

IDC Rate Recovery and Negotiation – Tips to Enhance Recovery



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Agenda

- ❑ “Old School” versus new regulations
- ❑ Review of 2CFR 200 (not so new rules)
 - General provisions
 - Rules on cost principles
 - Rules on Indirect (F&A) costs
- ❑ Types of Indirect (F&A) rates
- ❑ Nuances of Indirect (F&A) rate rules (quirky rules)
- ❑ Frequently asked questions
- ❑ Rate Extensions and Rate Agreements



What Were “Old School” Rules?

2CFR 200 – Replaces the OMB Circulars

- A-21 “Cost Principles for Educational Institutions”
- A-122 “Cost Principles for Non-Profit Organizations”
- A-87 “Cost Principles for State, Local and Indian Tribal Governments”
- A-110 “Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations”
- A-102 “Awards and Cooperative Agreements with State and Local Governments”
- A-133 “Audits of States, Local Governments, and Non-Profit Organizations”
- A-89 “Federal Domestic Assistance Program Information”
- A-50 – Sections Related to Audits Performed Under the Single Audit Act

New Rules (2CFR 200)

2 CFR 200 - Organization

- Subparts A - F (200.0 – 200.521) plus Appendices
 - A-Acronyms and definitions in the front
 - B-General provisions
 - C-Pre-Award – Federal
 - D-Post Award – Recipients
 - E-Cost principles
 - F-Audit

RULES!
1. You SHALL!
2. You WILL!
3. You MUST!

Effective Date - 200.110

- For new and incremental funding awarded after 12/26/14
- This means “Now”

Indirect Rules: 2CFR 200 Appendices

- Subpart E – Cost Principles (200.400 – 200.475)
- Appendix III – Indirect...Institutes of higher education
- **Appendix IV – Indirect...Nonprofit Organizations**
- Appendix V – Cost Allocation plans – State & Local Gov' t
- Appendix VI – Cost Allocation plans – Public Assistance
- Appendix VII – Indirect Cost Proposals – State & Local and Indian Tribes
- Appendix VIII – NFP Exempt from subpart E Cost Principals of Part 200
- Appendix IX – Hospital Cost Principles (which basically say to go to 45 CFR Part 75 Appendix E) – No Changes

Why are there different appendices

- Operational structure different
 - Appendix III – Higher Ed
 - Instruction function, research, other Institutional activities (dorms, sports)
 - Generally much larger operational budget
 - Multiple rates (instruction; Research; etc.)
 - Appendix IV – NFP Organization
 - Generally smaller budgets
 - One rate (can have multiple)
 - Definition of indirect costs vary
 - Appendix IX - Hospitals
 - Clinical function
 - Allocate costs through a cost report
 - Common to have multiple rates





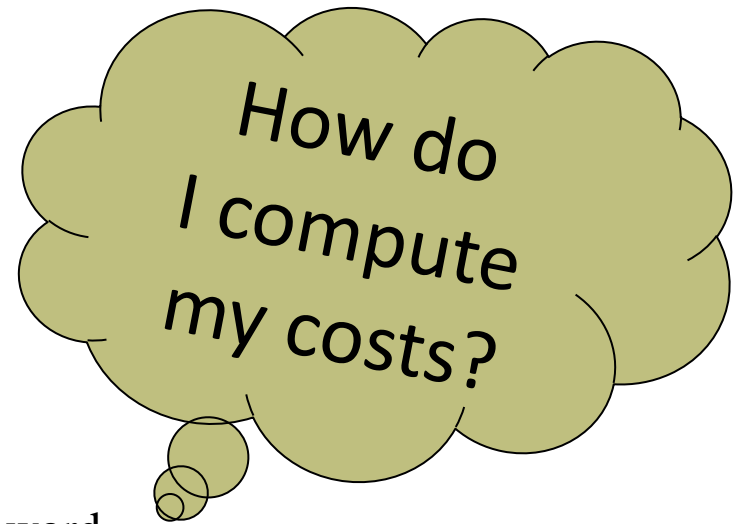
Why Important

□ Indirect Cost Rates

- Lack of attention could make or break financial goals of an organization
- Important to understand different types of rates
- Rates need to be in budgets in order to get recovery

Cost Principles-Basic Considerations

- Consistent costs applied to contracts 200.403
 - Have good policies and procedures
- Reasonable costs 200.404
 - Sound business, market prices, etc..
- Allocable costs 200.405
 - Cost must be incurred for the award
 - Cost must benefit the award
 - Cost should be necessary
 - Costs must be appropriately allocable to award
- Applicable credits 200.406
 - Must use coupons to get best deal if available
- Prior approval 200.407
 - Suggested to get prior approval on unusual costs



Cost Principles: 200.420-475

Non-Allowable Costs:

- Entertainment
- Fundraising
- Advertising
 - Except for employment
- Donations & Contributions
- Investment Management Fees
- Lobbying
- Bad Debt Expense



Cost Principles 200.412

- Direct vs. Indirect Costs: Which is which?
 - No universal rule for classifying direct or indirect costs



Splitting Direct & Indirect Costs (200.414b)



- Diverse nonprofit accounting practices mean it may not be possible to specify costs classifying as direct or indirect (F&A) in all situations
- Determining factor in distinguishing between direct & indirect costs:
 - *Identification with Federal Award rather than the nature of the goods & services*
- Typical Examples of Indirect (F&A) costs:
 - Depreciation of buildings & equipment
 - Operations & maintenance
 - Administrative & general expenses (salaries & business related spending)

Cost Principles: Direct Costs 200.413

- Costs that can be identified to the Award with relative ease
- Typical costs include:
 - Compensation
 - Fringe benefits
 - Cost of materials



Official definition- Indirect Costs / F&A Costs (200.56)

- *Indirect (F&A) costs* means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.
- To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs.
- Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

Translation

English definition: Indirect Costs (n) IN-der-EK-t/CAH-st

- Synonymous with Facilities and Administrative cost (F&A)
- Benefits different activities and cannot be easily identified to benefit any one activity.



Cost Principles: Indirect Costs 200.414



Normally those costs that are not direct

- Salary of Administration
- Other costs
 - Facility
 - Depreciation
 - Equipment
 - Operations/Maintenance
 - Administrative
 - Accounting, Legal, HR

INDIRECT COST RATE CALCULATION EXAMPLE

F & A Costs

Direct Costs

Overhead costs incurred to support Research activities:

- Depreciation of Buildings & Equipment
- Operation & Maintenance of Research Areas
- Administrative & General Services

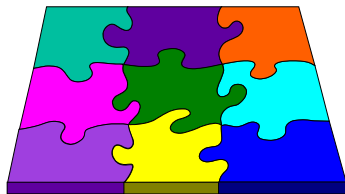
Costs incurred in performing sponsored project activities/protocols:

- Salaries and Fringe Benefits of Lab Personnel
- Research Supplies and Materials
- Research Consultants
- Travel

\$58,000

F & A Costs
Direct Costs

\$100,000



F & A Cost Rate = 58%

“Never Had A Rate” Rule (200.414f)

- ❑ (f) 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 – State and Local governments Indian Tribe Indirect Cost Proposals, paragraph D.1.b.
 - ❑ May elect to charge a de minimis rate of 10% of 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.



Indirect Cost Acceptance Rule (200.414c)

- Federal Agency Acceptance of Negotiated Indirect Cost Rates
 - The negotiated rates **must** be accepted by all federal agencies
 - A Federal 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 agency head or delegate based on documented justification.
 - Agencies must notify OMB of any exceptions approved by the agency head.

F&A Rate Changes – Pass Through Entity Requirements

200.331 Requirements for pass-through entities.

- All Pass-through entities must.....
 - (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes
 - 1) (xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per 200.414 Indirect (F&A) costs).
 - 4) **An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in 200.414 Indirect (F&A) costs, paragraph (f) of this part.**

Getting an Approved Rate



- ❑ Must have a notice of grant, contract or other award
- ❑ Must submit notice as part of rate proposal
- ❑ Need to submit rate proposal to Cognizant Agency

Negotiating an Indirect (F&A) Rate

- First: Find a cognizant agency
 - Predominant funding
 - HHS –Cost Allocation Services
 - Office of Naval Research
 - Department of Interior
 - Department of Labor
 - Department of Education
 - Department of Agriculture
 - National Science Foundation



Modified Total Direct Costs (MTDC)

Determining the MTDC:

- Definition of MTDC (or the denominator)
- Examples of the MTDC computations
- Costs to be Cognizant of (pun intended)
 - Participant Support costs
 - Proposal costs
 - Fundraising costs



MTDC Definition (200.68)

- ❑ *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 sub-award 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.

MTDC Distribution Base

- Includes all direct functions:
 - Salary/Wages
 - Fringe benefits
 - Materials and supplies
 - Services
 - Travel
 - Subgrants and contracts up to the first \$25K
- Excludes:
 - Equipment and cap expenditures
 - Charges for patient care
 - Rental costs
 - Tuition remission, fellowships, and scholarships
- *Note: Other items may be excluded if Federal agency deems necessary*



Frequently Asked Questions

Question: In the definition of Modified Total Direct Costs (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) remain the same.

Answer: 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 the \$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.

MTDC Example

Total Direct Costs in our budget: \$160,000

Salaries/benefits:	\$ 95,000
Supplies:	\$ 5,000
Subawards under \$25k	\$ 25,000
Subawards over \$25k:	\$ 20,000
Capital Equipment:	\$ 10,000
Participant Support Costs	\$ 5,000

Modified Total Direct Costs:

$$= \$160,000 - \$10,000 - \$20,000 - \$5,000$$

$$= \$125,000 \text{ MTDC} * 20\% = \$25,000 \text{ (IDC)}$$

Example of an Indirect Rate Agreement

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: INDIRECT COST RATES

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

EFFECTIVE PERIOD

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE (%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
FINAL	01/01/2016	12/31/2016	53.00	All	All Programs
PRED.	01/01/2017	12/31/2019	53.00	All	All Programs
PROV.	01/01/2020	12/31/2021	53.00	All	All Programs

*BASE

Total direct costs excluding capital expenditures (buildings, individual items of equipment in excess of \$5,000; alterations and renovations), that portion of subaward in excess of \$25,000, and patient care costs.

SECTION I: INDIRECT COST RATES

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

EFFECTIVE PERIOD

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE (%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
PRED.	05/01/2016	04/30/2019	45.00	On-Campus	All Programs
PRED.	05/01/2016	04/30/2019	22.00	Off-Campus	All Programs
PROV.	05/01/2019	Until Amended			

*BASE

Modified total direct costs, consisting of 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). Modified total direct costs shall exclude 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.

Another Example of an Indirect Rate Agreement

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: INDIRECT COST RATES

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

EFFECTIVE PERIOD

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE (%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
FINAL	09/01/2015	06/30/2016	49.67		All Programs
FINAL	07/01/2016	06/30/2017	50.22		All Programs
PROV.	07/01/2017	06/30/2020			Use same rates and conditions as those cited for fiscal year ending June 30, 2017.

*BASE

Total direct costs excluding capital expenditures (buildings, individual items of equipment; alterations and renovations), that portion of each subaward in excess of \$25,000 and flow-through funds.

DANCE BREAK!



Extension Rule (200.414g)

- Allows a one-time extension of Federally negotiated F&A rates for up to four years
 - 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 negotiate a new rate.
 - Subsequent one-time extensions (up to four years) are permitted if a renegotiation is completed between each extension request.



NONPROFIT RATE AGREEMENT

ORGANIZATION:

DATE:

FILING REF.: The preceding agreement was dated

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: INDIRECT COST RATES

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

EFFECTIVE PERIOD

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE (%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
FINAL	07/01/2014	06/30/2016	73.00	All	All Programs
PRED.	07/01/2016	06/30/2019	78.00	All	All Programs
PROV.	07/01/2019	06/30/2022	78.00	All	All Programs

***BASE**

Total direct costs excluding capital expenditures (buildings, individual items of equipment; alterations and renovations), that portion of each subaward in excess of \$25,000 and flow-through funds.

Participant Support Costs (200.75)

- ❑ *Participant support costs* include items such as:
 - ❑ stipends or subsistence allowances
 - ❑ travel allowances
 - ❑ registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.
- ❑ Applies to types of organizations
- ❑ The treatment of participant support costs is in the definition of modified total direct costs and in the appendices on indirect cost rates

Fundraising Activities: Unallowable

- Activities undertaken to induce potential donors to contribute money, securities, services, materials, facilities, other assets, or time.
- Examples:
 - Fund-raising campaigns
 - Maintaining donor mailing lists
 - Conducting special fundraising events
 - Preparing and distributing fundraising manuals, instructions, and other materials
 - Conducting other activities involved with soliciting contributions from any source.



Proposal Costs (200.460)

- ❑ Preparing bids
- ❑ Proposals
- ❑ **Applications on Federal & Non-Federal awards**
 - includes the development of data necessary to support the non-Federal entity's bids or proposals.



- ❑ **Whether successful or not, should be treated as indirect (F&A) costs and allocated to all activities of the non-Federal entity.**
- ❑ No proposal costs of past accounting periods will be allocable to the current period.

Proposal Costs (200.460)

- ❑ Start Tracking bid and proposal costs of Scientists and others
- ❑ Track Committee time and other administrative time for those who perform research or sponsored projects
- ❑ Good idea to set up an account code to track it
- ❑ Have been very successful increasing rates due to capturing these costs
- ❑ Increases pool and decreases base



Types of Indirect Rates

- Provisional rate
 - Temporary rate for funding until final rate approved
- Fixed rate with carryforward
 - Rate that is fixed with provisions for future periods to raise or lower depending upon actual results
- Predetermined rate
 - For research and development contracts



Provisional Rate

*“A provisional indirect cost rate is a **temporary** rate established for a given period of time to permit funding and reporting of indirect costs pending establishment of a final rate for that period.”*



Potential Problem With Provisional Rates

Provisional negotiated rate - 2018	19%
MTDC base – 2018	\$1,000,000
Actual indirect costs recovery	\$ 190,000
Indirect costs - 2018	\$ 170,000
Final rate - 2018	17%
Liability - Overbilling	\$ 20,000

Higher Ed Gets Special Treatment: *Fixed Rate for Life Rule*

Appendix III C.7

- Except as provided in paragraph (c)(1) of § 200.414 Indirect (F&A) costs, Federal agencies must use the negotiated rates, must paragraph (b)(1) for indirect (F&A) costs in effect at the time of the initial award throughout the life of the Federal award. Award levels for Federal awards may not be adjusted in future years as a result of changes in negotiated rates. “Negotiated rates” per the rate agreement include final, fixed, and predetermined rates and exclude provisional rates. “Life” for the purpose of this subsection means each competitive segment of a project. A competitive segment is a period of years approved by the Federal awarding agency at the time of the Federal award. If negotiated rate agreements do not extend through the life of the Federal award at the time of the initial award, then the negotiated rate for the last year of the Federal award must be extended through the end of the life of the Federal award.
- b. Except as provided in § 200.414 Indirect (F&A) costs, when an educational institution does not have a negotiated rate with the Federal Government at the time of an award (because the educational institution is a new recipient or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award must be adjusted once a rate is negotiated and approved by the cognizant agency for indirect costs.

Predetermined Rate

- *Predetermined indirect cost rates are **permanent** rates established for a specific future period based on an estimate of the costs for that period. Except under very unusual circumstances, this type of rate is not subject to adjustment...*
- *“Predetermined rates are established when there is **a reasonable assurance**, based on experience and a **reliable estimate** of the organizations costs, that the predetermined rate will approximate the organizations actual rate.”*



Fixed Rates (With a Carry Forward)

*“Fixed rates are indirect cost rates which have the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an **adjustment** to the rate computation of a **subsequent period**.”*

Carry-Forward Example

Carry-forward provision – Part I

Negotiated Fixed Rate - 2019	40%
Direct Cost Base – 2019	\$10,000,000
Actual indirect costs - 2019	\$ 4,200,000
Indirect Cost Recovery - 2019	\$ 4,000,000
Actual rate - 2019	42%
Under-recovery	\$ 200,000*

*Carry-forward is 2 years forward (2021 in this scenario).



Carry-Forward Example

Carry-forward provision – Part II

Actual indirect costs - 2021	\$4,500,000
Carry-forward from - 2019	<u>\$ 200,000</u>
Indirect costs - 2021	\$4,700,000
Direct Cost Base - 2021	\$10,000,000
Rate with Carry-forward	47%
Rate without Carry-forward	45%

F&A Rate Negotiation Tips

- ❑ Don't always accept the first offer
- ❑ Worry about years that matter and will have an impact on recovery
- ❑ Take a position in one year to win the next
 - Incorporate position in rate proposal
 - Understand the government's position
 - Know how to challenge in future years
 - Look to win other positions and points



F&A Rate Negotiation Issues

- Buildings
- Changes in research base
- Administrative changes
 - Researcher salary in Admin pool
 - New positions coming on board
- Facility projections
 - Necessary due to multi-year predetermined rates
 - Buildings not always under construction
 - Occupancy plans and square footage not complete
 - Documentation issues
 - Future MTDC bases usually understated



Finally...

Understand Before You Sign

- ❑ What does my agreement mean?
- ❑ Does the agreement match my organizational goals?
- ❑ What type of rate do I have?
- ❑ When is my next submission (does that make sense)?
- ❑ Does the agreement reflect increases and decreases if changes in the organization are expected?



Questions



Contact Information



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