December 6, 2021

MEMORANDUM

TO : Program Managers and Division Directors
     The Navajo Nation

FROM : Dommie Bevaj, Executive Director
       Office of Management and Budget (OMB)

SUBJECT : Indirect Cost Negotiation Agreement - IDC Rates, FY 2021 of 16.47% and FY 2022 of 15.46%

Attached as Exhibit “A” is the subject Agreement for implementation effective immediately. On November 18, 2021, the Naabik’íyáti Committee adopted resolution NABIN-51-21 (attached as Exhibit “B”) to accept the IDC rates that was approved by Interior Business Center / Department of Interior (IBC/DOI). President Jonathan Nez signed the Agreement on December 3, 2021, to execute it. The Agreement is also available on the OMB website at www.omb.navajo-nsn.gov.

Pursuant to the FY 2022 Navajo Nation Budget Instructions Manual (BIM), Appendix L, Sec. VIII. C. 2., OMB requests departments and programs use the applicable IDC rate to budget for recovery of IDC funds in grant applications and awards. Also, please ensure the budget for IDC is supported by the Check Sheet on Calculating Budget for IDC Recovery, available at Appendix L-4 of the BIM.

On recovery of IDC funds, be advised the approved IDC rate in place at the time the external grant is expended, will be applied to recover IDC funds. For example, if the FY 2021 grant ended on September 30, 2021, and was extended to September 30, 2022, the FY 2022 IDC rate of 15.46% shall be used to recover IDC funds on the expenditures incurred on or after October 1, 2021.

Programs Managers are urged to write and inform their funding agencies of the applicable FY 2021 or 2022 IDC rate will be applied to the respective grant. Please copy the Contracts and Grants Section (CGS) / OMB on correspondence to your funding agency.

Thank you for complying with the FY 2022 BIM regarding use of the applicable 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
  Elizabeth Begay, Acting Controller - Office of the Controller
Indian Organization
Indirect Cost Negotiation Agreement

EIN: 86-0092335

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

Date: 12/02/2021

Report Number: 2021-0520

Filing Ref:
Last Negotiation Agreement
dated: 02/14/2020

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 subject to the limitations contained in 25 CFR 900 and Section II.A. of this agreement. 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

<table>
<thead>
<tr>
<th>Start Date</th>
<th>End Date</th>
<th>Rate Type</th>
<th>Name</th>
<th>Rate</th>
<th>Base</th>
<th>Location</th>
<th>Applicable To</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/01/2020</td>
<td>09/30/2021</td>
<td>Fixed Carry forward</td>
<td>Indirect</td>
<td>16.47 %</td>
<td>(A)</td>
<td>All</td>
<td>All Programs</td>
</tr>
<tr>
<td>10/01/2021</td>
<td>09/30/2022</td>
<td>Fixed Carry forward</td>
<td>Indirect</td>
<td>15.46 %</td>
<td>(A)</td>
<td>All</td>
<td>All Programs</td>
</tr>
</tbody>
</table>

(A) 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.

EXHIBIT "A"
Section II: General

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.

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 which 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 the 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.

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
Section II: General (continued)

affected programs, and the approved rate(s) should be used to identify the maximum amount of indirect cost allocable to these programs.

1. **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

Navajo Nation

[Signature]

By the Cognizant Federal Government Agency

US Department of the Interior - BIA

[Signature]

Jonathan Nez
Name:

President
Title:

12/3/2021
Date

Craig Wills
Name:
Division Chief
Indirect Cost Services Division
Interior Business Center
Title:

12/3/2021
Date

Negotiated by: Omar Shey yah
Telephone: (916) 930-3806

Next Proposal Due Date: 03/31/2022
RESOLUTION OF THE
NAABIK’ÍYÁTI’ STANDING COMMITTEE
24th NAVAJO NATION COUNCIL -- Third Year, 2021

AN ACTION RELATING TO BUDGET AND FINANCE AND NAABIK’ÍYÁTI’ COMMITTEES; APPROVING, ACCEPTING, AND IMPLEMENTING THE INDIRECT COST NEGOTIATION AGREEMENT WITH THE U.S. DEPARTMENT OF INTERIOR, INTERIOR BUSINESS CENTER, FOR FISCAL YEARS 2021-2022

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 include Indian Self-Determination and Education Assistance Act (Public Law 93-638) contracts. 2 N.N.C. § 110(J).

B. The Budget and Finance Committee was established as a standing committee by the Navajo Nation Council, and is empowered to 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 Budget and Finance Committee has oversight over the Navajo Nation’s Office of Management and Budget. 2 N.N.C. § 301(B)(13).

D. The Navajo Nation Council established the Naabik’íyáti’ Committee as a 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

B. The proposed rates in the IDC Agreement are 16.57% for the period of 10/01/2020 to 09/30/2021 and 15.46% for the period of 10/01/2021 to 09/30/2022. EXHIBIT A.

C. The OMB has provided a memorandum dated October 8, 2021, describing the procedures required for the Navajo Nation to formally approve and accept the proposed IDC rates for Fiscal Year 2021 and Fiscal Year 2022, as set forth in the IDC Agreement. EXHIBIT B.

D. Pursuant to the Navajo Nation’s 2 N.N.C. § 164(A) review process, the OMB, the Office of the Controller, the Department of Justice, and other reviewers, have indicated that all the IDC Agreement and supporting documents are legally sufficient. EXHIBIT C.

E. The Navajo Nation finds that approving and accepting the negotiated IDC rates, and entering into the IDC Agreement with the DOI/IBC, is financially prudent and in the best interest of the Navajo Nation.

SECTION THREE. APPROVAL OF IDC AGREEMENT

A. The Navajo Nation hereby approves, accepts, and implements the Indian Organizations Indirect Cost Negotiation Agreement with the U.S. Department of the Interior, Interior Business Center, as shown in EXHIBIT A.

B. The Navajo Nation authorizes the President of the Navajo Nation, or his approved designee, to execute the Indian Organizations Indirect Cost Negotiation Agreement on behalf of the Navajo Nation.
CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' 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 20 in Favor, and 00 Opposed, on this 18th day of November 2021.

Honorable Seth Damon, Chairman
Naabik'íyáti' Committee

Nov 25, 2021
Date

Motion: Honorable Raymond Smith, Jr.
Second: Honorable Pernell Halona

Chairman Seth Damon not voting