

June 3, 2015

TO: OOD Vocational Rehabilitation Contractors

FROM: Kevin Miller, OOD Executive Director  
Therese Dyer, OOD Chief Financial Officer

RE: Indirect Cost Rates for OOD Contracts

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On December 26, 2014, the various Federal Cost Principles governing the use of Federal grant funds were combined into one section of the Code of Federal Regulations (CFR), “2 CFR 200 Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards”, also known as the Omni-Circular. To better align with the Omni-Circular and Education Department General Administrative Regulations (EDGAR), OOD has revised the methodology for determining indirect cost rates and expenses.

The CFR outlines three avenues through which contractors may seek to recover indirect costs.

1. Federal Indirect Cost Rate Agreement - This is a formal agreement between a non-Federal agency and their cognizant Federal agency that identifies the indirect cost rate and the direct cost base to which that rate applies. (The cognizant Federal agency is the source from which a non-Federal entity receives the majority of its Federal funding, either directly or via pass-thru arrangements.) If the Indirect Cost Rate Agreement includes multiple rates depending on the scope or focus of activity under the contract, OOD and contractors will discuss which rate is most appropriate for the OOD contract.

2. De Minimis Rate of 8% - For non-government entities, the Omni-Circular (2 CFR 200.414) provides the option to use a de minimis rate to recover indirect costs. EDGAR (34 CFR 76.564) limits this de minimis rate to eight percent (8%). If the non-government entity elects to use the de minimis rate, it must do so consistently for all Federal awards that originate in the U.S. Department of Education until a Federal Indirect Cost Rate Agreement is negotiated. As noted above, this option is available to non-government entities only; **this option is not available to State and Local government entities.**

3. Negotiated Restricted Indirect Cost Rate - For contractors that do not have a Federal Indirect Cost Rate Agreement and do not wish to use or are not eligible to use the de minimis rate, a restricted indirect cost rate must be developed in order to recover indirect costs through OOD contracts.

In general, indirect cost rates can either be restricted or unrestricted, and the type of rate that can be used is dictated by the rules associated with the grantor agency or the award. The CFR prohibits the use of Vocational Rehabilitation grant funds to provide or pay for services that any entity other than OOD is obligated to provide under Federal or State law (34 CFR 361.53(e)); this concept is commonly referred to as “supplanting”. EDGAR (34 CFR 76.563) requires the use of a restricted indirect cost rate in order to recover indirect costs under U.S. Department of Education grants that prohibit supplanting, including VR grants to states. Therefore, indirect costs incurred under OOD contracts must be recovered using restricted rates. If a contractor

has negotiated a restricted indirect cost rate with a non-federal cognizant agency other than OOD, that rate may be proposed for acceptance by OOD, as well.

**OOD asks all agencies to complete and submit the attached questionnaire prior to budget negotiations, along with supporting documentation or, if applicable, a copy of the Federal Indirect Cost Rate Agreement.**

OOD encourages all contractors to thoroughly review the Omni-Circular and EDGAR Title 34 to better understand the rules as they relate to indirect cost rates. Specifically, contractors are encouraged to become familiar with the following appendices to 2 CFR Part 200:

Appendix III – Indirect (F&A) Cost Identification and Assignment, and Rate Determination for Institutions of Higher Education

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

Appendix V – State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans

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

Please be mindful if a Federal program statute or regulation, such as EDGAR, differs from the Omni-Circular, then the program statute or regulation takes precedence.

OOD will conduct an in-person conference on June 9, 2015 at 150 E. Campus View Blvd., Columbus, OH 43235, 3<sup>rd</sup> Floor, Commissioner's Room, to review these updates to the indirect cost process as they relate to OOD contracts. If you have any questions or concerns in the meantime regarding indirect costs or rate determination, please contact:

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