The Indirect Rate Toolkit for Nonprofits with Federal Grants

Webinar Series Part I – Introduction to Indirect Rates Under Uniform Guidance (UG)
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- Technical questions about the survey can be addressed to Nathan McElveen at [nmcelveen@grfcpa.com](mailto:nmcelveen@grfcpa.com).
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## Additional Information

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<th>Learning Objective</th>
<th>Instructional Delivery Methods</th>
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<td>To provide an overview of the impact of UG on indirect rates and allocations for preparing a nonprofit indirect cost rate proposal.</td>
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Presenters

Meet the Instructors

Paul H. Calabrese
Principal | GRF CPAs & Advisors

Tricia Katebini, CPA, MBA
Senior Manager | GRF CPAs & Advisors
• There is no requirement to have an indirect rate
  o Claiming reimbursement for indirect costs is never mandatory. However, once you submit annual ICRPs
    for a NICRA*, they’re required 6 months after year-end.
  o NICRA = Negotiated Indirect Cost Rate Agreement

• COFAR recognizes
  o There are some entities that are able to charge 100% of their cost direct and so there is no need for an
    indirect rate.
  o A non-Federal entities may conclude that the amount of indirect cost they might recover may be too
    immaterial to justify the effort to obtain a negotiated indirect rate.
FAQ .414-8 (9/9/15)

- Voluntary under-charging, or waiving the recovery of 100% of applied indirect costs
  - If a Non-Federal Entity (NFE) [2 CFR 200.69] voluntarily (without coercion) decides to charge less than the established negotiated rate or waive the NICRA entirely, is a permissible practice.
  - Sometimes the NFE requires more funds for direct program efforts and thus reduces the amount of applied indirect or no indirect rate though they have a negotiated indirect rate.
• Cognizant Agency for Indirect Costs
  
  ○ Even though a cognizant agency (by statute) does not allow the NFE to recover indirect cost for a particular program

  ○ Example: CFDA 93.914 HIV Emergency Relief Project Grants

  ○ Such cognizant agency is still responsible to negotiate indirect cost
De Minimis Rate

• 10% de minimis rate: per 200.414(f)
  
  o Never received a negotiated indirect rate *proposed change to remove*
  
  o Charge on a modified total direct cost base
  
  o May use indefinitely until negotiate an indirect rate
  
  o Direct and indirect costs charged consistently but not as both causing double-charging
  
  o Use consistently on all Federal awards
Problems with the De Minimis Rate

NICRA Step 1:
Indirect Pool 100
Indirect Base 1,000
Rate 10%

NICRA Step 2:
Indirect Pool 100
MTDC Base* 500
Rate 20%

*Remove subs/contracts > $25,000

De Minimis Rate:
Step 1 Base: 1,000
Step 2 MTDC 500

10% x
MTDC Base 50 Indirect Pool
FAQ .331-6 (8/29/14)

• PTE*’s Obligation re. Indirect Rate Negotiation
  o If a sub has a NICRA, the PTE must honor the NICRA

• PTE’s with subs that don’t have a NICRA
  o The PTE has the option to negotiate an indirect rate with a sub, or offer the 10% De Minimis Rate

• The PTE cannot offer a De Minimis indirect rate lower than 10%; it must be 10%

• *PTE = Pass-Through Entity
What happens if the PTE does not honor the NICRA rate of the sub?

- Under 200.331, the PTE must use the negotiated indirect rate of the sub.

If not, there are remedies that a Federal awarding agency can sanction the PTE under § 200.338 through § 200.342.

Report the matter to the agency IG overseeing your Federal award.

Make sure the sub-award agreement stipulates the use of your NICRA currently in effect.
• NFE’s Applying for De Minimis Rates having a break in Federal relationship

• If a NFE has a previously negotiated indirect rate but all Federal awards under that NICRA have expired as well as the NICRA
  ○ Can the NFE apply for a 10% de minimis rate? NO.

• The 10% de minimis rate is only for those who have never had a negotiated indirect rate.

• The Government expects org’s that have had experience developing & negotiating rates in the past, will have the adequate resources to prepare new indirect rates
• 10% De Minimis Rate (DMR) & Single Function NFE

• The DMR cannot be used for a single function NFE who charges 100% of their cost direct

• The DMR is intended to be used to pay for indirect costs that are not directly assignable to a Federal award

• As prescribed in 200.403(d) a cost for the same purpose charged as a direct cost to a Federal award cannot be also be charged for the same purpose as an allocated indirect cost
New NICRA Extension

FAQ.414-2 (11/26/14)

• NFE (non-federal entity) has existing negotiated indirect rate:
  o One-time extension of current indirect rate
  o For a period of up to 4 years
  o If granted, cannot request a rate review until extension period ends
  o At end of 4 year period, must re-apply to negotiate a new rate
New Options 200.413(c)

• Direct charging of admin staff wages may be appropriate when all items are met
  ○ Administrative services are necessary to a project
  ○ Individuals involved can be specifically identified to a project, such as time reports
  ○ Administrative wages are included in the budget or prior written approval from agency
  ○ Such costs are not recovered as indirect cost
New Options 200.405(d)

- Direct cost allocation principle 200.405(d)
  - If cost benefits two or more direct programs
  - In proportions that can be determined without undue effort or cost (e.g. summer workshops)
  - Costs must be allocated to projects
New Options 200.405(d)

• Direct cost allocation principle 200.405(d)
  
  o If items on prior page cannot determine proportions based on interrelation of work involved, then allocated on benefited projects on a reasonable documented basis
  
  o Purchase of equipment or capital assets for a specific award are assignable to that award only regardless of use on other projects or no longer needed as acquired
New Requirements on Allowable Cost

- Unallowable activities and donated services receive allocation of indirect costs 200.405(b)

- Costs allocable to a Federal award may not be charged to cover fund deficiencies to avoid restrictions in the regulations 200.405(c)

- Limitation on allowable costs 200.408

- If maximum amount allowable under a limitation is less than total amount determined, the delta is not recoverable and cannot be charged to another award
New Requirements 200.410

- Payments made for costs determined to be unallowable must be refunded including interest to Federal government
- Unallowable by Federal awarding agency
- Cognizant agency for indirect cost
- Pass-through entity
- Either direct or indirect unallowable cost
• Assure proper expenditures 200.415(a)

○ Certifying project budgets, annual and final fiscal reports or vouchers requesting payments

○ “By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award.

○ I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may be subject to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise”.

New Certification
Polling Question #1

If I work on a Federal grant, the implications of the False Claims Act is when…

A. I round up to the nearest 15 minutes on my time sheet rather than recording 8.75 minutes.
B. I am working on grant “XYZ” but charge the “ABC” grant.
C. My time charges are recorded by my supervisor when I am on vacation.
D. I did not receive a formal work authorization to work on this grant. I only received an email from my supervisor.
E. None of the above.
Civil Fraud Claim on Higher F&A Rate

• Admits: Excessive Cost Recoveries

• From 2003 to 2015, CU (Columbia University) applied the higher On-Campus indirect rate instead of the lower Off-Campus indirect rate

• 423 NIH grants were actually performed at off-site facilities

• Settled by agreeing to pay $ 9.5 million
  o US Attorney Office (DOJ), Southern District of New York.
  o July 14, 2016
Civil Fraud Claim on Higher F&A Rate

• Onsite rate was 61% vs. offsite at 26%

• CU knew that they did not own or operate the offsite facilities

• When submitting certified FFRs for cost recovery

• When preparing grant applications, they used the on-campus indirect rate
  ○ Whistle-blower lawsuit
Indirect Certification

- Certification of indirect rates 200.415(b)

- An Indirect Cost Rate Proposal (ICRP) must have a “Certificate of Indirect Costs” certification signed at a level not lower than VP or CFO
  - Cost are not unallowable and not inallocable

- If an ICRP does not include a certification
  - The agency can unilaterally disallow all indirect costs
  - The agency can unilaterally establish their own rate based on historical cost or other such data, agency must ensure that unallowable costs won’t be reimbursed.
No Indirect Rate System Fits All

- 2 CFR 200.414(b)

- Due to diverse characteristics and accounting practices of nonprofits, it is not possible to specify the types of cost which may be classified as indirect in all situations.
• Under any award, the allocation and reasonableness of certain expenses may be difficult to determine

• Purpose is to avoid subsequent disallowance or dispute

• Seek a written agreement with cognizant awarding agency in advance of incurrence of cost

• Examples provided such as pre-award costs
Period for Allocating Cost

- Appendix IV B.1.e to 2 CFR 200

- Period for allocating and accumulating incurred indirect cost to grants

- Base period equals the org’s fiscal
  - Grants cross over two fiscal years
  - Two different indirect rates
Negotiation of Indirect Rates

- Negotiation and Approval of Indirect Rates Agency with largest dollar value = cognizant agency Appendix IV C.2

- Indirect rate proposal submitted 90 days after new award to an organization App. IV C.2.b

- May not happen if you have program restrictions,
  - HRSA Part B, CFDA 93.914 limits adm. to 10%
  - Issues when agency is not proactive in the negotiation and settlement of indirect rates
Negotiation & Approval of Indirect Rates

• Existing org’s submit new rate proposals within 6 months after the end of their fiscal year
  Appendix IV C.2.c
    • Note: Cognizant agency has the option of deciding how often a NICRA is required.

• Predetermined rate is based on estimate of costs to be incurred for the current or future fiscal year.
  • The predetermined rate is not subject to adjustment. Appendix IV C.2.d
Fixed & Final Indirect Rates

• Fixed (ceiling) rates are similar to pre-determined rates except: App. IV C.2.e
  ○ The difference between the estimated and actual costs of the period are carried forward as an adjustment to the subsequent period’s indirect rate computation

• Final rate Appendix IV C.1.d & C.2.f
  ○ Based on actual cost for period
  ○ Once negotiated, not subject to adjustment
Provisional Rates & Negotiation Results

• “Provisional” Rate Appendix IV C.1.e & C.2.f
  o Temporary indirect cost rate pending final rate
  o Used for funding, interim billing or cost reporting
  o The results of any negotiation is distributed to other participating agencies Appendix IV C.2.g

• Negotiating rates must be accepted by ALL Federal awarding agencies 200.414 (c)(1)

• Many clients complain they cannot find the office for negotiating indirect rate

• Look at conditions clauses attached to grant
Polling Question #2

Which of the following indirect rates applies to your organization? A negotiated indirect rate is with a federal agency that you have the majority of your grants.

A. We don’t have an indirect rate and want to obtain a negotiated indirect rate.
B. We are currently using the 10% diminish rate and are happy with it.
C. We are currently using the 10% and want to obtain a negotiated indirect rate.
D. As a sub-awardee, we have established an indirect rate from our prime and want to obtain a negotiated indirect rate.
E. Our negotiated indirect rate has lapsed and we are considering applying again.
Allocation Methodologies

Appendix IV to 2 CFR 200
Where all of its major functions benefit from its indirect cost to approximately the same degree

- 1 major function consisting of a number of individual projects/activities or a nonprofit with small amount of Federal awards
  - Separate allowable indirect less credits from direct cost
  - Divide indirect by direct cost base (w/unallowable $)
  - Facility cost is combined with administrative pool
  - Facility cost supports direct and indirect personnel
G&A Allocation Bases

• General & Administrative: MTDC Base App. IV B.2.c

• Allocate on Modified Total Direct Cost (MTDC)
  - Direct labor, applied fringe, non-labor direct 200.68
  - Exclusions from MTDC base shown on slide 39

• G&A: Salaries and Fringe Base (per HHS indirect template)

• G&A: Salary Base Only direct wages Appendix IV B.2.c
  - Results of special cost studies must not be used to determine and allocate indirect cost to Federal awards per Appendix IV B.3.c (last sentence of paragraph)
Provisional Rates & Negotiation Results

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**Calculation of the Rate**

1. If the non-profit organization uses Direct Salaries & Wages excluding fringe benefits as their Base the rate would calculate as follows:

   **Indirect costs = $382,200**
   
   **Base (Direct S&W) = $11,311,343**
   
   **Rate = 3.38%**

2. If the non-profit organization uses Direct Salaries & Wages including fringe benefits as their Base the rate would calculate as follows:

   **Indirect costs = $382,200**
   
   **Base (Direct S&W) = $11,311,343**
   
   **Rate = 3.38%**

3. If the non-profit organization uses Modified Total Direct Costs (MTDC) as their Base their rate would calculate as follows:

   **Indirect costs = $382,200**
   
   **Base (MTDC) = $11,311,343**
   
   **Rate = 3.38%**
Distribution Basis for MTDC

Appendix IV B.2.C & Definition at 200.68

• Components of the MTDC:
  - Salaries and wages (direct labor)
  - Fringe benefits on direct labor
  - Materials and supplies, services & travel
  - Sub-awards up to the first $25,000 of each sub-award, regardless of period covered by sub-award

• Amounts excluded from MTDC:
  - Sub-grants/sub-awards > $25,000
  - Direct: equipment, capital expenditures, rent, Participant support cost, patient care charges
Polling Question #3

Both subcontracts and sub-awards over $25,000 must be removed from the MTDC base.

A. True
B. False
Unallowable Items in the MTDC Base

Direct Cost 200.413(e)

- Direct Cost Functions Remain in MTDC base though unallowable, must be treated as direct costs to determine indirect rates
  - Fundraising
  - Membership
  - Promotion, lobbying, & public relations
  - Bid & Proposal allowable
  - B&P is not fundraising per 45 CFR 75.460
  - Proposal Costs new cost principle 200.460
Questions?

Contact Us

Paul H. Calabrese  
Principal  
pcalabrese@grfcpa.com

Tricia Katebini, CPA, MBA 
Senior Manager  
tkatebini@grfcpa.com
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