procedures.

.414-6 (Previously Q IV-3) Extensions and Old Rates, Shorter Extensions

Can an entity extend their rate for up to 4 years even if it's a really old rate (say 10 years ago)? Can they only extend for 4 years? What about 3 years or 2 years?

Uniform Guidance in section 200.414 states that any non-Federal entity with a federally negotiated indirect cost rate may apply for a one-time extension for a period of up to 4 years. The extension is subject to the review and approval of the cognizant agency for indirect costs.

Requests for extensions may be for periods of less than 4 years. The extension period is subject to the review and approval of the cognizant agency for indirect costs.

.414-7 Extensions of Final Rates

May a non-Federal entity apply for a one-time extension of federally negotiated indirect cost rates per section 200.414(g), when rates are based on the provisional/final indirect cost rate method?

Yes. The non-Federal entity must have a current federally negotiated final indirect cost rate to apply for an extension of indirect cost rates. If the final rates are based on the latest applicable audit and completed fiscal year under 2 CFR 200 (beginning on or after December 26, 2014), they are considered current for this purpose and may be used to apply for an extension. For example, if a non-Federal entity's fiscal year is calendar, and rates are finalized based on the audit received by the end of September with the costs incurred through the previous December, the organization could apply for a one-time extension when submitting the final rate proposal for FYE December 31, 2015. In this example, the non-Federal entity can request an extension covering fiscal year(s) 2016 through 2019. Note, however, that Federal agencies may not approve rate extensions of final rates for any non-Federal entity that has cost reimbursement contracts. All one-time extensions of federally negotiated indirect cost rates are subject to the review and approval of the cognizant agency for indirect costs.

.414-8 (Also applicable to 200.331) Federally negotiated indirect cost rates – voluntary under-charging or waiving IDC

Section 200.414(c) says "The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate…only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification." For pass-through entities, FAQ .331-6 says "If the subrecipient already has a negotiated F&A rate with the Federal government, the negotiated rate must be used. It also is not permissible for pass-through entities to force or entice a proposed subrecipient without a negotiated rate to accept less than the de minimis rate." However, some non-Federal entities voluntarily choose to not charge indirect costs for certain Federal programs or choose to charge less than their full negotiated rate, to allow a greater share of the Federal program funds to be used for the direct program costs. Can Federal awarding agencies and pass-through entities permit this practice when it is truly voluntary?

Yes. If a non-Federal entity receiving a direct Federal award or a subrecipient voluntarily chooses to waive indirect costs or charge less than the full indirect cost rate, Federal awarding agencies and pass-through entities can allow this. The decision must be made solely by the non-Federal entity or subrecipient that is eligible for IDC reimbursement, and must not be encouraged or coerced in any way by the Federal awarding agency or pass-through entity.

.414-9 De Minimis Rate and Breaks in Federal Relationship *

Our organization previously had a negotiated indirect cost rate. However, all federal awards expired causing a break in our relationship with the federal government. During the break in relationship our negotiated indirect cost rate expired. Our organization has now received a new federal award. Are we eligible to receive the 10 percent de minimis rate?

No. Organizations that experience a break in federal relationship are not eligible to receive the 10 percent de minimis rate upon receipt of a new award. The availability of the de minimis rate is specifically limited to a non-Federal entity that has never received a negotiated indirect cost rate (200.414(f)). It is expected that organizations that have experience developing and negotiating rates have adequate resources to develop a new indirect rates.

.414-10 De Minimis Rate and Period of Applicability *

If an organization elects the 10 percent de minimis rate at the beginning of an award, is the de minimis rate applicable to the period of performance of the award?

The de minimis rate may not be applicable during the entire period of performance of an award. A non-Federal entity may use the 10 percent de minimis rate indefinitely until it elects to negotiate an indirect cost rate, which the non-Federal entity may apply to do at any time. Indirect cost rates are generally negotiated based on a non-federal entity's fiscal year (not the period of performance of an award). Therefore, the de minimis rate may not be applicable during the entire period of performance of an award.
Awarding agencies are not required to reissue awards issued prior to the effective date of the indirect cost negotiation agreement. Accordingly, the de minimis rate may be applicable to the period of performance of the award if the total award amount is known and made available to the organization at the time of award.

.414-11 De Minimis Rate and non-Federal entity with Single Function *

Can a non-Federal entity conducting a single function, which is predominately funded by Federal awards elect to charge the 10% de minimis rate if they currently charge all costs as direct costs to Federal programs?

No, the 10% de minimis rate must only be used to pay for overhead costs that are not directly charged to Federal awards. If all costs are charged directly to the Federal award (e.g., space costs, utility and administrative costs) then the recipient should not also charge the 10% de minimis rate. As described in 2 CFR section 200.403, costs must be consistently charged as either indirect or direct cost, but may not be doubled charged or inconsistently charged as both.

200.430

.430-1 Authorization of Changes to Time and Effort Systems

Section 200.430(a) provides new guidance for the costs of salaries and wages. What processes do non-Federal entities need to follow to be authorized to change their current systems for documenting payroll charges? Can non-Federal entities make incremental changes that reduce burden but maintain the spirit of their current processes? For those institutions that are required to file a DS-2, what is the role of the DS-2 in this process?

Changes to the process through which payroll charges are documented are allowable and can be implemented when the non-Federal entity complies with the guidance in this section, including standards defined in paragraph .430(i) Standards for Documentation of Personnel Expenses. For non-Federal entities that disclose their current process in a DS-2, any change will require a corresponding change in the DS-2. In most cases, this simply means that the non-Federal entity would revise its current DS-2 and provide a high level summary of the processes that meet paragraph (i). The DS-2 should be comprehensive enough to document the non-Federal entity's accounting practices without further information. Non-Federal entities can develop solutions that meet the requirements in paragraph (i) and reduce the burden related to their current process whether they be incremental or more significant, including complete elimination of current systems.

.430-2 Time and Effort and Tribes

In paragraph 200.430(i)(5) regarding compensation for personal services, "For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph 200.430(i)(5)(1) if approved by the cognizant agency for indirect cost." Please verify tribes will now be required to obtain approval from IBS due to the "If approved by cognizant agency for indirect cost".

Yes. This is not a policy change.

200.444

.444-1 Salaries and wages for Tribal Councils

In section 200.444 the guidance now includes language that up to 50% of the salaries and expenses for the tribal council can be included in the indirect cost calculation without documentation. Does this include the Chairman or equivalent?

Yes, provided these expenses are allocable to managing and operating Federal programs.

Appendix V

Appendix V-1 SWCAP For Tribes

Did this appendix replace Appendix C to Part 225 – State/Local-Wide Central Service Cost Allocation Plans (SWCAP)? If so, why did the Appendix's new title include reference to Indian tribes? SWCAPs have historically been applicable to states and U.S. territories, not Indian tribes.

Yes, Appendix V to part 200 does replace Appendix C to Part 225 and provides guidance on the preparation, submission and approval of Statewide Cost Allocation Plans (SWCAP). Indian tribes are not required to prepare and submit tribe-wide cost allocation plans for reimbursement of indirect costs. Based on the COFAR's recommendation, OMB will issue a technical correction to remove Indian tribe in the title of Appendix V.