

Negotiation of Facilities and Administrative (F&A) Rates for Subrecipients

When the University performs sponsored research or other activities, Federal regulations require that if the University sub-awards services to a third party, the third party must have an approved indirect cost rate negotiated with the government in order to recover indirect costs. If the entity has a negotiated indirect cost agreement that is current with the federal government, that rate can be applied to the sub-award for the period noted in the indirect cost rate agreement. When the entity does not have an approved indirect cost rate the options for indirect cost reimbursement on a sub-award are defined by the Federal Government in the Code of Federal Regulations, Title 2: Grants and Agreements, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). The Uniform Guidance provides two options for the recovery of indirect costs on a sub-award as follows:

1. The entity can accept a rate of 10% of modified total direct costs (MTDC), with no further documentation required.
2. The entity can choose to negotiate a rate with the University, which will require additional support as detailed below.

Pre-Award Procedures:

University policy does not provide for the review of F&A proposals for subrecipients until receipt of the prime award (unless mandated by the prime sponsor). If an F&A rate is needed for inclusion in a subrecipient's budget, the subrecipient must use an indirect cost rate that is estimated in accordance with the requirements of the Uniform Guidance.

Post-Award Procedures:

If the University is successful in receiving the award, the subrecipient must provide the University with documentation to support its indirect cost rate according to the subrecipient F&A negotiation procedures described below.

If the subrecipient negotiates an F&A proposal with a rate *higher* than the rate that was used for budgetary purposes to secure the award, the University will only compensate the subrecipient at the rate that went into the budget of the prime award.

Conversely, if the subrecipient negotiates an F&A rate that is *lower* than the rate used in the subrecipient's proposal budget, the University will only reimburse the subrecipient at the negotiated rate. In such cases where the difference between the subrecipient's proposed and negotiated F&A rate is at least 5 percentage points (e.g., the subrecipient proposed a 35% rate

and the negotiated rate turns out to be 30%), or where the difference in F&A rate reduces the subrecipient's total costs by more than \$5,000, the Office of Research and Sponsored Projects may address the disposition of any resulting balance directly with the prime sponsor.

Subrecipient F&A Negotiation Procedures:

If, after we have received the prime award, the proposed subrecipient opts to negotiate a rate with the University it must provide an indirect cost proposal and supporting documentation to the Cost Reimbursement Office (CRO). This proposal package will be the basis for the negotiation of the indirect cost rates to be applied to the sub-award. The primary purpose of the CRO review is to fulfill the University's fiduciary responsibility to ensure that indirect costs claimed by the subrecipient are allowable, reasonable, and allocable to the grant.

The CRO requests the subrecipient provide the following information to facilitate a timely review and substantiate the requested rate for purposes of the negotiation process:

1. An indirect cost proposal from the latest full fiscal year, prepared in accordance with the applicable regulatory guidance.
2. Audited financial statements from the latest fiscal year along with a reconciliation (as necessary) to expenses included in the indirect cost proposal.
3. A schedule of salaries by job classification included in the indirect cost pool.
4. An analysis of fringe benefits and how they are apportioned between direct and indirect cost salaries.
5. When expenses in a financial statement grouping are split between indirect and direct cost categories, a rationale for that allocation should be provided.
6. A description of the entity's accounting system if not already included in the financial statements.
7. Contact information for an individual who can respond to questions regarding the preparation of the proposal.

Examples of what an indirect cost proposal package might look like can be found at the following links:

1. https://rates.psc.gov/fms/dca/np_exall2.html
2. <http://www.dol.gov/oasam/boc/costdeterminationguide/cdg.pdf>

After a proposal package has been submitted to the CRO, it will be reviewed and the entity will be contacted with regard to any questions about costs claimed in the proposal. After all issues have been resolved, the entity will submit a finalized proposal along with a certification of indirect costs (signed by an authorized executive officer of the organization) stating that (a) the indirect cost proposal was prepared in accordance with the applicable Federal regulations,

(b) all costs claimed in the proposal are reasonable, allowable, and allocable to the federal government, and (c) any disallowances subsequently identified in audit by the prime sponsor with respect to the negotiated indirect cost rate will be the responsibility of the sub-recipient.

Once the finalized proposal and certificate of indirect costs are submitted and deemed to be acceptable by the CRO, an indirect cost rate agreement will be drafted that sets the indirect cost rate, the base on which that rate will apply and the specific time period that the rate will be applicable. It will be signed on behalf of the University by an authorized representative of Financial Operations as well as an authorized representative of the subrecipient organization. Once the final award has been fully executed, the CRO will notify the University department that has administrative oversight of the prime award, the Office of Contract Administration, and the Office of Research & Sponsored Programs of the agreed upon rate, base, and term of the agreement.

If work on a sub-award runs past the end date specified in the agreement, the subrecipient must either request an extension of the rate agreement or submit a new indirect cost proposal to the CRO for negotiation purposes. In no circumstance will the end date of a negotiated agreement with a subrecipient extend beyond the time frame of the prime award.