

Section I

General Information

This section includes the following information:

- A. Definition of Indirect Costs
- B. Types of Indirect Rates
- C. Determination of Indirect Cost Rates and Cost Allocation
- D. Submissions of Indirect Cost Proposals
- E. Approval of Indirect Cost Proposals
- F. Negotiated Indirect Cost Rate Agreement (NICRA)
- G. Disputes
- H. Reimbursement of Indirect Costs
- I. Retention of Records

A. Definition of Indirect Costs

According to OMB Circular A-122 (2 CFR Part 230):

“Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective...”

B. Definition and types of Indirect Rates

An indirect cost rate is simply a device for determining fairly and conveniently within the boundaries of sound administrative principles, what proportion of indirect cost each program should bear. An indirect cost rate is the ratio between the total indirect expenses and some direct cost base.

The DCD typically issues provisional and final indirect cost rates. There are also predetermined and fixed rates but are rarely used. All of these rates are described below, per OMB Circular A-122:

1. Provisional rate or billing rate means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on awards pending the establishment of a final rate for the period.
2. Final rate means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment.

Note that a final indirect cost rate is established after an organization's actual costs are known, typically a fiscal year. Once established, a final indirect cost rate is used to adjust the indirect costs claimed.

The use of provisional and final rates will likely result in final audited expenditures being higher or lower than those reported for awards, which are terminated during the organization's fiscal year. A final rate may be issued as a provisional rate in the ensuing year, adjusted for anticipated changes in funding levels or costs.

3. Predetermined Rate: A permanent rate established for a specified current or future period and is not subject to adjustment. A predetermined rate may be used on awards where there is reasonable assurance that the rate is not likely to exceed a rate based on the organization's actual costs;

4. Fixed Rates with carry-forward: A permanent rate established for a future prospective period of time used for budgeting, obligations, and payment of funds by awarding agencies. Actual costs are determined by the organization's accounting system and the difference between fixed and actual is carried forward to a future period (usually the organization's fiscal year) in order to adjust the fixed rate for any over or under recovery.

Provisional and final rates are preferred by most organizations for the following reasons:

1. Actual indirect costs are allocated to program objectives in the year incurred, creating accurate cost information;
2. There are no prior year indirect costs carried into a future year to burden new or continuing funding;
3. All indirect costs are properly funded in the fiscal year incurred, creating no profit or loss for the organization;
4. The organization's accounting system must determine actual costs each year, a capability that ultimately must exist to synchronize accounting, budgeting, and cost allocation; and
5. The actual cost of services or programs is determined annually and is therefore available for purposes of internal management and informed budgeting.

C. Determination of Indirect Cost Rates and Cost Allocation

Non – Profits - The three basic methods for calculating indirect cost rates under OMB Circular A-122 are the:

- Simplified,
- Multiple Rate, and
- Direct Allocation methods.

Specific instructions on the computation of indirect cost rates with the conditions on when to use each method are contained in OMB Circular A-122, Attachment A. Examples of the Simplified and Direct Allocation methods are shown on Exhibits D and E in Section III of this Guide.

OMB Circular A-122 also provides for the use of Special Indirect Cost Rates. A single indirect cost rate for all activities of the organization may not be appropriate when work under the Federal program is conducted in an offsite location and the level of administrative support is different than other programs.

For an organization that receives more than \$10 million in Federal funding of direct costs in a fiscal year, a breakout of the indirect costs into two components; **Facilities and Administration**, as defined below, is required. The rate shall be stated as a percentage which the amount of **Facilities and Administration** is, of the applicable distribution base used for each component. Each indirect cost rate negotiation agreement shall identify the development of each indirect cost pool component as well as the overall indirect cost rate.

1. "**Facilities**" is defined as depreciation and use allowances on buildings, equipment and capital improvements; interest on debt associated with certain buildings, equipment and capital improvements; and operations and maintenance expenses.
2. "**Administration**" is defined as general administration and general expenses such as the director's office, accounting, personnel, library expenses and all other types of expenditures not listed specifically under one of the subcategories of "Facilities", (including cross allocations from other pools, where applicable).

When a grantee uses the **Direct Allocation** method to calculate indirect cost rates and rents the facilities used to operate Federal programs, then a breakout of the above indirect cost components is not required. This policy has been adopted since the majority of the rental costs, as well as other facilities/administration costs, would be direct charged to Federal programs.

Commercial Organizations – Typically, commercial organizations use the “simplified” method, and can follow Exhibit D in Section III of this Guide, if applicable.-

D. Submissions of Indirect Cost Proposals

Prior to the preparation of an indirect cost rate proposal and supporting documentation, the following cost principles should be review to determine if the costs proposed are reasonable, allowable, and allocable to the Federal government:

Non-profit Organizations

OMB Circular A-122 (2 CFR Part 230)

Commercial Organizations

Federal Acquisition Regulation (Part 31.2)

An incurred cost, or final indirect cost rate proposal, together with the supporting documentation listed in Section II.C., must be developed and submitted on an annual basis to the DCD no later than six months after the close of the organization’s fiscal year, unless an exception is approved by the DCD. For organizations with no prior approved indirect cost rate, a budget (or provisional) proposal must be submitted no later than three months after the effective date of the DOL award.

The indirect cost rate proposal is to be submitted to the DCD office that covers the geographical region in which the organization is located (see Appendix III for addresses, telephone numbers, and fax numbers of the National and Regional office locations).

E. Approval of Indirect Cost Proposals

Unless different arrangements are agreed to by the agencies concerned, the Federal agency with the largest dollar value of awards with an organization will be designated as the cognizant agency for the negotiation and approval of the indirect cost rates.

The DCD will negotiate and approve indirect cost rates when the DOL is the cognizant Federal agency. Indirect costs can only be charged to a grant or contract based on a Negotiated Indirect Cost Rate Agreement (NICRA) approved by the DCD. However, the approval of indirect costs by the DCD is not intended to identify the circumstances or dictate the extent of Federal participation in the financing of particular grants or contracts.

F. Negotiated Indirect Cost Rate Agreement (NICRA)

The approval will be formalized by a rate agreement signed by the Chief, DCD (or its designee) and an authorized representative of the organization. Each agreement will include:

1. The approved rate(s) and information directly related to the use of the rates, e.g., type of rate, effective period, and distribution base;
2. The treatment of fringe benefits as either direct and/or indirect costs, or an approved fringe benefit rate;
3. General terms and conditions; and
4. Special remarks, e.g., composition of the indirect cost pool.

Sample copies of agreements used by the DCD are shown in Appendix I and II of this Guide.

G. Disputes

When the DCD and a grantee/contractor cannot reach an agreement on an acceptable indirect cost rate, the DCD will make a unilateral determination of the rate(s) and will notify the organization. The DCD or the grant/contract officer will advise the organization of its right to appeal the determination and will provide information about the appeal procedures to follow upon request.

H. Reimbursement of Indirect Costs

Reimbursement of indirect cost is subject to the submission of an indirect cost rate proposal (see part D of this Section), availability of funds, statutory and administrative restrictions, and the approval of the DOL Grant/Contract Officer or authorized representative.

Certain DOL grants and contracts include ceilings for reimbursement of indirect costs and/or administrative costs. When the amount otherwise allocable as indirect costs exceeds the amount allowable under the terms and conditions of the grant/contract agreement, the excess amount may be used to satisfy cost-sharing or matching requirements. However, the differences may not be shifted to another Federal grant or contract unless specifically authorized by legislation.

I. Retention of Records

If the indirect cost rate proposal, cost allocation plan, or other computation **is** to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of a rate(s), there is the 3-year retention requirement from the date of such submission.

If the indirect cost rate proposal, cost allocation plan, or other computation **is not** required to be submitted to the Federal Government for negotiation purposes, then the 3-year retention period for its supporting records starts from the end of the fiscal year (or other accounting period) covered by the indirect cost rate proposal, cost allocation plan, or other computation.

For regulatory basis on “retention of records” for non-profits, see OMB Circular A-110 - Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, Subpart C. 53.

For regulatory basis on “retention of records” for commercial organizations, see the Federal Acquisition Regulation Part 4 – Administrative Matters, Subpart 4.703 Policy.

If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims or audit findings involving the records have been resolved.