



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

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Karen L. Bowling
Cabinet Secretary

MEMORANDUM

TO: All BBHBF Grantees

FROM: DK Deputy Commissioner Damon Iarossi

DATE: October 3, 2016

SUBJECT: Indirect Cost Agreements and Rates

Dear Grantees,

There have been many questions lately regarding indirect cost rates and the various options available to DHHR grantees with respect to indirect cost recovery. Please see the attached Interpretive Bulletin, the purpose of which is to provide some written information and guidance surrounding indirect costs beyond which is currently referenced within the DHHR grant agreement template and various DHHR policies and procedures. It is important to note though that the information within the attached Interpretive Bulletin is not new.

We are asking that all grantees review the attached guidance and ensure that your agency is in compliance with indirect cost rates and available options. We are requiring that on all future submissions, your budget narratives MUST include one of the following statements in regards to indirect cost plans (filling in the blanks and omitting information in parenthesis):

- **Option 1. An indirect cost proposal and corresponding indirect cost rate negotiated and approved by a federal cognizant agency for indirect costs**

_____ (agency name) has an indirect cost proposal and an "Indirect Cost Negotiation Agreement" approved by _____ (agency name), a federal cognizant agency, for the rate of _____ (insert full approved indirect cost rate) calculated based on _____ (total direct costs, modified direct costs, direct salaries and fringe). **Optional sentence: Although we have an approved indirect cost rate of _____ (insert total approved rate), our agency has elected to reduce the rate applied to this grant to _____ (reduced indirect cost rate chosen by agency).** The applicable distribution base amount for indirect for this grant is _____ (insert base amount from section H on the Detailed Line Item Budget) which is exclusive of any capital, equipment, or per diem amounts. The total indirect costs budgeted for the grant is _____ (insert total indirect cost from section H on the Detailed Line Item Budget).

- **Option 2. An indirect cost proposal and corresponding indirect cost rate approved by another State grant-awarding agency**

_____ (agency name) has an indirect cost proposal and an "Indirect Cost Negotiation Agreement" approved by _____ (agency name), a state grant-awarding cognizant agency, for the rate of _____ (insert full approved indirect cost rate) calculated based on _____ (total direct costs, modified direct costs, direct salaries and fringe). **Optional sentence: Although we have an approved indirect cost rate of _____ (insert total approved rate), our agency has elected to reduce the rate applied to this grant to _____ (reduced indirect cost rate chosen by agency).** The applicable distribution base amount for indirect for this grant is _____ (insert base amount from section H on the Detailed Line Item Budget) which is exclusive of any capital, equipment, or per diem amounts. The total indirect costs budgeted for the grant is _____ (insert total indirect cost from section H on the Detailed Line Item Budget).

- **Option 3. An indirect cost proposal and corresponding indirect cost rate reviewed and attested to by an independent certified public accountant**

_____ (agency name) has an approved indirect cost proposal reviewed and attested to by _____ (agency name), an independent certified public accountant, for the rate of _____ (insert full approved indirect cost rate) calculated based on _____ (total direct costs, modified direct costs, direct salaries and fringe). **Optional sentence: Although we have an approved indirect cost rate of _____ (insert total approved rate), our agency has elected to reduce the rate applied to this grant to _____ (reduced indirect cost rate chosen by agency).** The applicable distribution base amount for indirect for this grant is _____ (insert base amount from section H on the Detailed Line Item Budget) which is exclusive of any capital, equipment, or per diem amounts. The total indirect costs budgeted for the grant is _____ (insert total indirect cost from section H on the Detailed Line Item Budget).

- **Option 4. A de minimis rate of 10% of modified total direct costs as allowed per 2 CFR 200 (some exceptions are applicable per 2 CFR 200)**

_____ (agency name) does not have an approved indirect cost plan nor an indirect cost negotiation agreement, and has elected to charge the 10% de minimis rate as defined and allowed per 2 CF R200. The 10% rate is based on 10% of modified total direct costs. "Modified total direct costs" means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and subcontracts up to the first \$25,000 of each subaward or subcontract (regardless of the period of performance of the subawards and subcontracts under the award). Modified total direct costs excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward and subcontract in excess of \$25,000. The applicable distribution base amount for indirect for this grant is _____ (insert base amount from section H on the Detailed Line Item Budget). The total indirect costs budgeted for the grant is _____ (insert total indirect cost from section H on the Detailed Line Item Budget).

BBHHF grantees should refer any questions regarding their indirect costs to the DHHRBHHFGrants@wv.gov mailbox.

**DHHR POLICY 3801
INTERPRETIVE BULLETIN**

**INDIRECT COST RECOVERY FOR RECIPIENTS OF GRANT AWARDS FROM THE WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

“Indirect costs” are 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. A cost may not be allocated to a grant as an indirect cost if any other cost incurred for the same purpose, in like circumstance, has been assigned to a grant as a direct cost. An “indirect cost rate proposal” simply refers to the documentation prepared by a grantee to substantiate its request for the establishment of an indirect cost rate.

When administering direct Federal grant awards within the DHHR, and when negotiating, awarding, administering and monitoring subgrants awarded by the DHHR to external organizations, the DHHR must follow the guidance provided in 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

With respect to indirect costs, the rates applicable thereto, and the approval and oversight of said rates, the DHHR looks mainly towards the following sections of 2 CFR 200:

- **Section 200.331 – Requirements for pass-through entities**

Particularly, Section 200.331 of 2 CFR 200 states the following (in part):

All pass-through entities must ensure that every subaward is clearly identified to the subrecipients as a subaward and includes...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 (b) of this Part.

- **Section 200.414 – Indirect (F&A) Costs**

Particularly, Section 200.414 of 2 CFR 200 states the following (in part):

...any non-Federal entity that has never received a negotiated indirect cost rate...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.

- **Appendix IV – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations**

Particularly, Appendix IV of 2 CFR 200 states the following (in part):

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

- **Appendix VII – States and Local Government and Indian Tribe Indirect Cost Proposals**

Particularly, Appendix VII of 2 CFR 200 states the following (in part):

Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit’s fiscal year, unless an exception is approved by the cognizant agency for indirect costs.

In addition to the guidance provided in 2 CFR 200, only some of which is included above, if a grantee wishes to charge indirect costs to a DHHR grant, the grantee [and the DHHR for that matter] should look towards Section 6.03 of the DHHR grant agreement template. Section 6.03 of the DHHR grant agreement provides the grantee with four different options that the grantee can use to substantiate an indirect cost rate. Briefly stated, the four options are as follows:

- Option 1. An indirect cost proposal and corresponding indirect cost rate negotiated and approved by a federal cognizant agency for indirect costs
- Option 2. An indirect cost proposal and corresponding indirect cost rate approved by another State grant-awarding agency
- Option 3. An indirect cost proposal and corresponding indirect cost rate reviewed and attested to by an independent certified public accountant
- Option 4. A de minimis rate of 10% of modified total direct costs as allowed per 2 CFR 200 (some exceptions are applicable per 2 CFR 200)

Notes regarding Options 1, 2 and 3 above:

- A. Capping Rates: 2 CFR 200 requires Federal agencies and pass through entities to accept negotiated indirect cost rates unless an exception is required by statute or regulation, or approved by a Federal awarding agency head or delegate based on publicly documented justification. This means that a DHHR spending unit must accept a grantee’s indirect cost rate as is, without forcing the grantee to “cap” said rate. Prior to the release of 2 CFR 200, although not emphasized within existing Federal regulations at the time, the DHHR strongly discouraged spending units from capping a grantee’s indirect cost rate. One of the things that 2 CFR 200 did was to emphasize the fact that grantors (Federal agencies, pass-through entities, etc.) should not impose a cap on a grantee’s indirect cost rate. Therefore, the release of 2 CFR 200 reinforces the DHHR’s prior position; and spending units are no longer permitted to cap a grantee’s indirect cost rate. If a grantee has a negotiated and approved rate, the grantee can

use that rate. If a grantee does not have a negotiated and approved rate, they may ELECT to use the 10% de minimis rate with some exceptions, as described further below.

- B. Frequency of Proposals: Applying the information and guidance from 2 CFR 200 to our current processes and procedures within the DHHR, a grantee cannot use Options 1, 2 or 3 above unless the indirect cost proposal and related rate is [and remains] current, which means a new indirect cost proposal must be developed within six months after the close of each fiscal year. Therefore, applying this to DHHR grantees, unless the grantee has a “current” indirect cost proposal and corresponding rate approved by a federal or state agency or attested to by an independent certified public accountant, the grantee may only elect to charge the de minimis rate of 10% of modified total direct costs as allowed per 2 CFR 200.

Notes regarding Option 4 above:

- A. The 10% rate is a de minimis rate as defined and allowed per 2 CFR 200 (not a programmatic or DHHR-imposed “cap” of any sort). Please see the comments above regarding caps and the fact that spending units are not permitted to cap a grantee’s indirect cost rate.
- B. The 10% de minimis rate is based on 10% of *modified* total direct costs (not total direct costs). “Modified total direct costs” means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and subcontracts up to the first \$25,000 of each subaward or subcontract (regardless of the period of performance of the subawards and subcontracts under the award). Modified total direct costs excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward and subcontract in excess of \$25,000.
- C. If a grantee elects to charge the de minimis rate, the grantee must utilize the rate consistently for all Federal awards [and for all DHHR awards, regardless of whether said awards are funded with Federal dollars or State appropriated dollars] until such time as the grantee chooses to negotiate for a rate.
- D. If a grantee is a government agency that receives more than \$35 million of direct Federal funding, the grantee must submit its indirect cost rate proposal to its cognizant agency for indirect costs and is thus not qualified to utilize the de minimis rate.
- E. If a grantee has previously received a negotiated indirect cost rate from a federal cognizant agency for indirect costs (Option 1 above), the grantee must utilize that negotiated rate as may be applicable and may not elect to charge the de minimis rate for any current or future grants. If a grantee has utilized an indirect cost rate as approved by another state grant-awarding agency (Option 2 above) or attested to by an independent certified public accountant (Option 3 above) for a prior grant, but does not have an approved rate for a current grant, the grantee may elect to charge the de minimis rate for the current grant.

Overall Grant Proposal, Budget and Budget Narrative

- A. If charging indirect costs to a DHHR grant, the grantee must identify the distribution base for calculating the indirect cost rate. The distribution base may be total direct costs (excluding

INTERPRETIVE BULLETIN

Indirect Cost Recovery for Recipients of Grant Awards from the WV DHHR

capital expenditures and other distorting items, such as contracts or subawards for \$25,000 or more), direct salaries and wages, or other base which results in an equitable distribution. The grantee must also list the applicable indirect cost rate and provide the dollar amount of indirect costs charged to the award. Finally, if charging indirect costs to a DHHR grant, the grantee must provide a brief narrative to affirm that said grantee can substantiate the rate by providing the documentation referenced within Option 1, 2 or 3 above, if requested by the DHHR spending unit. If electing to use the de minimis rate, the grantee must declare within the narrative that grantee is electing to charge the de minimis rate of 10% of modified total direct costs as allowed per 2 CFR 200.

Contact Person for Questions and Concerns

- If there are any questions or concerns about this interpretive bulletin, please contact Brian M. Cassis, Director, Office of Internal Control and Policy Development, at 304-558-7314 or via email at brian.m.cassis@wv.gov.

Thank you for your cooperation.