

# Indirect Cost Overview – State/Local Organizations

## Webinar Q&As; March 3, 2016

1. What specifically are the situations under which a cost allocation plan would be required?

Response: A cost allocation plan (CAP) is required when a state/local government claims indirect costs as part of a Federal grant and does not allocate those costs through an approved cost rate. A CAP can use alternative allocation methods such as direct hours of direct FTEs and charges allocable actual indirect costs on a monthly basis.

A CAP, for purposes of allocating indirect costs, must be approved by the Federal cognizant agency or pass-through entity.

Shared direct costs – A CAP may be used when allocating shared direct costs. When a CAP is used for that purpose only, an approval is not needed by the Federal cognizant agency or pass-through entity.

2. What specifically are the situations under which a cost allocation plan would be required for the allocation of indirect costs?

Response – See above.

3. Are these state and local proposals for funding under \$35 million part of the SWCAP?

Response: The HHS approved SWCAP may include all state departmental agencies receiving a benefit of the SWCAP costs.

4. I am late! What happens if I haven't submitted an indirect cost rate proposal for the FY15 and FY16 to my Federal cognizant agency?

Response: For “new” grantees that have not submitted an indirect cost proposal in the past, we recommend requesting a reasonable extension directly with the grant officer.

For those grantees with previously approved rates or cost allocation plans, we recommend requesting a reasonable extension from their Federal cognizant agency.

5. We were told that any recipient of National Parks dollars - must use the Department of the Interior - even though majority of our funding comes from DOL.

Response: Yes, that is correct. The Uniform Guidance identifies the cognizant agency for certain agencies regardless of the dollar amount. Please see the guidance below from 2 CFR Part 200, Appendix V:

F. Negotiation and Approval of Central Service Plans

1. Federal Cognizant Agency for Indirect Costs Assignments for Cost Negotiation

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In general, unless different arrangements are agreed to by the concerned Federal agencies, for central service cost allocation plans, the cognizant agency responsible for review and approval is the Federal agency with the largest dollar value of total Federal awards with a governmental unit. For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is the Federal agency with the largest dollar value of direct Federal awards with a governmental unit or component, as appropriate. Once designated as the cognizant agency for indirect costs, the Federal agency must remain so for a period of five years. In addition, the following Federal agencies continue to be responsible for the indicated governmental entities:

Department of Health and Human Services—Public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico), state and local hospitals, libraries and health districts.

Department of the Interior—Indian tribal governments, territorial governments, and state and local park and recreational districts.

Department of Labor—State and local labor departments.

Department of Education—School districts and state and local education agencies.

Department of Agriculture—State and local agriculture departments.

Department of Transportation—State and local airport and port authorities and transit districts.

Department of Commerce—State and local economic development districts.

Department of Housing and Urban Development—State and local housing and development districts.

Environmental Protection Agency—State and local water and sewer districts.

### 6. When calculating the total direct cost amount are capital expenditures (2 CFR 200.13) removed?

Response: Capital expenditures are excluded from the modified total direct costs which is used as the distribution basis for allocating costs. See guidance below from 2 CFR Part 200:

#### **§200.68 Modified Total Direct Cost (MTDC).**

MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

### 7. If a cost allocation plan is approved to allocate indirect cost, what rate is reported to other granting agencies?

Response – There is no rate reported to the Federal agency. Instead, the portion of allocated indirect cost that was charged and reported through the approved CAP should be reported to the applicable funding agencies for billing on a monthly basis and for closeout purposes. For bidding on a future grant, the grantee may estimate allocated indirect costs to that grant based on the approved CAP. That amount would be

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reflected in the SF-424. Alternatively, the DOL's Division of Cost Determination may approve (upon request) a budgetary rate based on the cost allocation plan that could be used for planning purposes only like bidding on a Federal a grant.

8. Are the ICR formats the same across the various cognizant agencies or do we have to decipher the terminology/meaning between them?

Response – DOL's Division of Cost Determination has suggested formats to put together an indirect cost proposal and applicable documentation checklists in their website. Other Federal cognizant agencies have comparable requirements.

9. Who sets the base to use salaries/wages vs. total direct costs?

Response – The grantee proposes the allocation base for the indirect cost proposal. The allocation base, however, is subject to review and negotiation by DOL's Division of Cost Determination to ensure that it distributes a reasonable share of indirect costs to all of the grantee's funding sources based on the benefits received concept.

10. If the allocation base is set by the cognizant agency and not the non-federal agency, then why show two methods of allocating indirect costs in the proposal?

Response – DOL's Division of Cost Determination requires grantees to submit two methods of allocate indirect costs when submitting the initial indirect cost proposal for purposes of comparing alternatives ways of allocating indirect costs and considering which allocation base reasonably allocates indirect costs in the best interest of the organization and the Federal government. After negotiating the allocation base the 1<sup>st</sup> year, there is no need to continue proposing "two" allocation bases.

11. What happens if the entity doesn't follow through and request a finalized rate?

Response – Adjustments for over/under collections for indirect costs are not settled, which could lead to audit findings, disallowances during the closeout, or post-close out process. Indirect cost charged in excess of the approved rate or timeframe would be subject to disallowance and would require the grant recipient to return funds. See guidance from 2 CFR Part 200 below:

§200.344 Post-closeout adjustments and continuing responsibilities.

(a) The closeout of a Federal award does not affect any of the following:

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(1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

(2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments...

12. How is the based determined when applying the 10% de minimis rate?

Response – The de minimis rate is calculated against the modified total direct costs. A grant recipient would examine the cost categories in its approved budget in order to determine which costs must be included or excluded in the MTDC. The definition of the MTDC contained in the Uniform Guidance at 2 CFR Part 200 is listed below:

**§200.68 Modified Total Direct Cost (MTDC).**

*MTDC* means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

13. How is the based determined when applying the 10% de minimis rate?

Response – See above.

14. Who approves the de minimis rate; the grant officer, you, or someone else?

Response – The election to use the de minimis rate must be made through the grant officer or the pass-through entity. Please be reminded that the de minimis rate is only available to certain grant recipients/subrecipients that meet certain conditions. Please review the Uniform Guidance for additional information.

15. For cost allocation plans approved for the allocation of indirect costs, how often are these plans submitted? Each fiscal year? Once? Only when allocation changes occur?

Response – Recovery of indirect costs through approved indirect cost rate proposal or cost allocation plan is supported with annual indirect cost proposals which should be submitted (if requested) to the Federal cognizant agency.

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16. How do you reconcile the indirect cost rate?

Response – The grant recipient and/or subrecipient must reconcile indirect costs allocated to a program/grant to actual costs incurred at least annually or sooner. Also, DOL’s Division of Cost Determination reconciles total costs in the indirect cost proposal to total costs in financial statements. This office also reviews indirect costs proposed by the grantee over their proposed allocation base to ensure that is stated correctly. Any adjustments due to math errors are shared with the grantee, along with any other adjustments for unallowable and unallocable costs. The grantee also provides a certificate of indirect costs certifying that they followed their applicable cost principles leading into what they charged directly, indirectly, etc.

17. If an organization has a predetermined rate that expired and switched to provisional as of 7/1/12, what does it mean if the provisional rate is listed as in effect "until amended"?

Response – DCD does not issue provisional rates with the “until amended” language. We understand that the language is used as a place holder until a final rate can be determined. For the example mentioned, the provisional that begins on 7/1/12 means to be used for FY 2013 (7/1/12-6/30/13) and thereafter until the final rate can be established for FY 2013.

However, to be certain, we recommend that grantees with rates reflecting that language to contact their applicable Federal cognizant agency to confirm its exact meaning.

18. What if an organization failed to amend the provisional rate?

Response – Organizations must get a final rate if a provisional rate was established by the Federal cognizant agency. If an approved indirect cost rate is not obtained and the grant recipient continues to charge indirect costs even after the provisional period has expired, such costs may be subject to disallowance. See 2 CFR Part 200 guidance below concerning post-closeout:

§200.344 Post-closeout adjustments and continuing responsibilities.

(a) The closeout of a Federal award does not affect any of the following:

(1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

(2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments...

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19. If my subrecipient has an approved ICR from the Federal agency, can we still negotiate with them? Or, do we have to accept their Federally approved ICR?

Response – The pass-through entity has to accept the Federally approved indirect cost rate from the subrecipient. See Q&A below from the website of the Council of Federal Financial Assistance and Reform:

### .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.

20. Is there a difference between shared direct costs and indirect costs? How do those get allocated?

Response – See earlier answer.

21. What is the best guidance available to states in order to negotiate indirect cost rates with their subrecipients?

Response – Basically, 2 CFR Part 200, states that pass-through entities have to negotiate indirect costs with subrecipients assuming that they are claiming indirect costs. Besides the guidance available in 2 CFR Part 200, DCD has made the forms, checklists, and worksheets that are used in an indirect cost proposal available on their website. We recommend looking at those items as a starting point for developing processes, and procedures for your subrecipients.

22. In past program years, state pass through funds for a subrecipient were recorded in the "Contractual" category for the grant budget SF-424A. Will the budgeted pass through amount going forward have to be broken out between the "Contractual" and "Indirect Cost" categories on the State's grant SF-424A budget submission?

Response – No. Subrecipient direct and indirect costs must still be included in the line item "contractual" for the SF-424A. The indirect costs line item should be only for the organization's (pass through entity) own indirect costs.

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23. Another of my subrecipients is another State Agency with their own ICR - how do we handle this?

Response – See answer above.

24. What is the process to change a cognizant agency after funding has changed from one federal agency to another?

Response – First, 2 CFR Part 200, Appendix V (state/local governments) states the following:

F. Negotiation and Approval of Central Service Plans

*1. Federal Cognizant Agency for Indirect Costs Assignments for Cost Negotiation*

In general, unless different arrangements are agreed to by the concerned Federal agencies, for central service cost allocation plans, the cognizant agency responsible for review and approval is the Federal agency with the largest dollar value of total Federal awards with a governmental unit. For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is the Federal agency with the largest dollar value of direct Federal awards with a governmental unit or component, as appropriate. **Once designated as the cognizant agency for indirect costs, the Federal agency must remain so for a period of five years.**

Considering the above, the organization should re-assess preponderance of direct Federal funding after the five year period and submit the indirect cost proposal to the Federal agency providing the majority of direct Federal funds or seek direct guidance from their current Federal cognizant agency on that topic. Note, however, that there are certain entities Federal departments that will be responsible for negotiation and approval of indirect costs regardless of the preponderance of direct Federal funding provided to the grantee. 2 CFR Part 200, Appendix V, states the following:

F. Negotiation and Approval of Central Service Plans

*1. Federal Cognizant Agency for Indirect Costs Assignments for Cost Negotiation*

In general, unless different arrangements are agreed to by the concerned Federal agencies, for central service cost allocation plans, the cognizant agency responsible for review and approval is the Federal agency with the largest dollar value of total Federal awards with a governmental unit. For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is the Federal agency with the largest dollar value of direct Federal awards with a governmental unit or component, as appropriate. **Once designated as the cognizant agency for indirect costs, the Federal agency must remain so for a period of five years. In addition, the following Federal agencies continue to be responsible for the indicated governmental entities:**

*Department of Health and Human Services*—Public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico), state and local hospitals, libraries and health districts.

*Department of the Interior*—Indian tribal governments, territorial governments, and state and local park and recreational districts.

*Department of Labor*—State and local labor departments.

*Department of Education*—School districts and state and local education agencies.

*Department of Agriculture*—State and local agriculture departments.

*Department of Transportation*—State and local airport and port authorities and transit districts.

*Department of Commerce*—State and local economic development districts.

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*Department of Housing and Urban Development*—State and local housing and development districts.

*Environmental Protection Agency*—State and local water and sewer districts.

25. Is there a maximum indirect cost rate for sub-recipients?

Response – No. The proposed indirect cost rate and allocated indirect costs must, however, be evaluated to ensure that they meet the applicable cost principles and are reasonable, allowable, and allocable. A common mistake or misinterpretation is that an approved indirect cost rate is applied to the bottom line total of grant expenditures which is incorrect. Although a rate may appear high, it is important that the rate is applied and calculated against the correct distribution basis which in all likelihood is based on a much smaller pool of costs than total grant expenditures.

26. What are our options if another federal agency won't accept the approved NICRA?

Response – See 2 CFR Part 200 guidance below:

§200.414 Indirect (F&A) costs.

(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...

27. I wasn't clear on my earlier question. On slide 10, when a CAP is used in lieu of an indirect cost rate, what are the circumstances that would lead to the requirement of a CAP?

Response – There is no requirements for state/local governments to have a cost allocation plan approved as opposed to a rate. Federal funding agencies prefer having

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an indirect cost rate approved. State/local governments, however, have a choice to propose either one for DCD approval.

29. Do you plan to provide technical assistance to State WIOA agencies (pass-through entities) regarding how they should proceed when they get indirect costs/cost allocation proposals from sub-recipients?

Response – DCD is available to provide technical assistance as it regards to the application of 2 CFR Part 200, other the cost principles, and general guidance related to indirect cost review, negotiation, and approval. The pass through entities, however, are responsible for negotiation and approving the subrecipients plans. 2 CFR Part 200, Appendix V, states the following:

#### D. Submission Requirements

1. Each state will submit a plan to the Department of Health and Human Services for each year in which it claims central service costs under Federal awards. The plan should include (a) a projection of the next year's allocated central service cost (based either on actual costs for the most recently completed year or the budget projection for the coming year), and (b) a reconciliation of actual allocated central service costs to the estimated costs used for either the most recently completed year or the year immediately preceding the most recently completed year.
2. Each major local government is also required to submit a plan to its cognizant agency for indirect costs annually.
3. All other local governments claiming central service costs must develop a plan in accordance with the requirements described in this Part and maintain the plan and related supporting documentation for audit. These local governments are not required to submit their plans for Federal approval unless they are specifically requested to do so by the cognizant agency for indirect costs. **Where a local government only receives funds as a subrecipient, the pass-through entity will be responsible for monitoring the subrecipient's plan.**

30. Some grants say that indirect costs are not allowable - example: COPS grant with DOJ

Response – We suggest consulting with that Federal agency for additional guidance. All grants awarded by DOL adhere to the provisions of the Uniform Guidance at 2 CFR Part 200 and allowable indirect costs could be charge to any of the DOL projects subject to allocability and reasonableness. See, however, 2 CFR Part 200 guidance below (c)(4):

#### **§200.414 Indirect (F&A) costs.**

(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.

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(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.