

THE NAVAJO NATION

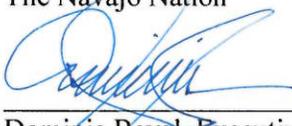


JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

February 21, 2020

MEMORANDUM

TO : Program Managers and Division Directors
The Navajo Nation

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

SUBJECT : Indirect Cost Negotiation Agreement (Agreement) on FY 2020 IDC Rate of 18.7%

Attached as Exhibit "A" is the subject Agreement for implementation effective immediately. On February 13, 2020, NAABIK'YATI COMMITTEE adopted resolution NABIF-09-20 to accept the subject IDC rate that was approved by Interior Business Center / Department of Interior (IBC/DOI). President Jonathan Nez signed the Agreement and the same was executed by IBC/DOI. The Agreement is also available on the OMB website at www.omb.navajo-nsn.gov.

Pursuant to the FY 2020 Navajo Nation Budget Instructions Manual (BIM), Appendix L, Sec. III. (B), use the subject IDC rate to budget for recovery of IDC funds in grant application/award that are effective October 1, 2019 and forward. Also ensure the budget for IDC is supported by the Check Sheet on Calculating Budget for IDC Recovery which is Appendix L-4 of the FY 2020 BIM.

On recovery of IDC funds, be advised the approved IDC rate in place at the time external grant is expended is applied to recover IDC funds. For example, if the FY 2019 grant ended on September 30, 2019, and was extended to September 30, 2020, the FY 2020 IDC rate of 18.7% shall be used to recover IDC funds on the expenditures incurred on or after October 1, 2019.

Programs Managers are urged to write and inform their funding agencies of the FY 2020 IDC rate and that such rate will be applied to the grant. Please copy the Contracts and Grants Section (CGS) / OMB on correspondence to your funding agency.

Thank you for complying with the FY 2020 BIM regarding use of the FY 2020 IDC rate. Contact CGS/OMB at 871-6033 if you have questions.

ATTACHMENT / Distribution

Cc: file
President Nez / Vice President Lizer, OPVP
Seth Damon, Speaker – Navajo Nation Council
JoAnn Jayne, Chief Justice – Judicial Branch
Jamie Henio, Chairman – Budget and Finance Committee
Doreen McPaul, Attorney General - Office of the Attorney General
Pearline Kirk, Controller - Office of the Controller

**Indian Organizations
Indirect Cost Negotiation Agreement**

EIN: 86-0092335

Organization:

Date: February 14, 2020

Navajo Nation
P.O. Box 646
Window Rock, AZ 86515-0646

Report No(s): 20-A-0579 (20C)

Filing Ref.:
Last Negotiation Agreement
Dated August 14, 2019

The indirect cost rate contained herein is 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 rate was 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: Rate

Type	Effective Period		Rate*	Locations	Applicable To
	From	To			
Fixed Carryforward	10/01/19	09/30/20	18.70%	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, or subawards, 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 rate(s) contained in this agreement is subject to any applicable statutory limitations. Acceptance of the rate(s) 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.

EXHIBIT 66 A 92

C. **Changes:** The rate(s) contained in this agreement are based on the accounting system in effect at the time the proposal was submitted. Changes in the method of accounting for costs that affect the amount of reimbursement resulting from use of the rate(s) in this agreement, may 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.)

E. **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.

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

G. **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.

H. **Reimbursement Ceilings:** Grantee/contractor program agreements providing 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.

I. 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.

J. 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

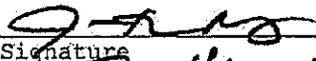
Listed below are the signatures of acceptance for this agreement:

By the Indian Organization:

By the Cognizant Federal Government Agency:

Navajo Nation
Tribal Government Agency

U.S. Department of the Interior
Interior Business Center

 /s/

DORIS JENSEN Digitally signed by DORIS JENSEN Date: 2020.02.14 13:10:17 -08'00' /s/

Jonathan Nez
Name (Type or Print)

Signature for
Craig A. Wills

Navajo Nation
Title

Division Chief
Indirect Cost Services Division
Title

12-17-19
Date

Negotiated by Marilyn P. Elgar
Telephone (916) 930-3811

RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE
24th NAVAJO NATION COUNCIL -- Second Year, 2020

AN ACTION RELATING TO BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES; APPROVING, ACCEPTING, AND IMPLEMENTING THE INDIRECT COST (IDC) NEGOTIATION AGREEMENT WITH THE U.S. DEPARTMENT OF INTERIOR, INTERIOR BUSINESS CENTER FOR FISCAL YEAR 2020

BE IT ENACTED:

SECTION ONE. AUTHORITY

- 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. 2 N.N.C § 110(J).
- B. The Budget and Finance Committee is empowered to authorize, review, approve and accept agreements between the Navajo Nation and any federal authority upon the recommendation of the standing committee which has oversight over the division, department, or program making the request. 2 N.N.C. § 301(B)(15).
- C. The Office of Management and Budget (OMB) has made the request and the Budget and Finance Committee has oversight of OMB. 2 N.N.C. § 301(B)(13).
- D. The Navajo Nation Council established the Naabik'iyáti' Committee 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 cost rate agreements with the cognizant federal agency." 2 N.N.C. §§ 700(A) and 701(A)(10).

SECTION TWO. FINDINGS

- A. The Interior Business Center (IBC) submitted the Indian Organizations Indirect Cost (IDC) Negotiation Agreement to the

Navajo Nation with a letter dated July 9, 2019. These documents are included in **Exhibit A**.

- B. The proposed rate in the IDC Negotiation Agreement is 18.70% for the time period from 10/1/2019 to 09/30/2020.
- C. OMB submitted a memorandum to the 164 reviewers describing the process to accept the IDC rate. Accordingly, OMB, the Office of the Controller and the Department of Justice have indicated the documents are sufficient.
- D. Entering into the Indian Organization Indirect Cost Negotiation Agreement is in the Navajo Nation's best interest.

SECTION THREE. APPROVAL OF 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 included in **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 24th 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 12 in Favor, and 00 Opposed, on this 13th day of February 2020.


Honorable Seth Damon, Chairman
Naabik'iyáti' Committee

Motion: Honorable Daniel E. Tso
Second: Honorable Rickie Nez

Chairman Seth Damon not voting