10% De Minimis Indirect Cost Rate

The 10% *de minimis* indirect cost rate is a Federally-recognized rate that non-Federal entities may use to recover allowable indirect costs on grants or cooperative agreements.

**Overview**

2 CFR 200 allows any non-Federal entity (NFE) that has never received a negotiated indirect cost rate to charge a *de minimis* rate of 10% of modified total direct costs (MTDC), which the NFE may use indefinitely as a Federally-negotiated rate. This option for NFE recovery of indirect costs incurred during work under Federal awards removes administrative barriers smaller organizations previously faced receiving and implementing Federal financial assistance. With the introduction of the *de minimis* rate, these organizations can now charge allowable costs which indirectly support the direct work on the Federally-funded project(s); something that was previously difficult because of the large administrative burden associated with the negotiation process.

**Authorities**

2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

§200.412 Classification of costs.

There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double-charging of Federal awards. Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in this subpart.

[78 FR 78608, Dec. 26, 2013]
2 CFR 200.414 Indirect (F&A) costs.

(f) In addition to the procedures outlined in the appendices in paragraph (e) of this section, 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—States and Local Government and 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.


Appendix VII to 2 CFR Part 200 (D)(1)(b) Submission and Documentation of Proposals

A governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs. Other governmental department or agency must develop an indirect cost proposal in accordance with the requirements of this Part and maintain the proposal and related supporting documentation for audit. These governmental departments or agencies are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency for indirect costs. Where a non-Federal entity only receives funds as a subrecipient, the pass-through entity will be responsible for negotiating and/or monitoring the subrecipient's indirect costs.


2 CFR 200 Compliance Supplement (Frequently Asked Questions—July 2017 update)

.331-8 Pass-Through Entities That Have Previously Paid Indirect Costs

Q: Can a pass-through entity that paid actual or negotiated indirect costs to a subrecipient prior to the Uniform Guidance now impose the 10 percent de minimis rate on that same subrecipient?

A: No. The 10 percent de minimis rate is for non-Federal entities that have never received a negotiated indirect cost rate. If a pass-through entity paid negotiated or actual indirect costs to a specific subrecipient in the past, they should continue to negotiate and award indirect costs to that subrecipient in accordance with their prior practice. If a pass-through entity has never awarded or negotiated actual indirect costs with that subrecipient, and the subrecipient does not have a Federally approved indirect cost rate agreement, then the pass-through entity can provide the 10 percent de minimis rate or negotiate a rate with that subrecipient. If the pass-through entity negotiated an approved indirect cost rate with its subrecipient in the past, a de minimis rate cannot be applied.

.331-9 Negotiating Indirect Costs with State Agencies

Q: If one department within a state government negotiates indirect costs with a subrecipient that does not have a Federally approved rate, are all departments/agencies within that state government obligated to also negotiate an indirect cost rate with that subrecipient?

A: No. Each pass-through entity has a separate subaward arrangement with each subrecipient. For example, a State’s Health department has negotiated and approved an indirect cost rate to pay indirect costs to a subrecipient. If the State’s Transportation department subawards to the same subrecipient, and the State’s Transportation department should consider the negotiated rate already provided by the State’s Health department. Also, since this subrecipient has received a negotiated indirect cost from the State, it does not have the option of using the de minimis rate because this subrecipient has negotiated an indirect rate with another state department. In the case, where a subrecipient has no federal awards and there is no defined federal cognizance, the awarding of grants to the same subrecipient by other pass through entities must consider consistency and fairness when reviewing indirect costs. Therefore, the State Transportation department has two choices: (i) accept the State Health department’s negotiated rate or (ii) negotiate its own rate with the subrecipient. (See §200.331(a)(4)). Therefore, a subrecipient may not have a negotiated indirect cost rate with one State agency and the 10 percent de minimis rate with another State agency within the same State.

.414-1 De Minimis Rate and Governments

Q: Is the 10 percent de minimis rate for new organizations which have never negotiated an IDC rate at 200.414 (f) available to governmental organizations or tribal government entities which have never negotiated an IDC rate?

A: Yes. Provision of the 10 percent de minimis indirect cost rate is conditioned on the non-Federal entity meeting the requirements specified at 200.414 (f). These include limiting availability to organizations that have never received a negotiated indirect cost rate, except for those described in Appendix VII of Part 200, paragraph (D)(1)(b) “governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal.” State and local government departments that have never negotiated indirect cost rates with the Federal government and receive less than $35 million in direct Federal funding per year may use the 10% de minimis indirect cost rate, and must keep the documentation of this decision on file. Federally recognized Indian tribes that have never negotiated an indirect cost rate with the Federal government may also use the 10% and must keep the documentation of this decision on file.

.414-9 De Minimis Rate and Breaks in Federal Relationship

Q: Our organization previously had a negotiated indirect cost rate. However, all federal awards expired causing a break in our relationship with the federal government. During the break in relationship our negotiated indirect cost rate expired. Our organization has now received a new federal award. Are we eligible to receive the 10 percent de minimis rate?

A: No. Organizations that experience a break in federal relationship are not eligible to receive the 10 percent de minimis rate upon receipt of a new award. The availability of the de minimis rate is specifically limited to a non-Federal entity that has never received a negotiated indirect cost rate (200.414(f)). It is expected that organizations that have experience developing and negotiating rates have adequate resources to develop a new indirect rates.

.414-10 De Minimis Rate and Period of Applicability
Q: If an organization elects the 10 percent de minimis rate at the beginning of an award, is the de minimis rate applicable to the period of performance of the award?

A: The de minimis rate may not be applicable during the entire period of performance of an award. A non-Federal entity may use the 10 percent de minimis rate indefinitely until it elects to negotiate an indirect cost rate, which the non-Federal entity may apply to do at any time. Indirect cost rates are generally negotiated based on a non-federal entity’s fiscal year (not the period of performance of an award). Therefore, the de minimis rate may not be applicable during the entire period of performance of an award. Awarding agencies are not required to reissue awards issued prior to the effective date of the indirect cost negotiation agreement. Accordingly, the de minimis rate may be applicable to the period of performance of the award if the total award amount is known and made available to the organization at the time of award.

.414-11 De Minimis Rate and non-Federal entity with Single Function

Q: Can a non-Federal entity conducting a single function, which is predominately funded by Federal awards elect to charge the 10% de minimis rate if they currently charge all costs as direct costs to Federal programs?

A: No, the 10% de minimis rate must only be used to pay for overhead costs that are not directly charged to Federal awards. If all costs are charged directly to the Federal award (e.g., space costs, utility and administrative costs) then the recipient should not also charge the 10% de minimis rate. As described in 2 CFR section 200.403, costs must be consistently charged as either indirect or direct cost, but may not be doubled charged or inconsistently charged as both.

.414-12 Providing Proof of Indirect Costs for De Minimis Rate

Q: Does a non-Federal entity that uses the 10 percent de minimis indirect cost rate need to provide documentation to prove that its indirect costs are at least 10 percent of its organization’s modified total direct costs?

A: No. A non-Federal entity that has never received a negotiated indirect cost rate and that uses the 10 percent de minimis rate does not need to provide proof of its indirect costs. The 10 percent de minimis rate was designed to reduce burden for small non-Federal entities (See also .414-11 above). The non-Federal entity has to report in its SEFA whether it has elected to use the 10% de minimis rate for its Federal programs (see §200.510(b)(6)).

.414-13 Is the De Minimis rate the de facto rate?

Q: Many pass-through entities are willing to pay only the 10 percent of modified total direct costs (MTDC) to subrecipients. Is the 10 percent de minimis rate meant to be the de facto indirect cost rate?

A: No. The 10 percent de minimis rate is not meant to be the de facto indirect cost rate. OMB established it to reduce the burden for smaller, less experienced non-Federal entities by not requiring them to negotiate an indirect cost rate.

Pass-through entities must recognize:

1) An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or,

2) If no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient or the 10 percent de minimis rate.

Frequently Asked Questions

What constitutes approval by the Federal awarding agency of an NFE’s use of the 10% de minimis rate?

Typically, the NFE informs the Federal awarding agency in the application proposal of its eligibility and intent to charge the de minimis rate. Barring any statutory or regulatory restrictions, the Federal awarding agency must approve the use of the de minimis rate.

Does the non-Federal entity have to submit documentation supporting that their indirect costs are at least 10% of its MTDC to be charged to the award?

No. There is no requirement for the NFE to provide documentation showing that its indirect costs are at least 10% of its MTDC, although they are required to maintain appropriate documentation of all allowable costs charged to the award per 2 CFR 200.403 Factors affecting allowability of costs.

Are State fish and wildlife agencies eligible to charge the 10% de minimis rate for indirect costs?

Yes. As long as the State fish and wildlife agency has never had an indirect cost rate approved by its cognizant Federal agency and it meets the requirements established under Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals.

Which non-Federal entities cannot charge the 10% de minimis rate for indirect costs?

There are two groups of non-Federal entities that cannot use the de minimis rate:

1. Non-Federal entities that have previously had an approved indirect cost rate are not eligible to use the 10% de minimis rate.

2. A governmental department or agency unit that receives more than $35 million in direct Federal funding.

Is the 10% de minimis rate option available for subrecipients?

Yes. Prime recipients who subaward some or all of the Federal award to eligible subrecipients must approve either the 10% de minimis rate, or negotiate an indirect rate with the subrecipient, in lieu of a Federally-negotiated indirect cost rate. see 2 CFR 200.331(a)(4).
Do FEMA funds count towards the $35 million annual Federal funding criteria for using the 10% de minimis rate?

Yes. FEMA funds are considered Federal funds.

How do I determine if my State fish and wildlife agency has ever had an approved indirect cost rate?

Typically the budget office would have record of the State fish and wildlife agencies approved indirect cost rate. If not, the State fish and wildlife agency could consult with the WSFR Regional Office. Additionally, the Interior Business Center would also be able to inform the State fish and wildlife agency if they have ever had an approved indirect cost rate.

Towards which types of indirect base can you apply the 10% de minimis rate?

2 CFR 200.414(f) states that an eligible non-Federal entity who elects to charge the 10% de minimis rate may only apply the rate to their MTDC. The MTDC as a base removes "distorting items" (e.g. capital expenditures, contracts, and subgrants). Non-Federal entities are allowed to charge the 10% de minimis to the first $25,000 of its subawards.