



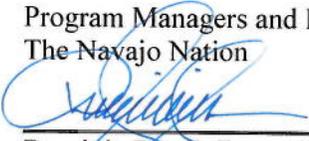
THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

October 20, 2015

MEMORANDUM

TO : Program Managers and Division Directors
The Navajo Nation

FROM : 
Dominic Beyal, Executive Director
Office of Management and Budget

SUBJECT : Indirect Cost (IDC) Negotiation Agreement on IDC Rates for FY 2014 and 2015

Pursuant to the FY 2014 Navajo Nation Budget Instruction and Policies Manual (BIPM), Appendix R., Section IV. E. 1., the attached document (see description below) regarding the subject matter is provided to you for implementation effective immediately. The document is also available on the OMB website at www.omb.navajo-nsn.gov.

Attachment "A": Resolution NABIO-64-15 that was adopted by NAABIK'YATI COMMITTEE to accept the subject IDC rates and the related IDC Negotiation Agreement with Interior Business Center. Attached to the Resolution as Exhibit "A" is the executed IDC Negotiation Agreement.

Hereafter, the FY 2015 IDC rate of 17.18% shall be used as follows:

- A. Programs budgeting for recovery of IDC as follows:
 1. In grant applications and related grant awards.
 2. On existing grant awards on which the term ending date has not expired, by no later than October 31, 2015, Programs Managers submit a request for authorization to use the FY 2015 IDC rate to the funding agency and copy to Contracts and Grants Section.
- B. Office of the Controller to book recovery of IDC funds earned on administration of external grant awards.

This memorandum shall supersede the memorandum of September 30, 2015 that was issued by our office to advise on use of the FY 2015 IDC rate on budgeting for IDC. The memorandum herein is to expand the use of FY 2015 IDC rate to recovering IDC funds since the IDC Negotiation Agreement was approved and accepted by NAABIK'YATI COMMITTEE pursuant to Navajo law.

Your compliance with the BIPM on use of the IDC rate is emphasized. Contact CGS/OMB at 871-6033 if you have questions.

ATTACHMENT / Distribution

Cc: file
President Begaye / Vice President Nez, OPVP
Lorenzo Bates, Speaker – Navajo Nation Council
Allen Sloan, Acting Chief Justice – Judicial Branch
Robert Willie, Acting Controller - Office of the Controller
Ethel B. Branch Office of the Attorney General

RESOLUTION OF THE
NAABIK'ÍYÁTI COMMITTEE OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL--FIRST YEAR, 2015

AN ACTION

RELATING TO BUDGET AND FINANCE, NAABIK'ÍYÁTI' COMMITTEE AND
NAVAJO NATION COUNCIL; APPROVING, ACCEPTING AND IMPLEMENTING
INDIRECT COST (IDC) NEGOTIATION AGREEMENT WITH THE U.S.
DEPARTMENT OF INTERIOR, INTERIOR BUSINESS CENTER

BE IT ENACTED:

Section One. Findings

- A. "Intergovernmental agreements are agreements between the Navajo Nation and another government that involve the sharing of governmental powers, and includes Indian Self-Determination and Education Assistance Act (P.L. 638) contracts. Intergovernmental agreements do not include agreements between the Navajo Nation and another government where the Nation or the other government acts in a landowner or commercial capacity." 2 N.N.C § 110(J) (2012) see also CJA-03-13.
- B. The Indian Organization Indirect Cost Negotiation Agreement is an "intergovernmental agreement" because 1) the agreement is between the Navajo Nation and the Federal government and 2) the "indirect cost rates contained [in the Agreement] are for use on grants, contracts and other agreements with the Federal Government to which Public Law 93-638 and 2 CFR Part 200 apply..." Indian Organization Indirect Cost Negotiation Agreement 1 (2015).
- C. The Navajo Nation Council established the Budget and Finance Committee as a Navajo Nation standing committee and conducts oversight over the Office of Management and Budget's functions. 2 N.N.C. §§ 300(A) and 301(B)(13) (2012) see also CJA-03-13.
- D. The Budget and Finance Committee authorizes, reviews, approves and accepts agreements between the Navajo Nation and any federal authority upon the recommendation of the standing committee. 2 N.N.C. § 301(B)(15) (2012) see also CJA-03-13.

- E. The Navajo Nation Council established the Naabik'iyáti' as a Navajo Nation standing committee and empowered the committee to "review and approve the negotiation and setting of the Navajo Nation's indirect cost or administrative code rate agreements with the cognizant federal agency." 2 N.N.C. §§ 700(A) and 701(A)(10) (2012) see also CJA-03-13.
- F. Intergovernmental agreements "must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council except as otherwise provided herein." 2 N.N.C. § 164(A) (2012) see also CJA-03-13.
- G. "Indirect Costs means those 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." 2 C.F.R. §200.56 (2014)
- H. In FY 2013, the Navajo Nation IDC was 16.95 %; in FY 2014, the IDC was 16.98% and the negotiated FY 2015 rate will increase to 17.18%.
- I. "The purpose of an indirect cost rate is to facilitate the allocation and billing of indirect costs." Indian Organization Indirect Cost Negotiation Agreement 3 (2015).
- J. Entering into the Indian Organization Indirect Cost Negotiation Agreement is in the Navajo Nation's best interest.

Section Two. IDC Negotiation Agreement

- A. The Navajo Nation approves, accepts, and implements the Indian Organizations IDC Negotiation Agreement with the U.S. Department of the Interior, Interior Business Center. EXHIBIT A.
- B. The Navajo Nation authorizes the Navajo Nation President, or his designee, to execute the Indian Organizations IDC Negotiation Agreement.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 13 in favor and 0 opposed, this 14th day of October 2015.

A handwritten signature in black ink, appearing to read 'LoRenzo Bates', written over a horizontal line.

LoRenzo Bates, Chairperson
Naabik'iyáti' Committee

Motion: Honorable Alton Joe Shepherd
Second: Honorable Dwight Witherspoon

**Indian Organizations
Indirect Cost Negotiation Agreement**

EIN: 86-0092335

Organization:

The Navajo Nation
P.O. Box 646
Window Rock, AZ 86515

Date: September 30, 2015

Report No(s) .: 15-A-1174(14C)
15-A-1175(15C)

Filing Ref.:
Last Negotiation Agreement
dated October 22, 2013

The indirect cost rates contained herein are for use on grants, contracts, and other agreements with the Federal Government to which Public Law 93-638 and 2 CFR Part 200 apply for fiscal years beginning on or after December 26, 2014 subject to the limitations contained in 25 CFR 900 and Section II.A. of this agreement. Applicable OMB Circulars and the regulations at 2 CFR 225 will continue to apply to federal funds awarded prior to December 26, 2014. The rates were negotiated by the U.S. Department of the Interior, Interior Business Center, and the subject organization in accordance with the authority contained in applicable regulations.

Section I: Rates

Type	Effective Period		Rate*	Locations	Applicable To
	From	To			
Fixed Carryforward	10/01/13	09/30/14	16.98%	All	All Programs
Fixed Carryforward	10/01/14	09/30/15	17.18%	All	All Programs

***Base:** Total direct costs, less capital expenditures and passthrough funds. Passthrough funds are normally defined as payments to participants, stipends to eligible recipients, subcontracts and subgrants, all of which normally require minimal administrative effort.

Treatment of fringe benefits: Fringe benefits applicable to direct salaries and wages are treated as direct costs; fringe benefits applicable to indirect salaries and wages are treated as indirect costs.

Section II: General

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A. Limitations: Use of the rates contained in this agreement is subject to any applicable statutory limitations. Acceptance of the rates agreed to herein is predicated upon these conditions: (1) no costs other than those incurred by the subject organization were included in its indirect cost rate proposal, (2) all such costs are the legal obligations of the grantee/contractor, (3) similar types of costs have been accorded consistent treatment, and (4) the same costs that have been treated as indirect costs have not been claimed as direct costs (for example, supplies can be charged directly to a program or activity as long as these costs are not part of the supply costs included in the indirect cost pool for central administration).

B. Audit: All costs (direct and indirect, federal and non-federal) are subject to audit. Adjustments to amounts resulting from audit of the cost allocation plan or indirect cost rate proposal upon which the negotiation of this agreement was based will be compensated for in a subsequent negotiation.

C. Changes: The rate(s) contained in this agreement are based on the organizational structure and the accounting system in effect at the time the proposal was submitted. Changes in organizational structure, or changes in the method of accounting for costs that affect the amount of reimbursement resulting from use of the rate(s) in this agreement, require the prior approval of the cognizant agency. Failure to obtain such approval may result in subsequent audit disallowance.

D. Rate Type:

1. **Fixed Carryforward Rate:** The fixed carryforward rate is based on an estimate of costs that will be incurred during the period for which the rate applies. When the actual costs for such period have been determined, an adjustment will be made to the rate for a future period, if necessary, to compensate for the difference between the costs used to establish the fixed rate and the actual costs.

2. **Provisional/Final Rate:** Within six (6) months after year end, a final indirect cost rate proposal must be submitted based on actual costs. Billings and charges to contracts and grants must be adjusted if the final rate varies from the provisional rate. If the final rate is greater than the provisional rate and there are no funds available to cover the additional indirect costs, the organization may not recover all indirect costs. Conversely, if the final rate is less than the provisional rate, the organization will be required to pay back the difference to the funding agency.

3. **Predetermined Rate:** A predetermined rate is an indirect cost rate applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.)

4. **Rate Extension:** Only final and predetermined rates may be eligible for consideration of rate extensions. Requests for rate extensions of a current rate will be reviewed on a case-by-case basis. If an extension is granted, the non-Federal entity may not request a rate review until the extension period ends. In the last year of a rate extension period, the non-Federal entity must submit a new rate proposal for the next fiscal period.

E. Agency Notification: Copies of this document may be provided to other federal offices as a means of notifying them of the agreement contained herein.

F. Record Keeping: Organizations must maintain accounting records that demonstrate that each type of cost has been treated consistently either as a direct cost or an indirect cost. Records pertaining to the costs of program administration, such as salaries, travel, and related costs, should be kept on an annual basis.

for ceilings on indirect cost rates or reimbursement amounts are subject to the ceilings stipulated in the contract or grant agreements. If the ceiling rate is higher than the negotiated rate in Section I of this agreement, the negotiated rate will be used to determine the maximum allowable indirect cost.

H. Use of Other Rates: If any federal programs are reimbursing indirect costs to this grantee/contractor by a measure other than the approved rate(s) in this agreement, the grantee/contractor should credit such costs to the affected programs, and the approved rate(s) should be used to identify the maximum amount of indirect cost allocable to these programs.

I. Other:

1. The purpose of an indirect cost rate is to facilitate the allocation and billing of indirect costs. Approval of the indirect cost rate does not mean that an organization can recover more than the actual costs of a particular program or activity.

2. Programs received or initiated by the organization subsequent to the negotiation of this agreement are subject to the approved indirect cost rate(s) if the programs receive administrative support from the indirect cost pool. It should be noted that this could result in an adjustment to a future rate.

3. Each Indian tribal government desiring reimbursement of indirect costs must submit its indirect cost proposal to our office within six (6) months after the close of the Tribe's fiscal year, unless an exception is approved.

Section III: Acceptance

Listed below are the signatures of acceptance for this agreement:

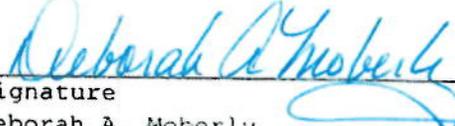
By the Indian Organization:

By the Cognizant Federal Government Agency:

The Navajo Nation
Tribal Government

U.S. Department of the Interior
Interior Business Center
Agency

 /s/

 /s/

Signature
Russell Begaye
Name (Type or Print)

Signature
Deborah A. Moberly
Name

President
Title

Office Chief
Office of Indirect Cost Services
Title

September 14, 2015
Date

SEP 30 2015
Date

Negotiated by Jacqueline B. Ross
Telephone (916) 566-7003