

# Indirect Cost Guidance for Recipients of EPA Assistance Agreements

**Updated October 1, 2024**

This Indirect Cost Guidance for EPA Assistance Agreements (IDC Guidance) is intended to assist applicants and recipients with regulatory compliance. This IDC Guidance corresponds with the applicable sections of the [Indirect Cost Policy for Recipients of EPA Assistance Agreements](#) (IDC Policy), followed by general information that does not necessarily correspond with a specific section of the IDC Policy. Additional Indirect Cost (IDC) Policy materials are available on the [EPA Indirect Cost Policy page](#).

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## Applicability and Effective Date (relates to Section 2.0 of the IDC Policy)

### Applicability of the IDC Policy to Subrecipients or Procurement Contractors under EPA Assistance Agreements

The IDC Policy does not apply to subrecipients or procurement contractors. Pass-through entities should refer to [2 CFR 200.332 Requirements for pass-through entities](#), paragraph (a)(4), which requires a pass-through to accept a subrecipient’s federally negotiated indirect cost rate, and provides options for subrecipients without a federal approved rate including the *de minimis* rate in accordance with [2 CFR 200.414\(f\)](#).

## Policy (relates to Section 6.0 of the IDC Policy)

### Statutory or Regulatory Limits on Administrative Costs and their Impact on Indirect Costs

As a general matter, statutory or regulatory limits on administrative costs restrict the amount of indirect costs that may be charged to EPA assistance agreements subject to the limitation. However, the precise language of the statute or regulation may lead to a different result. EPA’s Chesapeake Bay Program, for example, has a 10% statutory limit on administrative costs that applies to the direct costs of grant administration but does not restrict the allowability of indirect costs. When a recipient has an approved IDC rate, and the recipient has a grant under a program with a statutory or regulatory limit, the recipient can only budget for, and draw down, IDCs in amounts that comply with the limitation.

## **EPA Grant Programs that have Statutory or Regulatory Limits on Indirect Costs**

EPA has developed a list of grant programs with statutory or regulatory limits on indirect costs, [Statutory Restrictions on Indirect Costs in EPA Financial Assistance Programs.](#)

## **Statutory or Regulatory Limits on Administrative Costs when Program Funds are Included in Performance Partnership Grants**

Program specific limitations on administrative costs do not apply when the program is included in a Performance Partnership Grant (PPG). The statutory authority for the PPG itself, as implemented by EPA's PPG regulations, is controlling. EPA has not applied administrative cost restrictions to PPGs.

## **Approved Rates are the Correct Rates to Use (Aside from When Receiving a Grant under a Program with a Statutory Administrative Cap)**

Recipients may request to use a lower rate than their approved rate, however they cannot request to use a rate that is higher than the approved rate. In addition, EPA cannot force a recipient to use a rate lower than their approved rate. Usually, recipients will budget using their full approved rate, which EPA must honor (with the exception of IHEs, which are required to use the approved rate(s) on the rate agreement in place at the time of award throughout the life of the grant, even if a higher rate is negotiated after award).

## *De Minimis Rate (relates to Section 6.3 of the IDC Policy)*

The updates to 2 CFR Part 200 effective October 1, 2024 include increasing the de minimis rate from 10% to up to 15%. Applicants without a current federally approved indirect cost rate may elect to use a de minimis rate of up to 15 percent, except for a State or local governmental department or agency unit that receives more than \$35,000,000 in direct Federal funding annually. Applications submitted to EPA before October 1, 2024, for programs with an anticipated award date of October 1, 2024 or later may use the 15 percent de minimis rate to budget for indirect costs. The 15% de minimis rate can be applied to the new modified total direct cost definition in 2 CFR part 200.1, which includes up to the first \$50,000 of each subaward. No documentation is required to justify using the de minimis rate and the rate can be used indefinitely. However, costs must be consistently charged as either indirect or direct and may not be inconsistently charged as both. In addition, the de minimis rate cannot be applied to cost reimbursement contracts.

Recipients using the 10% de minimis rate on assistance agreements awarded prior to October 1, 2024, will continue to use the 10% de minimis on those awards. EPA grants are governed by the regulations in effect at the time of award, so grants awarded prior to October 1, 2024 are only eligible to use the 10% de minimis rate applied to the MTDC definition in place prior to October 1, 2024.

## *Use of Expired Rates (relates to Section 6.4 of the IDC Policy)*

### *Options for Applicants/Recipients if the Negotiated Rate Has Expired*

The applicant/recipient should do (at least) one of the following:

1. Request an IDC rate extension from the cognizant agency (this is not an option for provisional and fixed rates with carry-forward), in order to budget and draw down IDCs;
2. Submit a current IDC rate proposal to their cognizant federal agency and use the proposed rate to budget for IDCs. IDCs cannot be draw down until the current rate is approved;
3. Seek a regulatory exception from EPA (only available for fixed rates with carry-forward) to continue to budget and draw down IDCs, using the most recent expired rate;
4. If the indirect cost rate has not been finalized and would delay closeout, the Federal agency (Grants Management Official - GMO) is authorized to mutually agree with the recipient to close an award using the current or most recently negotiated rate § 200.344
5. Use the *de minimis* rate in effect when the grant was awarded;
6. Remove IDCs from the budget, and do not charge for IDCs. The budget may be revised to shift the IDCs to a direct cost budget category.

### **Drawing Down EPA Funds for IDCs with an Expired IDC Rate**

Only Institutes of Higher Education (IHE) may draw down for IDCs with an expired rate, if their rate agreement in place at the time of award does not extend through the life of the Federal award. Then the negotiated rate for the last year of the Federal award will be extended after expiration to the end of the award to drawdown IDCs, as long as the IHE had a rate agreement in place at the time of award and funds were budgeted for IDCs when the grant was awarded.

Other recipient types (Tribe, Non-Profit, governmental agency that receives \$35,000,000 or more in federal funding annually) with an expired (or expiring) federally approved rate, must do one of the following, in order to continue using that rate after expiration:

1. Obtain approval from the cognizant agency to extend the rate (not applicable to fixed rates with carry-forward or provisional rates).
2. Obtain a regulatory exception from EPA to continue to use a fixed rate with carry-forward (for EPA grants only).

### **How to Remedy Expired or Expiring Rates when EPA is the Cognizant Agency**

Applicants can contact EPA's Rate Negotiator (currently Jackie Smith at [Smith.Jacqueline@epa.gov](mailto:Smith.Jacqueline@epa.gov) or 202-564-5055) for assistance. If the EPA's Rate Negotiator has received a rate proposal, EPA will allow the applicant to budget for IDCs. If the applicant has submitted a request for a rate extension (for an IDC rate type other than fixed rates with carry-forward or provisional rates, which cannot be extended), EPA will allow the applicant to budget for IDCs. If a rate proposal or request for a rate extension has not been received, the applicant/recipient cannot budget for IDCs, unless they are eligible to use the *de minimis* rate.

The EPA Rate Negotiator cannot extend fixed rates with carry-forward, however applicants can request a regulatory exception to continue using an expiring or expired fixed rate with carry-forward from EPA, by following the procedures below. Applicants/Recipients may budget for IDCs using an expired fixed rate if they have submitted a regulatory exception request to EPA for approval.

Funds cannot be drawn down for IDCs until a rate, extension, or regulatory exception has been approved.

### **How to Request a Regulatory Exception to Continue to Use an Expiring/Expired Fixed Rate with Carry-Forward**

The applicant/recipient should email the exception request to [OMS-OGDWaivers@epa.gov](mailto:OMS-OGDWaivers@epa.gov) please include the GMO(s) when submitting the exception request, and:

1. The email subject should be “**IDC Regulatory Exception.**” Include grant numbers for all current grants with the EPA. These numbers are available on the EPA grant award documents, and will start with the Program Code (such as “GA” for a GAP grant) and then eight alphanumeric characters (such as J0110962)
2. Include the Recipient Organization’s Name, as shown in [www.SAM.gov](http://www.SAM.gov)
3. Include the Recipient Organization’s Unique Entity Identifier Number
4. Include the recipient Organization’s Contact Information (email address, mailing address and phone number)
5. Include a statement that the applicant/recipient is requesting an exception to the requirement at [2 CFR 200.414\(c\)](https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-200/subpart-200.414/c) that it charge indirect costs based on an approved rate.
6. Include a justification for the exception (description of why the exception is needed, any extenuating circumstances that may prevent compliance with the requirement to obtain an approved fixed rate with carry forward prior to expiration)
7. Include a copy of the most recent IDC rate agreement; and
8. Include any additional background information that may help EPA to make a determination.

### **Drawing Down Funds for IDCs if a Recipient Cannot Obtain Approval to Extend an Expiring/Expired Rate for the Cognizant Agency, or Obtain a Regulatory Exception from the National Policy, Training and Compliance Division (NPTCD) to Continue to Use an Expired Fixed Rate with Carry-Forward**

If a recipient is unable to obtain either an extension of a negotiated IDC rate, or a regulatory exception to continue using a fixed rate with carry-forward, it is generally unallowable for the recipient to draw down funds for IDCs. Under these circumstances, to draw down funds for IDCs, recipients must do one of the following:

1. Obtain an approved rate from their federal cognizant agency;
2. Use the applicable *de minimis* rate based on the award date of the grant; or
3. Not draw down IDCs until an approved IDC rate is in place.

### **Drawing Down Funds for IDCs if EPA Approves a Regulatory Exception for Continued Use of an Expired Fixed Rate with Carry-Forward**

Once EPA approves its continued use, the expired rate is considered an approved rate until the date that EPA sets (which may be up to four years from the expiration date, or until the recipient receives a new approved negotiated rate by its cognizant agency).

### **Applicability of EPA’s Approval of Continued Use of an Expired Fixed Rate to Non-EPA Grants**

This flexibility of continued use of an expired fixed rate only applies to EPA grants. The rate will

still be considered expired by other Federal agencies, though other agencies may also have a regulatory exception process. Contact other Federal agencies to find out if they have any procedures in place for expired fixed rates with carry-forward.

### **Options for Applicants that Cannot Get Approved Rates in a Timely Manner Due to the Timing of their Audits or other Budgetary Reasons**

Recipients may have a few options:

1. If there is an ongoing issue with getting a current approved rate in place each year, then applicants/recipients should submit a final rate proposal to the cognizant agency for one year, and at the same time also request provisional rates for the next two fiscal years. This will ensure an “approved” rate is always in place and allow recipients to draw down for IDCs. For example, if a recipient is on a calendar year (CY) cycle, the recipient can use the final rate proposal for CY22, to request provisional rates for CY 23 and CY 24. The provisional rates will be in place to cover the time needed to submit and receive a final rate approved for CY 23. At the same time the recipient submits their final rate proposal for CY23, they can request provisional rates for CY25 and CY26.
2. Applicants/recipients can request to negotiate a fixed rate with a three-year carryforward instead of a two-year carryforward with their cognizant agency. This will allow the recipient to use the audited costs from three years prior to negotiate their current rate instead of waiting for the audit from two years prior to be completed to negotiate their current rate. This will speed up their fixed rate with carryforward negotiation process.
3. For expired fixed rates with carry-forward, applicants/recipients can submit an exception request to EPA, if EPA is not their cognizant federal agency, to request continued use of the fixed rate with carry-forward until their cognizant agency approves a new rate.
4. Use the de minimis indirect cost rate to budget and drawdown indirect costs in accordance with 2 CFR Part 200.414(F).

### **Use of Unrecovered Indirect Costs for Cost-Sharing (relates to Section 6.5 of the IDC Policy)**

#### **Examples of Situations in Which a Recipient Uses Unrecovered Indirect Costs for Cost-Sharing**

With prior EPA approval, a recipient may meet its statutory or legally binding voluntary cost sharing requirement by drawing down less than the full amount of indirect costs it would be entitled to under the rate negotiated with its cognizant Federal agency. The difference between the amount for which the recipient receives payments for indirect costs and the amount to which it would be entitled to if it had drawn down the full amount authorized under the negotiated rate may be counted towards cost-share as unrecovered indirect costs under 2 CFR 200.306(c). The recipient must maintain records to document the amounts being charged to the EPA agreement and attributable to cost-share.

For example, a recipient may choose to draw down no indirect costs at all and count the entire amount as cost-share. In such a scenario, indirect costs must be included in the approved award budget at the full amount expected to be earned and used as cost-share. As costs are incurred during the performance of the agreement, the recipient would apply its approved indirect rate to the applicable base costs for the period and determine the amount of indirect costs earned. However, it would not submit payment requests (drawdowns) for these indirect costs. This calculation and supporting documentation would serve as the required records to support the unrecovered indirect costs being used as cost-share.

Similarly, a recipient may choose to draw only a portion of its earned amount of indirect costs and use the rest as cost-share. In this scenario, indirect costs must be included in the approved award budget at the full amounts expected to be earned and used as payment to the recipient and as cost-share. As costs are incurred during the performance of the agreement, the recipient would apply its approved indirect rate to the applicable base costs for the period and determine the amount of indirect costs earned. It would then submit payment requests (i.e., draw down) for less than the full earned value of the indirect costs, and document the difference as unrecovered indirect costs being used as cost-share. These calculations and supporting documentation would serve as the required records to support both the recipient's draw downs and the unrecovered indirect costs being used as cost-share.

**Note:** *For competitive purposes, the recipient may also choose to charge the agreement at a rate less than its full negotiated indirect rate. If this occurs, the only difference between this case and the scenarios above, is the amount budgeted for indirect costs in the award. When a recipient opts to charge a lesser rate, the amount budgeted in the agreement will be less than the amount it would otherwise be allowed if the full rate was used. Of this lesser budgeted amount, the recipient may choose to use all or part of this as cost-share. As provided at 2 CFR 200.306(a), for research grant competitions EPA generally will not evaluate offers to charge less than the applicant's negotiated rate as a voluntary cost-share as part of the competitive ranking process.*

### **How to Get Prior Approval for Use of Unrecovered IDCs as Cost-Share**

When an applicant submits an IDC rate proposal to the cognizant agency that clearly states that it is proposing to use unrecovered IDCs as cost-share, and EPA awards the assistance agreement based on the proposal, EPA has provided prior approval to use unrecovered IDCs as cost-share. After award, recipients may request that the EPA Award Official approve a budgetary change to apply unrecovered indirect costs towards cost-share.

## **General Guidance (unrelated to a specific section of the IDC Policy)**

### **Prior Approval for Shifting Costs Between Direct and Indirect Cost Categories when Rebudgeting**

There is currently no regulatory limitation on shifting costs between IDC and direct cost categories. EPA will allow rebudgeting to include shifting of funds between IDCs and direct costs during the life of the grant without prior approval, if none of the notifications or prior approval requirements in 2 CFR 200.407 are triggered, due to the shifting of funds. When the shifting of funds triggers notification or prior approval, the recipient must notify the program



office and GMO as appropriate.

### **Distribution of Indirect Costs when Program Income that has been Added to Their EPA Agreement is Disbursed**

Unless there is a statutory or regulatory limit on indirect costs, indirect costs can be distributed when disbursing program income that has been added to the agreement. Program income that is added to an EPA assistance agreement under [2 CFR § 1500.8\(b\)](#) “must be used for the purpose and conditions of the Federal award”, in accordance with [2 CFR § 200.307\(e\)\(2\)](#). The terms and conditions of EPA awards include allowable indirect costs. Recipients, therefore, may charge their Federally approved indirect cost rate to expenditures contained in the base of their indirect cost rate agreement, or to Modified Total Direct Costs if the recipient uses the *de-minimis* allowed by [2 CFR 200.414\(f\)](#) provided there are no statutory or regulatory restrictions.

For example, if a recipient’s base for the purposes of distributing indirect costs is salaries, fringe benefits, then the recipient may apply its indirect cost rate when expending program income for those cost categories when carrying out the purpose of the EPA award.

### **Reporting IDCs on the SF-425 Federal Financial Report**

Indirect costs reimbursed with federal funds are included in the total expenditures for each grant award. The submission of interim Federal Financial Reports (FFRs) are on a quarterly, semi-annual, or annual basis, based on the Terms and Conditions of each award. IDCs are to be summarized in block 11 of the SF-425 for the beginning and ending effective dates. Final FFRs will include an entry for all IDC rates approved during the life of the award. Additional IDC approved periods should be included as an attachment to block 12 of the FFR.

### **What Should I Do if this Guidance Has Not Answered my Question(s)?**

If you still have questions or concerns, and/or if you need additional assistance, please send an email to [OMS-OGD-IndirectCost@epa.gov](mailto:OMS-OGD-IndirectCost@epa.gov)