

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

1. Hello, I had a question from last week. How can an agency obtain approval for using the De Minimis rate of 10% - what specifically is the process for gaining approval?

Response: Assuming that you have never negotiated a Federally approved rate agreement, apply for it as part of completing documentation in the Solicitation of Grant Agreement.

2. If we decide to use the De minimis rate and receive admin reimb based on the 10%, is there ever a time to reconcile what is actual indirect vs amount received by the De minimis rate?

Response: Not for purposes of indirect cost recovery when using the 10% de minimis rate based on MTDCs (as defined by 2 CFR Part §200.68). Allocable indirect costs to the non-Federal entity's funding sources could be more, but the chargeable indirect costs must not exceed amounts over the application of the 10% on MTDCs.

3. Can a sub recipient receive the De Minimis rate if the grantee does not? How would a sub recipient apply for the De Minimis rate?

Response: According to 2 CFR Part 200.331, a subrecipient is entitled to receive indirect costs from pass-through entities. Pass-through entities has to either recognize the Federally approved rate that the subrecipient has, negotiate a rate with the subrecipient, or negotiate the 10% de minimis based on MTDCs. Having said that, the subrecipient would apply for the de minimis rate when submitting the proposal budget (inclusive of direct and indirect costs) to the pass through entity.

4. Can a non-profit which contracts for Accounting and Human Resource functions apply for an indirect cost rate?

Response: Yes. Some nonprofits contract out some administrative functions such as accounting and human resources and payroll. Those costs, along with the remaining overhead expenses (such as executive direction, rent & utilities, travel by executive staff, etc.) would be part of the indirect cost pool in the nonprofit's indirect cost proposal.

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

5. DOL provides my agency largest dollar volume, BUT we have Fed awards that come from National Parks - and therefore we MUST get our rate set by Dept of Interior.

Response: According to 2 CFR Part 200, the Federal agency providing the preponderance of direct Federal funds is your Federal cognizant agency for negotiating and approving indirect costs Federal wide. Appendix IV for nonprofits from that regulation also says that:

“Once an agency is assigned cognizance for a particular nonprofit organization, the assignment will not be changed unless there is a shift in the dollar volume of the Federal awards to the organization for at least three years.”

So, you may continue using the rates set by Department of Interior for all of your Federal grants. At some point, however, we may need to transfer back the cognizance to DOL if most of the direct Federal funding continues to come from the Department of Labor.

6. We receive WIOA federal funds that are passed through the State of CA and then down to the County level, then to a subrecipient. we have no other federal funds. Who is our cognizant agency?

Response - Based on the above, you have no “Federal cognizant agency” for negotiating and approving indirect costs. You could, however, negotiate indirect costs individually with the pass-through entity.

7. Is advertising and public relation activities that directly relate to the program allowable indirect cost expenses.

Response – No. See 2 CFR Part §200.421 Advertising and public relations, for more details.

8. How do you determine which indirect cost base to use based on overhead?

Response – 2 CFR Part 200, Appendix IV for nonprofits, states the following

Allocation bases. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

grouping to benefitting functions. The essential consideration in selecting a method or a base is that it is the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither the cause nor the effect of the relationship is determinable. When an allocation can be made by assignment of a cost grouping directly to the function benefitted, the allocation must be made in that manner. When the expenses in a cost grouping are more general in nature, the allocation must be made through the use of a selected base which produces results that are equitable to both the Federal Government and the organization. The distribution must be made in accordance with the bases described herein unless it can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to Federal awards.

Typically, approved allocation bases include: direct salaries and wages, MTDCs or total direct costs. The non-Federal entity has to evaluate the allocation bases and see if allocated indirect costs using those bases distribute a reasonable share of indirect costs to the applicable funding sources based on the benefits received concept. We recommend proposing two allocation bases in our indirect cost guidance for evaluating purposes on this end. The non-Federal entity should propose/select the allocation base for our consideration and approval.

9. Are contracts greater than \$25,000 still excluded from the MTDC basis?

Response – Yes.

10. On MTDC Example, it stated excluding the first \$25,000 of contract, I thought the MTDC could only be calculated on the 25,000?

Response – See 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

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

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.

11. We have had for several years a Federally Approved Cost Allocation Plan..must we switch now to a RATE instead of a CAP. We are a Non-profit entity.

Response – No. Note that Appendix IV of 2 CFR Part 200 is “silent” on cost allocation plans (CAPs) for nonprofits. This office has approved CAPs to certain nonprofits based on the proposal submitted, specific funding, and the way they allocate costs. Those nonprofits may continue to use their Federally approved CAPs to allocate indirect costs. In the future, however, those nonprofits may consider moving into a rate methodology to allocate costs as this is typical for nonprofits and Federal funding agencies expect to see rate support from these entities.

12. Is there a maximum threshold for an Indirect Cost Rate?

Response – No. The proposal, however, must be based on allowable, allocable, and reasonable indirect costs.

13. My understanding is that if an institution has not negotiated a new rate since the OMB Uniform Guidance went into effect, an institution could not receive an extension. Is that correct?

Response – Assuming referring to guidance at 2 CFR Part 200, §200.414(g) (shown below), yes, that is correct.

(g) Any non-Federal entity that has a current federally negotiated indirect cost rate may apply for a one-time extension of the rates in that agreement 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. If an extension is granted the non-Federal entity may not request a rate review until the extension period ends. At the end of the 4-year extension, the non-Federal entity must re-apply to negotiate a rate. Subsequent one-time extensions (up to four years) are permitted if a renegotiation is completed between each extension request.

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

Related to the timing of submission based on that guidance, refer to COFAR Q&As 414-2 through 414-7 for additional details at: <http://www.dol.gov/oasam/boc/2CFRFAQs.pdf>

14. De Minimis rate ONLY is approved by the grant officer at the time the federal grant is awarded, correct?

Response – Yes.

15. If our funding goes from DOL to the State and then to the Local WIB, can you still do a De minimis rate?

Response – Yes, considering the proper application of the 10% de minimis rate time MTDCs, limited to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award).

16. For a subaward that receives federal funds only through the state, i.e. WIOA, does the entity require an ICR and is the cognizant agency, the State?

Response – The non-Federal entity would require an indirect cost rate if they choose to claim indirect costs from the State. Either a negotiated rate with the State, or the 10% de minimis if applicable. The State, as a pass-through entity (not Federal cognizant agency), would be responsible for negotiating and approving indirect costs for the specific subrecipient.

17. Could a nonprofit be denied using the De Minimis rate if it has never had a negotiated indirect cost rate?

Response – No. 2 CFR Part 200 Part §200.414, provides for the 10% de minimis rate option. See below:

“...(f) In addition to the procedures outlined in the appendices in paragraph (e) of this section, any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, **may** elect to charge a de minimis rate of 10% of

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

modified total direct costs (MTDC) which may be used indefinitely. As described in §200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.”

18. Does a state agency have to accept another state agency's IDC rate.

Response – Yes, if it is a Federally approved indirect cost rate. Otherwise, it should be negotiated and approved by the pass-through entity.

19. Uniform Guidance App. VII, F.3. states that in certain situations, governmental departments or agencies may be required to develop a cost allocation plan that distributes indirect costs to specific funding sources. Can you provide detail on what these "certain situations" are? Is this what COFAR FAQ .331-5 is referring to?

Response – Based on proposals received from state agencies, we have approved cost allocation plans on certain situations based on reviews of accounting systems providing the feasibility to allocate indirect costs on allocation bases (such as direct hours paid, FTEs, etc.) on a monthly basis based on actual costs.

20. What are subrecipients required to keep as documentation for auditors?

Response – Regarding the indirect cost process, indirect cost proposals that includes documents to support actual costs for all fiscal years covering the grant period. See recordkeeping requirements at 2 CFR Part §200.333.

21. If non federal entity receives small amount of \$20K direct from HUD and large amount from DOL \$2M. As pass-thru, should non fed submit indirect proposal to HUD or pass-thru?

Response – The non-Federal entity should submit the indirect cost proposal(s) to HUD as they would be their Federal cognizant agency (FCA).

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

22. What happens if the indirect cost rate of the subrecipient results in higher indirect cost it charges to the PTE than the PTE is allowed based on its NICRA?

Response – If the negotiated rates are based on provisional/final rates methodology, the subrecipient could claim the under-recovery of indirect costs subject to funds available.

23. If our indirect cost rate has expired - how long would that be valid? Does it just stay in effect until we reapply for a new one? Can we still collect funding while it is "expired" ?

Response – The indirect cost rate applicable fiscal year periods are presented in the Federally approved rate agreement. If you claim indirect costs beyond the period(s) stated in the rate agreement, you are claiming indirect costs that are not supportable and are subject to disallowance.

Appendix IV, C., 2.c., of 2 CFR Part 200 states the following approved concerning proposals based on actual costs:

2. Negotiation and Approval of Rates

c. Unless approved by the cognizant agency for indirect costs in accordance with §200.414 Indirect (F&A) costs paragraph (g) 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.

If the The bottom line is that negotiated rates must be available for the life of the Federal award. If you have not received

24. Just to confirm: we currently have a provisional rate 34.4% which is effective till June 30, 2017. so, after June 30, 2017, if we had a negotiated rate lower than 34.4% , we have to pay back the recovered indirect costs in the previous years?

Response – Yes. There is closeout guidance in 2 CFR Part 200 on that topic:

POST-CLOSEOUT ADJUSTMENTS AND CONTINUING RESPONSIBILITIES

§200.344 Post-closeout adjustments and continuing responsibilities.

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

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

(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.**

COLLECTION OF AMOUNTS DUE

§200.345 Collection of amounts due.

(a) Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal Government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by:

- (1) Making an administrative offset against other requests for reimbursements;
- (2) Withholding advance payments otherwise due to the non-Federal entity; or
- (3) Other action permitted by Federal statute.

(b) Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

25. Can multi funded non-federal organizations charge indirect costs without an approved indirect cost rate if it instead has an approved cost allocation plan?

Response – Yes, with a Federally approved cost allocation plan. Most nonprofits, however, should be using a rate methodology to support their indirect costs.

26. If the final IC rate results in an under-recovery for one or multiple years, how is this incorporated into the rate in coming years?

Response – With provisional/final rates, adjustments for under/over recovery of indirect costs could be taking care during the performance of the grant or during the closeout process. Contact your grant officer for additional guidance.

Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

With predetermined rates, adjustments for under/over recovery of indirect costs are at the risk of non-Federal entity and the Federal government.

With fixed with carry forward rates, adjustments for under/over recovery are typically calculated two fiscal years later. Contact DCD for additional guidance.

27. Is my agency considered a sub-recipient if we are contracted by our County HHS to provide Federal WIOA services? The pass through entity, I believe, is California EDD, whose sub-recipient is our LWIB, who contracts with us to provide services.

Response – Yes.

28. What happens if a provisional rate is not finalized?

Response – All provisional rates must be finalized. Appendix IV, C., 2.c., of 2 CFR Part 200 states the following approved concerning proposals based on actual costs:

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Refer also to the 2 CFR guidance below concerning post closeout and continuing responsibilities:

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Indirect Cost Overview Webinar Q&As - Discretionary Grantees February 19, 2016

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29. To be chargeable to a Federal Grant, the cost must be allowable. CFR 652.215 requires that only State merit staff may provide Wagner-Peyser services. So, can the cost for services provided by non-State merit staff be charged to Wagner-Peyser?

Response - Unless otherwise stated in your grant agreement, only State merit employees may provide Wagner Peyser services.